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

SCHEDULES

FIFTH SCHEDULE

COMPENSATION IN RESPECT OF MINERALS

General provisions

- 1 (1) The provisions of this Schedule shall have effect in relation to land comprised in a compulsory rights order in the circumstances specified in subsection (1) of section thirty-three of this Act; and any reference in this Schedule to land to which this Schedule applies is a reference to land which, immediately before the operative date of such an order, falls within paragraph (a) or paragraph (b) of that subsection.
- (2) In this Schedule “the mineral operator”—
- (a) in relation to land which, immediately before the operative date of the order in question, is subject to a mining lease or order conferring working rights as mentioned in paragraph (a) of the said subsection (1), means the person for the time being entitled to the benefit of that mining lease or order, and
 - (b) in relation to land which, immediately before that date, is land falling within paragraph (b) of the said subsection (1), means the person for the time being entitled to the interest referred to in that paragraph;
- and, in relation to any land which this Schedule applies, “the relevant undertaking” means the mineral undertaking of the mineral operator.
- (3) In this Schedule “the relevant rights and facilities”, in relation to a mineral undertaking, means all rights and facilities for the time being available to the person carrying on that undertaking for the purposes of working, getting, carrying away, using, treating, converting and disposing of minerals, whether on land comprised in the compulsory rights order in question or elsewhere.
- (4) Any reference in any provision of this Schedule to the exercise of the relevant rights and facilities in the manner in which they might reasonably have been expected to be exercised in circumstances mentioned in that provision shall be construed as including a reference to the exercise of those rights and facilities to the extent to which they might reasonably have been expected to be exercised in those circumstances.
- [^{F1}2 (1) Any entitlement to compensation under this Schedule shall be an entitlement to compensation from—
- (a) in the case of compensation under paragraph 4 or 12 of this Schedule, the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order;
 - (b) in the case of compensation under paragraph 5 of this Schedule, the person on whose application that order is made;
 - (c) in the case of compensation under paragraph 6 of this Schedule, the person by whom the compensation would be payable if it were compensation under section 27 of this Act;

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- (d) in the case of compensation under paragraph 7, 8, 9, 10 or 13 of this Schedule, the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order.
- (2) Sub-paragraph (1)(a) of this paragraph shall have effect subject, where different persons have been entitled to the rights conferred by an order for different parts of the year, to any apportionment under section 35(3) of this Act.]

Textual Amendments

F1 Sch. 5 para. 2 substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 41** (with s. 40(7)); S.I. 1994/2553, **art. 2**

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