



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART II

COMPENSATION FOR COMPULSORY RIGHTS ORDERS

Compensation in respect of agricultural land

17 General provisions as to annual compensation.

- (1) Where a compulsory rights order comprises the whole or part of a holding to which this section applies, compensation shall be payable ^{F1}. . . in respect of that holding—
 - (a) for the year beginning with the operative date, and
 - (b) for each subsequent year which begins with an anniversary of that date and falls [^{F2}wholly or partly]within the period of occupation.

[^{F3}(1A) 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 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.]

- (2) For the purposes of this Part of this Act, where land, immediately before the operative date of a compulsory rights order,—
 - (a) was occupied as a unit, and
 - (b) was so occupied wholly or mainly for the purposes of agriculture carried on by way of a trade or business,

the entirety of that land (excluding the coal and any other minerals vested [^{F4}in the Coal Authority or the person entitled to rights conferred by the order]) shall be taken, in relation to that compulsory rights order, to constitute a holding to which this section applies.

- (3) [^{F5}Subject to subsection (3A) of this section,]the person entitled to any compensation payable ^{F1}. . . for any year by virtue of this section in respect of a holding shall be the person who—

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- (a) in respect of so much (if any) of the holding as is not comprised in the compulsory rights order, is for the time being entitled to occupy that part of the holding, and
- (b) in respect of so much of the holding as is comprised in the order, would be entitled for the time being to occupy it if the order had not been made.

[^{F6}(3A) Where—

- (a) any compensation is payable for any year by virtue of this section in respect of any holding, and
- (b) the amount of that compensation falls to be calculated in accordance with section 18 of this Act by reference to the market value of rights which, if the compulsory rights order were not in force, could not be conferred for that year or any part of it except by or with the consent of one or more persons who are included in the persons directly concerned but do not fall within subsection (3) of this section,

the entitlement to that compensation shall be apportioned, according to the extent to which those rights could not be conferred for that year or part of a year without their participation or consent, between those persons and any person falling within that subsection.

(3B) Subject to subsection (3C) of this section, the persons entitled under subsection (3A) of this section to a share of any compensation shall include persons whose participation in or consent to the conferring of any right would be required if the right were conferred at some time after the beginning of the year or part of a year in question; and any apportionment under subsection (3A) of this section shall take account of the length of the period for which any person is, during that year or part of a year, a person without whose participation or consent any right could not be conferred.

(3C) No person shall be entitled under subsection (3A) of this section to any share of any compensation in respect of any such easement or right as might give rise to an entitlement to compensation under section 31 of this Act.]

(4)

Textual Amendments

- F1** Words in s. 17(1)(3) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, Sch. 8 para. 15(1)(a), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F2** Words in s. 17(1)(b) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(1)(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F3** S. 17(1A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F4** Words in s. 17(2) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F5** Words in s. 17(3) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(4)(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F6** S. 17(3A)-(3C) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(5)(7)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

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Changes to legislation:

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