



Opencast Coal Act 1958

1958 CHAPTER 69

PART II

COMPENSATION FOR COMPULSORY RIGHTS ORDERS

Supplementary provisions as to compensation

36 Record of condition of land

- (1) For the purpose of facilitating the assessment of compensation under this Part of this Act, the Board shall cause records to be made in accordance with the following provisions of this section.
- (2) In the case of an opencast site order, where the Board have published, served and affixed notices under subsection (2) of section five of this Act, the Board shall cause a record to be made of the condition, as on the date of entry.—
 - (a) of all the land comprised in the order, and
 - (b) of any other land which, in relation to that order, forms part of a holding to which section seventeen or section twenty-nine of this Act applies:

Provided that, in relation to an opencast site order made in accordance with section eight of this Act, this subsection shall apply as if paragraph (b) thereof were omitted.

- (3) In the case of any compulsory rights order (other than any order made in accordance with section eight of this Act) the Board shall, at the end of the period of occupation, cause a record to be made of the condition, as at the end of that period, of all the land comprised in the order.
- (4) Any record of the condition of land made under this section shall be made in pursuance of a comprehensive survey of the land, in so far as such a survey can be carried out by inspection and without any operations involving the excavation of land or the making of borings therein, and shall include all such particulars of the land and of things in or on the land as are reasonably required for recording the results of such a survey.
- (5) Where the Board have caused a record to be made under this section they shall—

Status: This is the original version (as it was originally enacted).

- (a) in the case of a record made under subsection (2) of this section, within twenty-one days after the date of entry, and
 - (b) in the case of a record made under subsection (3) of this section, within twenty-one days after the end of the period of occupation,serve on every person who is then known to them to be a person directly concerned a notice in the prescribed form together with a copy of the record.
- (6) If any person, to whom a copy of a record is sent under this section, gives notice of objection to the Board, within twenty-one days after the date on which the copy was sent to him, requiring the record to be amended in one or more respects specified in the notice, then—
 - (a) if all the persons whose agreement is requisite agree on an amendment of the record (whether the amendment is that specified in the notice of objection or another amendment in substitution for it), the Board shall cause the record to be amended accordingly ;
 - (b) if no such agreement is reached, and the objection is not withdrawn, the matter in dispute shall be determined by arbitration.
- (7) For the purposes of the last preceding subsection, the persons whose agreement is requisite shall be the Board, the person who gave the notice of objection, and all other persons to whom copies of the record were sent under this section.
- (8) For the purposes of any arbitration under paragraph (b) of subsection (6) of this section—
 - (a) the reference shall be to a single arbitrator appointed by the Board and the person who gave the notice of objection in consequence of which the dispute arose;
 - (b) except in relation to the appointment of an arbitrator, all persons whose agreement is requisite for the purposes of that subsection shall be parties to the reference.
- (9) With respect to professional and other fees incurred by persons in obtaining advice or conducting negotiations with regard to any record made under this section, the Minister may make regulations requiring the Board, within such limits (whether as to descriptions of fees, or as to amount, or otherwise) and subject to such conditions as may be prescribed, to pay fees so incurred:

Provided that no regulations under this section shall apply to any fees in so far as they form part of the costs of an arbitration under this section, or shall affect any power of an arbitrator with respect to any such costs.
- (10) In the application of this section to Scotland, for references to costs, and to an arbitrator, there shall be substituted respectively references to expenses and to an arbiter.