



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART II

COMPENSATION FOR COMPULSORY RIGHTS ORDERS

Compensation in respect of other matters

31 Compensation in respect of easements and other rights.

- (1) The provisions of this section shall have effect where, by reason of a compulsory rights order or of anything done in the exercise of rights conferred by such an order, the exercise of an easement or similar right over any land comprised in the order, or of any right restrictive of the use of any such land, is prevented or injuriously affected:

Provided that this section shall not apply to any easement or other right which consists of any such right as is mentioned in subsection (2) or subsection (3) of section seven of this Act.

- (2) For the year beginning with the operative date of the order, and for each subsequent year which begins with an anniversary of that date and falls [^{F1}wholly or partly] within the period of occupation, the person for the time being entitled to the easement or right in question shall be entitled to compensation ^{F2}. . .

[^{F3}(2A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under subsection (2) of this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.]

- (3) Where, after the end of the period of occupation, the exercise of the easement or right continues to be prevented or injuriously affected by reason of anything done during that period in the exercise of rights conferred by the compulsory rights order,—
- (a) if that easement or right is appurtenant to, or the benefit thereof is in any other way annexed to, any land, the person who, at the end of the period of occupation, is the owner of that land shall be entitled to compensation from

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 31. (See end of Document for details)

[^{F4}the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order] of an amount equal to the diminution (if any) in the value of that land, in so far as any such diminution is attributable to the fact that the exercise of the easement or right is so prevented or injuriously affected;

- (b) in any other case, the person who at the end of the period of occupation is entitled to the right in question shall be entitled to compensation from [^{F4}the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order] of an amount equal to the market value which the right would then have if its exercise were not so prevented or affected, reduced by the amount of any market value which the right actually has at the end of that period.
- (4) For the purposes of paragraph (a) of the last preceding subsection the value of the land in question shall be taken to have been diminished if (and to the extent to which) the value of a freehold interest in that land at the end of the period of occupation is less than the value which such an interest would then have if the land comprised in the order, over which the easement or right is exercisable, were in the state in which it was immediately before the date of entry; and for the purpose of computing those values the provisions of subsection (4) of section twenty-three of this Act shall apply as they apply for the purposes of subsection (2) of that section, but with the substitution, for references to the holding, of references to the land to which the benefit of the easement or right is annexed.
- (5) In relation to common or waste lands (within the meaning of the ^{M1}Lands Clauses Consolidation Act 1845) the Minister may make regulations modifying the operation of the preceding provisions of this section so as to secure that compensation under this section in respect of commonable or other rights (being rights which, if the land were being compulsorily purchased in accordance with that Act, would be subject to compensation assessed globally, and apportioned among the persons entitled to the rights) shall be assessed globally, and apportioned among the persons entitled thereto, in such manner as the Minister may consider appropriate.
- (6) In the application of this section to Scotland, for the reference to common or waste lands within the meaning of the ^{M2}Lands Clauses Consolidation Act 1845, there shall be substituted a reference to lands of the nature of commonalty within the meaning of the Lands Clauses Consolidation (Scotland) Act 1845.

Textual Amendments

- F1** Words in s. 31(2) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 23(1)(a)** (with s. 40(7); S.I. 1994/2553, **art. 2**)
- F2** Words in s. 31(2) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, **Sch. 8 para. 23(1)(b)**, **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F3** S. 31(2A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 23(2)** (with s. 40(7); S.I. 1994/2553, **art. 2**)
- F4** Words in s. 31(3)(a)(b) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 23(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

Marginal Citations

- M1** 1845 c. 18.
M2 1845 c. 19.

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 31.