

1960 No. 194

The Opencast Coal (Fees) Regulations, 1960

Made - - - - - 4th February, 1960

Laid before Parliament 11th February, 1960

Coming into Operation 22nd February, 1960

The Minister of Power, in exercise of the powers conferred upon him by subsection (9) of section thirty-six, subsection (2) of section forty and subsection (1) of section forty-nine of the Opencast Coal Act, 1958(a), and of all other powers him enabling, hereby makes the following regulations:—

1. These regulations shall come into operation on the twenty-second day of February, nineteen hundred and sixty, and may be cited as the Opencast Coal (Fees) Regulations, 1960.

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them respectively, that is to say—

“the Act” means the Opencast Coal Act, 1958 ;

“the Board” means the National Coal Board ;

“compensation” means compensation payable by the Board under the Act ;

“the date of requisition” and “the existing arrangements” have the meanings assigned to them respectively by paragraph 1 of the Tenth Schedule to the Act ;

“requisition” means a taking of possession of land in the exercise of emergency powers.

(2) All other expressions to which meanings are assigned by the Act have, unless the contrary intention appears, the same respective meanings in these regulations as in the Act.

(3) The Interpretation Act, 1889(b), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. The Board shall pay any professional fees reasonably incurred by any person to whom a copy of a record of condition of land comprised in a compulsory rights order is sent under section thirty-six of the Act, being fees incurred in obtaining advice or conducting negotiations with the Board with regard to that record.

4. The Board shall pay, subject to the provisions of the Schedule hereto, any professional fees reasonably incurred by a claimant for compensation in preparing and supporting his claim.

Dated this fourth day of February, nineteen hundred and sixty.

Richard Wood,
Minister of Power.

SCHEDULE

1. Subject to the provisions of this Schedule, the maximum amount payable by the Board in accordance with regulation four in respect of any claim, other than a claim under the Fifth Schedule to the Act, shall be an amount equal to the sum of the following amounts, that is to say—

(a) an amount calculated in accordance with the following scale by reference to the amount of compensation payable in respect of the claim as agreed between the claimant and the Board or, in default of agreement, as determined by the Lands Tribunal:

SCALE

Amount of compensation payable				Amount
Not exceeding £50				5 guineas
Exceeding	£50 but not exceeding	£100		At the rate of 10 guineas per cent.
"	£100 "	"	£200	14 guineas
"	£200 "	"	£300	18 "
"	£300 "	"	£400	22 "
"	£400 "	"	£500	26 "
"	£500 "	"	£600	28 "
"	£600 "	"	£700	30 "
"	£700 "	"	£800	32 "
"	£800 "	"	£900	34 "
"	£900 "	"	£1,000	36 "
"	£1,000			36 guineas plus 1 guinea per cent. in respect of the excess over £1,000, fractions of £100 being reckoned as £100.

(b) such an amount in respect of disbursements as may reasonably be included in any of the fees in question, other than such a fee as is mentioned in the next following sub-paragraph; and

(c) the amount of any fees reasonably incurred by the claimant in providing evidence in support of his claim in compliance with a request from the Board under regulation five of the Opencast Coal (Claims) Regulations, 1959(a).

2. (a) In any case to which this paragraph applies, the maximum amount payable in accordance with regulation four shall be—

(i) a sum calculated in accordance with the preceding paragraph, subject to the modification that the amount calculated under sub-paragraph (a) of that paragraph shall be reduced by four-fifths, or

(ii) two guineas,

whichever is the greater.

(b) This paragraph applies to any case where the compensation is payable in respect of an interest in land under—

(i) any of the following provisions of the Act, that is to say sections eighteen and nineteen, those sections as applied by section twenty-nine, subsection (2) of section thirty-one and subsection (2) of section thirty-two, for a year beginning with an anniversary of the date on which compensation, being compensation paid under that provision in respect of that interest, and, in the case of a claim under the said subsection (2) of section thirty-two, in relation to the same compulsory rights order, first accrued due;

(ii) paragraph 18, or under that paragraph as applied by paragraph 44, of the Tenth Schedule to the Act, for a year beginning with an anniversary of the date on which payments made in respect of that interest in accordance with the existing arrangements first accrued due ; or

(iii) any of the following provisions, that is to say paragraph (4) of regulation three, that paragraph as applied by regulation four, and that paragraph as applied by regulation five, of the Opencast Coal (Other Land) Regulations, 1959(a), for a year beginning with an anniversary of the date on which compensation, being compensation paid under that provision in respect of that interest and in relation to the same requisition, first accrued due ;

Provided that—

(A) in the application of paragraph (i) of this sub-paragraph in any case where—

(1) in accordance with paragraph 3 of this Schedule, two claims are, for the purposes of regulation four and of this Schedule, deemed to constitute a single claim, and

(2) the date on which compensation in respect of the relevant interest, being compensation paid under the provision under which one of the claims is made, first accrued due was later than the date on which compensation in respect of that interest, being compensation paid under the provision under which the other of those claims is made, first accrued due,

the reference in the said paragraph (i) to an anniversary of the date on which compensation first accrued due shall be construed as a reference to an anniversary of the later of the two dates mentioned in sub-paragraph (2) of this paragraph of this proviso ;

(B) where any such act or event as is mentioned in paragraph 1 of the Sixth Schedule to the Act occurs in relation to any land an interest in which gives rise to a claim under section eighteen or section nineteen of the Act, or under either of those sections as applied by section twenty-nine of the Act, any reference in the said paragraph (i) of this sub-paragraph and paragraph (A) of this proviso to the date on which compensation first accrued due shall, in relation to any such claim in respect of a period after the occurrence of that act or event, be construed as a reference to the date on which that compensation first accrued due after the occurrence of that act or event.

3. In any case where, in relation to a compulsory rights order or requisition (as the case may be), a person is entitled for any year to compensation payable under—

(a) more than one of the following sections of the Act, that is to say, sections eighteen, nineteen and twenty, or

(b) more than one of those sections as applied by section twenty-nine of the Act, or

(c) paragraphs 4 and 5 of the Fifth Schedule to the Act, the claims in respect of which compensation is so payable shall not, for the purposes of regulation four and (where appropriate) of this Schedule, be treated as separate claims, but shall, for those purposes, be deemed to constitute a single claim made under any one of the provisions under which the several claims are respectively made, and the compensation payable in respect of that single claim shall be deemed to be an amount equal to the aggregate of the sums payable in respect of the several claims.

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These regulations require the National Coal Board to pay professional fees reasonably incurred by (a) any person to whom a copy of a record of condition of land is sent under s. 36 of the Opencast Coal Act, 1958, in obtaining advice or conducting negotiations with the Board about that record, and (b) claimants in preparing their claims for compensation payable by the Board under the Act. The fees payable under (b) are subject to certain maxima.