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**Changes to legislation:** There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Notification of date of entry. (See end of Document for details)

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## SCHEDULES

### SECOND SCHEDULE

#### PROCEDURE RELATING TO COMPULSORY RIGHTS ORDERS

#### PART II

##### *Notification of date of entry*

- 13 (1) The provisions of this paragraph shall have effect as to the publication, service and affixing of notices as mentioned in subsection (2) of section five of this Act.
- (2) [<sup>F1</sup>The person on whose application a compulsory rights order has been made] shall in two successive weeks publish in one or more local newspapers circulating in the locality in which the land comprised in the compulsory rights order is situated a notice referring to the order and specifying a date as being the date on which the rights conferred by the order are to become exercisable.
- (3) [<sup>F1</sup>That person] shall serve a like notice on [<sup>F2</sup>the Coal Authority and on]every person who, at the time of the first publication of the notice under the last preceding sub-paragraph, is known [<sup>F1</sup>to the person serving the notice] to be, in relation to the order, a person directly concerned.
- (4) [<sup>F1</sup>The person on whose application a compulsory rights order has been made] shall also affix conspicuously to some conspicuous object or objects on the land comprised in the order a notice or notices containing the particulars required to be contained in a notice served under the last preceding sub-paragraph.
- (5) The notices referred to in sub-paragraphs (3) and (4) of this paragraph shall be served or affixed, as the case may be, either before or after the first publication of the notice required by sub-paragraph (2) of this paragraph, but not later than the end of the period of seven days beginning with the date of the first publication of that notice.

#### Textual Amendments

- F1** Words in [Sch. 2 Pt. II para. 13\(2\)-\(4\)](#) substituted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 39\(1\)-\(3\)](#) (with [s. 40\(7\)](#)); [S.I. 1994/2553](#), art. 2
- F2** Words in [Sch. 2 Pt. II para. 13\(3\)](#) inserted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 39\(2\)\(b\)](#) (with [s. 40\(7\)](#)); [S.I. 1994/2553](#), art. 2

- 14 (1) If, after the first publication of a notice in accordance with sub-paragraph (2) of the last preceding paragraph, any person who, in relation to the order referred to in the notice, is a person directly concerned claims that any of the relevant requirements have not been complied with, he may, at any time not later than the end of the period of six weeks beginning with the date of the first publication of that notice, make an application to the High Court.

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- (2) On any such application, the court may by interim order direct, either generally or in relation to any part of the land comprised in the compulsory rights order, that such rights (if any) as may be conferred by the order shall not be exercised until the final determination of the proceedings.
  - (3) Where, on determining such an application, the court is satisfied that any of the relevant requirements have not been complied with, and that the interests of the applicant have been substantially prejudiced by the failure to comply with them, the court may, by an order made either generally or with respect to so much of the land comprised in the compulsory rights order as may be specified in the order under this sub-paragraph,—
    - (a) declare that the rights which (if all the relevant requirements had been complied with) would have been conferred by the compulsory rights order have not become exercisable, and
    - (b) direct that the compulsory rights order shall cease to have effect as from such date as may be specified in the order under this sub-paragraph.
- 15 Subject to the last preceding paragraph, and without prejudice to any application thereunder or to any proceedings on or in consequence of such an application, where the first publication of a notice has been effected in accordance with sub-paragraph (2) of paragraph 13 of this Schedule—
- (a) all the requisite notices of the order referred to in that notice shall be deemed to have been published, served and affixed in accordance with the requirements of the said paragraph 13, and to have specified the date specified in that notice;
  - (b) that date shall be deemed for all purposes to be a date satisfying the requirements of subsection (2) of section five of this Act; and
  - (c) the exercise of any rights by virtue of the compulsory rights order shall not be questioned in any legal proceedings whatsoever on the ground that any of the relevant requirements have not been complied with.
- 16 In this Part of this Schedule “the relevant requirements” means the requirements of subsection (2) of section five of this Act and of paragraph 13 of this Schedule.
- 17 In the application of this Part of this Schedule to Scotland, for any reference to the High Court there shall be substituted a reference to the Court of Session.

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