

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Annual and initial compensation. (See end of Document for details)

SCHEDULES

^{F1}TENTH SCHEDULE

TRANSITIONAL PROVISIONS

Textual Amendments

F1 Sch. 10 repealed by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**

Modifications etc. (not altering text)

C1 “The Minister” means Minister of Power whose functions are now exercisable by Secretary of State: **S.I. 1969/1498, art. 2(1)** and 1970/1537, art. 2(2)

PART II

OPENCAST SITES

Annual and initial compensation

- ^{F1}₁₇ In respect of any land hereafter requisitioned for opencast operations—
- (a) no compensation shall be payable under any of paragraphs (a), (c) and (d) of subsection (1) of section two of the ^{M1}Compensation (Defence) Act 1939;
 - (b) annual compensation under this Act shall be payable as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land;
 - (c) compensation under section twenty-six of this Act (or under that section as extended by section twenty-eight of this Act) shall, where applicable, be payable as if the land were comprised in a compulsory rights order and the date of requisition of the land were the date of entry under that order; and
 - (d) compensation under section twenty-seven of this Act (or under the provisions of that section as applied by section twenty-nine of this Act) shall, where applicable, be payable as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land, and as if anything done in consequence of the taking of possession of the land in the exercise of emergency powers had been done in consequence of the confirmation of that order.

Textual Amendments

F1 Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; **S.I. 1987/1939, arts. 1, 2**

Marginal Citations

M1 1939 c. 75.

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- ^{F2}18 Subject to the following provisions of this Part of this Schedule, in respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations—
- (a) periodical payments shall continue to be payable in accordance with the existing arrangements, and
 - (b) if the land is subsequently comprised in a compulsory rights order, no annual compensation under this Act shall be payable, but periodical payments shall continue to be payable in accordance with the existing arrangements as if the order had not been made:

Provided that no such periodical payments shall accrue due in respect of any land after the terminal date.

Textual Amendments

F2 Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- ^{F3}19 Any periodical payments which continue to be payable as mentioned in the last preceding paragraph, in so far as they accrue due after the commencement of this Act, shall be payable by the [^{F4}Corporation] and not by the Minister or by any other person.

Textual Amendments

F3 Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

F4 Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- ^{F5}20 The annual amount of any such periodical payments which are payable in respect of an interest in land shall be taken to be the annual amount specified in the certificate issued in respect of that interest under paragraph 14 of this Schedule.

Textual Amendments

F5 Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- ^{F6}21 (1) In respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations, any person who claims that, if annual compensation under this Act were payable in respect of that land, he would be entitled to such compensation in respect of an interest in that land, may, at any time before the first anniversary of the commencement of this Act, serve notice on the [^{F7}Corporation] requiring that annual compensation under this Act shall be payable in respect of that interest.
- (2) The right to serve a notice under this paragraph shall apply whether the land in question is for the time being comprised in a compulsory rights order or not.
 - (3) Any notice served under this paragraph shall be in such form, and shall contain such information, as may be prescribed.

Textual Amendments

F6 Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

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F7 Word substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**

- F8**²² (1) The effect of a notice under the last preceding paragraph in respect of an interest in land shall be as follows:—
- (a) any annual compensation under this Act which, in the circumstances specified in the next following sub-paragraph, would have accrued due in respect of that interest for the period beginning with the commencement of this Act and ending with the terminal date, or for any part of that period, shall be payable, or shall be treated as having become payable, as the case may require, as if those circumstances had existed;
 - (b) if apart from the notice periodical payments would have become payable in respect of that interest in accordance with the existing arrangements, and would have accrued due after the date of service of the notice, those payments shall not be payable;
 - (c) any periodical payments already paid in respect of that interest in accordance with the existing arrangements, in so far as they accrued due after the commencement of this Act, shall be set off against annual compensation under this Act payable in respect of that interest.
- (2) The said circumstances are those which would have existed if—
- (a) this Act had been in operation before the date of requisition of the land in question, and had contained no restriction as to the duration of the period for which a compulsory rights order could have effect;
 - (b) a compulsory rights order comprising that land had come into operation on the date of requisition, and the requirements of subsection (2) of section five of this Act in relation to that order had been duly complied with;
 - (c) the period of occupation under that order had been a period ending on the date which, in relation to that land, is the terminal date; and
 - (d) anything done in relation to that land in the exercise of emergency powers had been done in the exercise of rights conferred by that order.
- (3) In the preceding sub-paragraphs any reference to the commencement of this Act, or to the terminal date, in relation to any land, shall (notwithstanding anything in the last preceding sub-paragraph) be construed as a reference to the actual date on which this Act comes into operation, or to the actual terminal date in relation to that land, as the case may be.

Textual Amendments

F8 Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**

- F9**²³ (1) At any time after the first anniversary of the commencement of this Act, any person who is entitled to an interest in land in respect of which a notice could have been, but has not been, served under paragraph 21 of this Schedule, may serve notice on the [^{F10}Corporation] requiring that annual compensation under this Act shall be payable in respect of that interest.
- (2) Sub-paragraphs (2) and (3) of paragraph 21 of this Schedule, and the provisions of the last preceding paragraph, shall apply to a notice under this paragraph as they apply to a notice under the said paragraph 21, so however that in the application of the provisions of the last preceding paragraph to a notice under this paragraph any reference to the commencement of this Act, or to the date of service of the notice,

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shall be construed as a reference to the anniversary of the commencement of this Act which next occurs after the service of the notice.

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Textual Amendments

- F9** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**
F10 Word substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**

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