

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Provisions as to compensation under s. 32. (See end of Document for details)

SCHEDULES

SIXTH SCHEDULE **E** **+W+S**

APPLICATION OF COMPENSATION PROVISIONS TO SPECIAL CASES

Provisions as to compensation under s. 32

- 17 (1) No compensation shall be payable under subsection (2) of section thirty-two of this Act for any year for which the interest of the owner of the relevant land is held subject to, and with the benefit of, a tenancy which was subsisting immediately before the operative date of the compulsory rights order in question, unless the rent payable under that tenancy for that year is a rent which is subject to a liability to be reduced in consequence of that order or of anything done in the exercise of rights conferred by that order, or is a rent which has been so reduced in pursuance of such a liability.
- (2) For the purposes of the preceding sub-paragraph the rent payable under a tenancy shall be taken to be subject to a liability to be reduced as therein mentioned if, under the terms and conditions of the tenancy or under any enactment applicable thereto, the tenant is entitled to require that rent to be so reduced, or is entitled to require the question whether the rent should be so reduced, or generally what rent should be payable under the tenancy, to be referred to arbitration or to any court or tribunal; and the reference in that sub-paragraph to a rent which has been so reduced in pursuance of such a liability shall be construed accordingly.
- 18 (1) No compensation shall be payable under subsection (2) of the said section thirty-two for any year for which the owner of the relevant land is entitled to compensation under subsection (2) of section thirty-one of this Act in respect of a right to which this paragraph applies.
- (2) This paragraph applies to any right which fulfils the following conditions, that is to say,—
- (a) that it is a right restrictive of the use of the whole or part of the land comprised in the compulsory rights order in question;
 - (b) that the benefit of the right is annexed to the relevant land, or to that land together with other land, or (if the benefit of the right is not so annexed) that the right is exercisable by a person who is the owner of the relevant land; and
 - (c) that the exercise of the right, in relation to any land comprised in the order, could (apart from the order) have prevented that land from being used for the ^[F1]activities which, in relation to the opencast planning permission referred to in the order, constitute the permitted activities.]

Textual Amendments

F1 Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 16](#)

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- 19 In paragraphs 17 and 18 of this Schedule any reference to the relevant land shall be construed in accordance with subsection (2) of section thirty-two of this Act.

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