ATOMIC ENERGY, SCOTLAND

The Atomic Energy (Assessment of Compensation for Work done in Searching for Minerals) (Scotland) Rules, 1948

1948 No. 35 (S. 1)

Made - - - - *3rd January*, 1948

In pursuance of paragraph 9 of the First Schedule to the Atomic Energy Act, 1946(a), and all other powers enabling them in that behalf, the Reference Committee for Scotland constituted under Section One of the Acquisition of Land (Assessment of Compensation) Act, 1919, hereby make the following Rules:—

1. These Rules may be cited as the Atomic Energy (Assessment of Compensation for Work done in Searching for Minerals) (Scotland) Rules, 1948.

2.—(1) In these Rules, unless the context otherwise requires:

The expression "the Act" means the Atomic Energy Act, 1946.

The expression "arbiter" means an official arbiter appointed under Section One of the Acquisition of Land (Assessment of Compensation) Act, 1919(b).

The expression "question" means any dispute as to whether compensation is payable for work done in searching for minerals pursuant to powers conferred by Section Six of the Act, or as to the amount of such compensation or the persons to whom it is payable, which is to be referred to and determined by arbitration in manner provided by the First Schedule to the Act.

The expression "the Minister" means the Minister of Supply.

The expression "the claimant" means any person who claims to be entitled to compensation under Section Six of the Act and the First Schedule thereto.

The expression "proceedings" means proceedings before an arbiter pursuant to these Rules.

(2) The Interpretation Act, 1889(c), applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament.

3.—(1) Where any question has arisen either the Minister or the claimant may at any time send to the Reference Committee an application in duplicate for the selection of an arbiter to hear and determine such question.

(2) The Minister or the claimant, as the case may be, shall immediately after sending the application to the Reference Committee, send notice of the fact to the claimant or the Minister as the case may be, together with a copy of the application.

(3) An application for the selection of an arbiter shall be in the form set out in the schedule to these Rules or in a form to the like effect.

(a) 9 & 10 Geo. 6. c. 80. (b) 9 & 10 Geo. 5. c. 57. (c) 52 & 53 Vict. c. 63.

4.—(1) The Reference Committee, on receiving an application for the selection of an arbiter, shall, as soon as may be, proceed to select from the panel an arbiter to hear and determine the question specified in such application.

(2) The Reference Committee shall, as soon as they have selected the arbiter, inform the Minister and the claimant of the name and address of the person so selected.

5.—(1) The arbiter selected shall, as soon as may be, proceed with the determination of the question and shall arrange with the Minister and the claimant the time and place of the hearing.

(2) The Reference Committee shall send to the arbiter selected a copy of the application for the appointment of an arbiter, and the Minister and the claimant shall furnish to the arbiter on his request any document or other information which it is in their respective powers to furnish and which the arbiter may require for the purpose of considering and determining the question; Provided that the Minister shall not be required to furnish any document or other information which in his opinion it would be contrary to the public interest to disclose. The party furnishing any such document or information to the arbiter shall, at the same time, send a copy thereof to the other party.

(3) Not more than one expert witness on either side shall be heard in the proceedings unless the arbiter otherwise directs.

(4) The arbiter shall be entitled to enter on and inspect any land which is the subject of proceedings before him.

(5) All proceedings before the arbiter shall be held in public session: provided always that in any particular case in which the arbiter, after hearing the parties, is satisfied that it is necessary in the interests of national security that the public should be excluded, it shall be competent for him to direct that the evidence or arguments or any part thereof shall be heard with closed doors.

(6) The fees to be charged in respect of proceedings shall be such as the Treasury may prescribe.

(7) Subject to the provisions of the Act and of these Rules, the proceedings shall be such as the arbiter may in his discretion think fit.

6. The Reference Committee may, in the case of the death or the incapacity of the arbiter originally selected, or if it is shown to the Committee that it is expedient so to do, in any other case, at any time before the arbiter has made his award, revoke the reference of the question to the selected arbiter and select another arbiter for the purpose of hearing and determining the question.

