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**Changes to legislation:** There are currently no known outstanding effects for the Opencast Coal Act 1958,  
Cross Heading: Annual and initial compensation payable to mineral operator. (See end of Document for details)

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## SCHEDULES

### FIFTH SCHEDULE

#### COMPENSATION IN RESPECT OF MINERALS

##### *Annual and initial compensation payable to mineral operator*

- 3 For the year beginning with the operative date of the compulsory rights order, and for each subsequent year which begins with an anniversary of that date and falls within the period of occupation, there shall be assessed—
- (a) the profit or loss which a person carrying on the relevant undertaking might reasonably have been expected to make for that year by the exercise of the relevant rights and facilities if the compulsory rights order had not been made, and
  - (b) the profit or loss which such a person might reasonably have been expected to make for that year by the exercise of those rights and facilities in the circumstances existing in that year.
- 4 (1) Where the assessment for any year under sub-paragraph (a) of the last preceding paragraph shows a profit, and the assessment under sub-paragraph (b) of that paragraph also shows a profit, but a smaller profit than the assessment under sub-paragraph (a), the mineral operator shall be entitled to compensation for that year of an amount equal to the difference.
- (2) Where the assessment for any year under sub-paragraph (a) of the last preceding paragraph shows a profit, and the assessment under paragraph (b) of that paragraph shows a loss, the amount of that loss shall be added to the amount of that profit, and the mineral operator shall be entitled to compensation for that year of an amount equal to the sum of those amounts.
- (3) Where the assessment for any year under sub-paragraph (a) of the last preceding paragraph shows a loss, and the assessment under sub-paragraph (b) of that paragraph also shows a loss, but a greater loss than the assessment under sub-paragraph (a), the mineral operator shall be entitled to compensation for that year of an amount equal to the difference.
- 5 (1) For the year beginning with the operative date of the order, the mineral operator (in addition to any compensation payable by virtue of the last preceding paragraph) shall be entitled to compensation of an amount equal to the amount of any expenses reasonably incurred by him which are directly attributable to his being required to vacate land comprised in the order.
- (2) Without prejudice to the generality of the preceding sub-paragraph, the expenses referred to in that sub-paragraph shall be taken to include any expenses reasonably incurred by the mineral operator in procuring the cancellation or modification of a contract in force immediately before the operative date, in so far as it is—
- (a) a contract for the supply of goods or the rendering of services which would have been required by him for the purposes of the relevant undertaking if the

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- order had not been made, but in consequence of the order are not required for those purposes, or
- (b) a contract for the supply by him of minerals or other goods which but for the order would have been supplied by him, directly or indirectly, by means of operations on land comprised in the order and, in consequence of the order, cannot be so supplied.
- 6 (1) If, in consequence of the confirmation of the compulsory rights order, the mineral operator incurs a loss in respect of a forced sale of any livestock, vehicles, plant, equipment or other chattels which are kept on land comprised in the order, or which are used on any such land for the purposes of the relevant undertaking, the mineral operator shall (subject to the next following sub-paragraph) be entitled to compensation of an amount equal to that loss.
- (2) Subsection (3) of section twenty-seven of this Act shall apply for the purposes of this paragraph.

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