



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART II

COMPENSATION FOR COMPULSORY RIGHTS ORDERS

Supplementary provisions as to compensation

35 Time when compensation accrues due.

- (1) Subject to the provisions of Part III of this Act as to claims for compensation under this Act, the provisions of this section shall have effect as to compensation payable [^{F1}any person] by virtue of this Part of this Act.
- (2) In respect of any compensation payable by virtue of section seventeen of this Act, or by virtue of that section as applied by section twenty-nine of this Act, or by virtue of subsection (2) of section thirty-one or subsection (2) of section thirty-two of this Act or of paragraph 4, paragraph 5 or paragraph 12 of the Fifth Schedule to this Act,—
 - (a) [^{F1}every person potentially liable for the compensation shall, on account of any compensation that may become payable by him at the end of the year,] make such quarterly payments as may be reasonable in the circumstances;
 - (b) subject to the preceding paragraph, [^{F1}the requirement to make payments shall not arise] until after the end of the year for which the compensation is payable;
 - (c) if the amount of the compensation payable [^{F2}for any year by any person to another] exceeds the aggregate amount of the quarterly payments made on account thereof during that year, the balance shall be payable together with interest on the amount of the balance from the end of that year to the date of payment;
 - (d) if the aggregate amount of the compensation paid [^{F3}for any year by any person to another] in respect of any such compensation (excluding any amount paid on account of interest) exceeds the principal amount of the compensation payable [^{F1}for that year by that person to that other person, the person who paid it] (without prejudice to any right of recovery apart from this subsection) shall

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 35. (See end of Document for details)

be entitled to deduct the amount of the overpayment from any compensation payable [^{F3}by him to that other person]for any subsequent year.

- (3) Subject to the last preceding subsection, any such compensation as is therein mentioned shall be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.
- (4) Any compensation payable—
- (a) under section twenty-three of this Act, or
 - (b) under that section as applied by section twenty-nine of this Act, or
 - (c) under subsection (3) of section thirty-one of this Act, or
 - (d) under subsection (4) of section thirty-two of this Act, or
 - (e) under paragraph 8, paragraph 10 or paragraph 13 of the Fifth Schedule to this Act, or
 - (f) under section fifty-two of this Act,
- shall accrue due at the end of the period of occupation.
- [^{F4}(4A) Any compensation payable under section 23A of this Act shall accrue due on the date when the person entitled to compensation enters into occupation, if after the end of the period of occupation, and at the end of the period of occupation in any other case.]
- (5) Any compensation under section twenty-six of this Act shall accrue due at the beginning of the period of occupation.
- (6) Any compensation payable under section twenty-seven of this Act, or under that section as applied by section twenty-nine of this Act, in respect of a forced sale shall accrue due on the effective date of the sale, or, if that date was before the operative date of the order, shall be treated as having accrued due on the effective date of the sale.
- [^{F5}(6A) Any compensation payable under section 31A of this Act shall accrue due at the end of the year in which the right in question is exercised.]
- (7) Any compensation payable ^{F6}. . . as mentioned in any of [^{F7}subsections (4) to (6A)]of this section, if not paid within the period of thirty days beginning with the date on which it accrues due, shall be payable together with interest thereon, from the date on which it accrues due to the date of payment.
- (8) The Treasury may by order prescribe the rate of interest for the purposes of this section; and where in accordance with the preceding provisions of this section any compensation is payable with interest, the rate of interest shall be the rate for the time being in force by virtue of an order under this subsection.
- (9) In this section “quarterly payments” means payments calculated by reference to the usual quarter days, and “effective date”, in relation to a sale, means the date on which the property sold becomes the property of the purchaser [^{F8}; and references in this section to a person potentially liable to compensation, in relation to any time during a year at the end of which compensation may become payable under this Act, are references to the person on whom the liability to pay the compensation will fall at the end of the year if the person entitled to the rights conferred by the compulsory rights order in question does not change before the end of the year.]

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 35. (See end of Document for details)

Textual Amendments

- F1** Words in s. 35(1)(2) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 26(1)(2)**(with s. 40(7); S.I. 1994/2553, **art. 2**)
- F2** Words in s. 35(2)(c) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 26(2)(c)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F3** Words in s. 35(2)(d) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 26(2)(d)(i)(iii)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F4** S. 35(4A) inserted by **Coal Industry Act 1975 (c. 56), s. 6(2)**
- F5** S. 35(6A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 26(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F6** Words in s. 35(7) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, Sch. 8 para. 26(4), **Sch. 11 Pt. II** (with s. 40(7); S.I. 1994/2553, **art. 2**)
- F7** Words in s. 35(7) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 26(4)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F8** Words in s. 35(9) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 26(5)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

Modifications etc. (not altering text)

- C1** S. 35 amended (11.2.1992) by S.I. 1992/46, **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 35.