7.—(1) Where questions have arisen in the case of any two or more interests in the same land the Minister may, subject as hereinafter provided, either on making the application for the selection of an arbiter to hear and determine such questions or at any time thereafter make an application to the Reference Committee to have the same person selected as the arbiter to hear and determine all such questions to which the application relates: Provided that no such application shall be competent as respects any such question if an arbiter has already entered on the consideration thereof.

(2) On receiving an application under this Rule the Reference Committee shall select the same person to act as arbiter in respect of all the questions to which the application relates, and so far as necessary for that purpose, may revoke any selection previously made.

(3) An application under this Rule shall be in the form set out in the schedule to these Rules or in a form to the like effect.

(4) Where the same person has been selected under this Rule to act as arbiter in respect of two or more questions the Minister may at any time after he has been so selected apply to him for an order that all the questions shall be heard together.

(5) Notice of intention to apply to the arbiter for such an order as last aforesaid shall be sent to each claimant and the notice shall specify the date on which and the place at which the arbiter will hear any objection which may be made to the application.

(6) If any claimant objects to have his claim heard together with the other claims he shall within seven days after the receipt of the notice aforesaid send notice of his objection to the Minister and the arbiter.

(7) Where the Minister applies for an order under this Rule the arbiter, after taking into consideration any objections made to the application, shall make such order in the matter as he thinks proper, having regard to all the circumstances of the case.

8.—(1) Where the Minister has made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by an arbiter to that claimant does not exceed the sum offered, the arbiter shall, unless for special reasons he thinks proper not to do so, order the claimant to bear his own expenses and to pay the expenses of the Minister so far as such expenses were incurred after the offer was made.

(2) If the arbiter is satisfied that a claimant has failed to deliver to the Minister a notice in writing of the amount claimed by him giving sufficient particulars and in sufficient time to enable the Minister to make a proper offer, the foregoing provisions of this section shall apply as if an unconditional offer had been made by the Minister at the time when in the opinion of the arbiter sufficient particulars should have been furnished and the claimant had been awarded a sum not exceeding the amount of such offer.

(3) Where a claimant has made an unconditional offer in writing to accept a sum as compensation and has given to the Minister such a notice as is referred to in the last preceding paragraph within the time specified in such paragraph, and the sum awarded is equal to or exceeds that sum, the arbiter shall, unless for special reasons he thinks proper not to do so, order the Minister to bear his own expenses and to pay the expenses of the claimant so far as such expenses were incurred after the offer was made.

(4) Subject as aforesaid, the expenses of an arbitration under the Act shall be in the discretion of the arbiter who may direct to and by whom and in what manner those expenses or any part thereof shall be paid.

(5) No such offer as is referred to in paragraph (1) or paragraph (3) of this Rule shall be disclosed to the arbiter until he shall have decided upon the amount of compensation to be awarded to the claimant to or by whom such offer shall have been made, and a copy of any such offer may be delivered to the arbiter at the hearing by the party who shall have made the same enclosed in a sealed envelope or wrapper to be opened by the arbiter after he shall have decided as aforesaid.

(6) An arbiter may himself tax the amount of expenses ordered to be paid, or may direct in what manner they are to be taxed.

(7) Where an arbiter orders the claimant to pay the expenses or any part of the expenses of the Minister, the Minister may deduct the amount so payable by the claimant from the amount of the compensation payable to him.

(8) Without prejudice to any other method of recovery, the amount of expenses ordered to be paid by a claimant, or such part thereof as is not covered by such deductions as aforesaid shall be a debt due to His Majesty and shall be recoverable from the claimant as a civil debt.

(9) For the purpose of this Rule, expenses include any fees, charges, and expenses of the arbitration or award.

9.—(1) The decision of an arbiter upon any question of fact shall be final and binding on the parties, and the persons claiming under them respectively, but the arbiter may, and shall, if the Court of Session so directs, state at any stage of the proceedings, in the form of a special case for the opinion of the Court of Session, any question of law arising in the course of the proceedings, and may state his award as to the whole or part thereof in the form of a special case for the opinion of the Court of Session.

