

SCHEDULE 1

RSC ORDER 96

THE MINES (WORKING FACILITIES AND SUPPORT) ACT 1966(1), ETC.

Assignment to Chancery Division

Rule 1 Any proceedings in which the jurisdiction conferred on the High Court by section 1 of the Railway and Canal Commission (Abolition) Act 1949(2), is invoked shall be assigned to the Chancery Division and be begun by claim form which need not be served on any other party.

Reference by Secretary of State of certain applications

Rule 2 Where under any provision of the Mines (Working Facilities and Support) Act 1966, the Secretary of State refers any application to the High Court, he shall—

- (a) file the reference, signed by him or by an officer authorised by him for the purpose, in Chancery Chambers, together with all documents and plans deposited with him by the applicant, and
- (b) within 3 days after doing so give notice to the applicant of the filing of the reference.

Issue of claim form

Rule 3 Within 10 days after receipt of the notice mentioned in rule 2 (b) the applicant must issue a claim form which need not be served on any other party which must state the application of the applicant under the said Act of 1966 and any other relief sought.

Appointment for directions

Rule 4.—(1) Within 7 days after issue of the claim form the applicant, having applied at Chancery Chambers for the name of the master assigned to hear the claim, must take an appointment before that master for the hearing of the claim and must forthwith serve notice of the appointment on the Secretary of State.

(2) Not less than 2 clear days before the day appointed for the first hearing of the claim, the applicant must leave at Chancery Chambers—

- (a) a witness statement or affidavit of facts in support of the claim, giving particulars of all persons known to the applicant to be interested in or affected by the application, and
 - (b) a draft of any proposed advertisement or notice of the application.
- (3) On the appointment the master shall—
- (a) fix a time within which any notice of objection under rule 5 must be given,
 - (b) fix a date for the further hearing of the claim, and
 - (c) direct what, if any, advertisements and notices of the application and of the date fixed for the further hearing of the claim are to be inserted and given, and what persons, if any, are to be served with a copy of the application and of any other document in the proceedings.
- (4) Any such advertisement or notice must include a statement of the effect of rule 5.

(1)
(2) 1949 c. 11.

1966 c. 4.

Objections to application

Rule 5.—(1) Any person wishing to oppose the application must, within the time fixed by the master under rule 4 (3), serve on the applicant a notice of objection stating—

- (a) his name and address and the name and address of his solicitor, if any,
- (b) the grounds of his objection and any alternative methods of effecting the objects of the application which he alleges may be used, and
- (c) the facts on which he relies.

(2) Any notice required to be served on a person who has given notice of objection (hereafter in this Order referred to as “the objector”) may be served by delivering it or sending it by prepaid post—

- (a) where the name and address of a solicitor is stated in the notice of objection, to the solicitor at that address, and
- (b) in any other case, to the objector at his address stated in the notice of objection.

(3) An objector shall be entitled to appear in person or by a solicitor or counsel at the further hearing of the claim and to take such part in the proceedings as the master or judge thinks fit; but if he does not so appear his notice of objection shall be of no effect and he shall not be entitled to take any part in the proceedings unless the master or judge otherwise orders.

List of objectors

Rule 6 Not less than 2 clear days before the day fixed for the further hearing of the claim, the applicant must leave at Chancery Chambers any notices of objection served on the applicant together with a list arranged in 3 columns stating—

- (a) in column 1, the names and addresses of the objectors,
- (b) in column 2, the names and addresses of their respective solicitors, if any, and
- (c) in column 3, short summaries of their respective grounds of objection.

Directions on further hearing

Rule 7 At the further hearing of the claim the master shall—

- (a) give directions as to the procedure to be followed before the claim is set down for hearing, including, if he thinks fit, a direction—
 - (i) that further particulars be given of any of the grounds or facts relied on in support of or in opposition to the application made by the claim,
 - (ii) that the applicant may serve a reply to any notice of objection,
 - (iii) that any particular fact be proved by witness statement or affidavit,
 - (iv) that statements of case or points of claim or defence be served, and
- (b) adjourn the claim for hearing before the judge in such manner, that is to say—
 - (i) in public or in private, and
 - (ii) on oral evidence or on witness statement or affidavit evidence, with or without cross examination of any of the witnesses, or partly in one way and partly in the other,as he shall think best adapted to secure the just, expeditious and economical disposal of the proceedings.

Other applications

Rule 8 Rules 2 to 7 shall, so far as applicable and with the necessary adaptations, apply in relation to any other application to the High Court falling within rule 1 as they apply in relation to an application under the Mines (Working Facilities and Support) Act 1966.