(2) The decision of the Court of Session upon any case so stated shall be final and conclusive, and shall not be subject to appeal to any other court.

10.—(1) If the fees prescribed by the Treasury in pursuance of the powers conferred on them by paragraph (6) of Rule 5 hereof include a fee in respect of an application under these Rules or a fee in respect of the hearing before an arbiter, the prescribed fee shall be collected by means of stamps impressed on the application and the award of the arbiter respectively.

(2) Any application under these Rules, which is not properly stamped in accordance with the foregoing provision shall be treated as invalid, and the award of an arbiter shall not be delivered out by him unless and until it has been properly stamped in accordance with the said provision.

11. Any notice or other document required or authorised to be sent to any person for the purpose of these Rules shall be deemed to be duly sent by post addressed to that person at his ordinary address, and the address of the Reference Committee shall for this purpose be the Secretary to the Reference Committee, No. 9, New Register House, Edinburgh.

12. Save as herein otherwise expressly provided, any failure on the part of the Minister or any person to comply with the provisions of these Rules, shall not render the proceedings, or anything done in pursuance thereof, invalid, unless the arbiter so directs.

We, the Reference Committee for Scotland, under the Acquisition of Land (Assessment of Compensation) Act, 1919, have made the above rules in pursuance of the powers conferred on us by the Atomic Energy Act, 1946.

T. M. Cooper, Lord President.

G. R. Thomson, Lord Justice Clerk.

3rd January, 1948.

J. Cassels Pinkerton,
Chairman (Scottish Branch) Royal Institution of Chartered Surveyors.

SCHEDULE

A.

FORM OF APPLICATION FOR SELECTION OF OFFICIAL ARBITER

ATOMIC ENERGY ACT, 1946, SECTION 6

FIRST SCHEDULE

Application for Selection of Official Arbiter.

To the Reference Committee.

I, being the claimant specified in the annexed particulars [*or* the Minister of Supply] hereby apply for the selection, pursuant to the above Act, of an official arbiter to hear and determine the question of which particulars are annexed.

*Signed.....

Date.....

* If the application is signed by an agent, add " by..... his [or their] agent ".

Particulars

Name and address of claimant:

.....

.....

.....

Name and address of claimant's solicitor or agent:

.....

.....

.....

Description of land upon which work has been done in searching for minerals:

.....

Situation of land:

County.....

Parish.....

Nature of compensation claimed (whether (i) by reference to diminution of annual value under paragraph 1 of the First Schedule to the above Act or (ii) for depreciation in the value of an interest under paragraph 3 of such Schedule):

.....

Nature of question (whether as to (i) whether compensation is payable or (ii) the amount of such compensation or (iii) the persons to whom it is payable):

.....

Interest in respect of which compensation is claimed:

.....

B.

FORM OF APPLICATION TO HAVE SAME PERSON APPOINTED AS ARBITER ON CLAIMS IN RESPECT OF VARIOUS INTERESTS IN SAME LAND

ATOMIC ENERGY ACT, 1946, SECTION 6

FIRST SCHEDULE

Application to have same person appointed as Arbiter on Claims in respect of various interests in same land.

To the Reference Committee.

The Minister of Supply hereby applies pursuant to the Rules made under the above Act, to have the same person selected as the official arbiter to hear and determine all the claims for compensation made in respect of the several interests in the lands specified in the annexed particulars.

No official arbiter has been selected in the case of any of the said claims [*or* An official arbiter has already been selected in the case of the claims of the person numbered..... in the annex of particulars, namely, Mr.....in the case of No. 1.....state the facts].

Signed.....
(on behalf of the Minister of Supply)

Date.....:

Particulars

Description of land upon which work has been done in searching for minerals:

.....

Situation of land:

County.....

Parish.....

Names and addresses of (i) the persons entitled to the several interests in the land, and (ii) their respective solicitors or agents:	Nature of Interest.
1.—(i)	1.
.....	
(ii)	
.....	
2.—(i)	2.
.....	
(ii)	
.....	
3.—(i)	3.
.....	
(ii)	
.....	