EXPLANATORY NOTE

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

These regulations prescribe the form of notice which must be served on the National Coal Board by a person claiming annual compensation under the Opencast Coal Act, 1958, in respect of land which, on the 30th September, 1958, was held under requisition for opencast coal operations or for restoration after being affected by such operations or as an opencast coal storage site.

1959 No. 1427

The Opencast Coal (Requisitioned Woodlands) Regulations, 1959

Made - - - -	12*th August*, 1959
Laid before Parliament	19*th August*, 1959
Coming into Operation	20*th August*, 1959

The Minister of Power, in exercise of the powers conferred upon him by paragraph 50 of the Tenth Schedule to 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 twentieth day of August, nineteen hundred and fifty-nine, and may be cited as the Opencast Coal (Requisitioned Woodlands) Regulations, 1959.

2.—(1) In these regulations—

(*a*) " the Act " means the Opencast Coal Act, 1958 ;

(*b*) the following expressions, that is to say—

" the date of requisition " ;

" land already requisitioned for opencast operations " ;

" land requisitioned as an opencast storage site " ;

" terminal date " ;

have the meanings assigned to them respectively by paragraph 1 of the Tenth Schedule to the Act ;

(*c*) all other expressions to which meanings are assigned by the Act shall, unless the contrary intention appears, have the same respective meanings as in the Act.

(2) 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 three next following regulations apply to land which,—

(*a*) at the commencement of the Act, was land already requisitioned for opencast operations or land requisitioned as an opencast storage site, and

(*b*) immediately before the date of requisition, was land used as woodlands.

4.—(1) This regulation applies in any case where—

(*a*) by virtue of paragraph 22 of the Tenth Schedule to the Act, or of that paragraph as applied by paragraph 44 of the said Schedule, compensation

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(a) 6 & 7 Eliz. 2. c. 69. (b) 52 & 53 Vict. c. 63.

is payable, or treated as having become payable, under section nineteen, or under that section as applied by section twenty-nine, of the Act in respect of an interest in land to which this regulation applies, and the person who would, but for the exercise of emergency powers or of rights conferred by a compulsory rights order comprising the land in question, be entitled for the time being to occupy that land is the owner of that land, and

(*b*) at any time after possession of that land was taken in the exercise of emergency powers either a sum was paid to the person who, at the time of such payment, was the owner of that land, being a sum paid in respect of trees which, immediately before the date of requisition, were standing on that land, or on any part thereof, or the owner for the time being of that land took possession of any such trees.

(2) The provisions of the said section nineteen, or, as the case may be, those provisions as applied by the said section twenty-nine, shall, in their application in relation to the said land, be modified to the extent that, in assessing for the purposes of subsection (1) of the said section nineteen, or of that subsection as applied by the said section twenty-nine, the profit or loss which an occupier of the relevant holding, in the circumstances specified in the said subsection, might reasonably have been expected to make for any year from his occupation of the holding, no account shall be taken of any sum which, if possession of the said land had not been taken in the exercise of emergency powers and (where such was the case) retained by virtue of rights conferred by a compulsory rights order, he might reasonably have been expected to receive on a sale of any of the trees in respect of which the sum referred to in paragraph (1) of this regulation was paid, or possession of which was taken as mentioned in that paragraph.

5.—(1) This regulation applies in any case where—

(*a*) compensation is payable under section twenty-two, or under that section as applied by section twenty-nine, of the Act in respect of land to which this regulation applies, and

(*b*) at any time after possession of the land in question was taken in the exercise of emergency powers either a sum was paid to the person who, at the time of such payment, was the owner of that land, being a sum paid in respect of trees which, immediately before the date of requisition, were standing on that land, or on any part thereof, or the owner for the time being of that land took possession of any such trees.

(2) The provisions of the said section twenty-two (as modified by paragraph 27, or by that paragraph as applied by paragraph 45, of the Tenth Schedule to the Act), or, as the case may be, those provisions as applied by the said section twenty-nine, shall, in their application in relation to the said land, be further modified to the extent that it shall be assumed, for the purposes of those provisions, that, immediately before the date of requisition, the land in question was—

(*a*) bare of all trees in respect of which the sum referred to in paragraph (1) of this regulation was paid, or possession of which was taken as mentioned in that paragraph, but

(*b*) otherwise in the condition in which it might reasonably have been expected to be at the terminal date if possession thereof had not been taken in the exercise of emergency powers and (where such was the case) retained by virtue of rights conferred by a compulsory rights order, and the land had continued to be used for the purpose of woodlands.

6.—(1) This regulation applies in any case where—

(*a*) compensation is payable under section twenty-three, or under that section as applied by section twenty-nine, of the Act in respect of land to which this regulation applies, and

(*b*) at any time after possession of the land in question was taken in the exercise of emergency powers either a sum was paid to the person who, at the time of such payment, was the owner of that land, being a sum paid in respect of trees which, immediately before the date of requisition, were standing on that land, or on any part thereof, or the owner for the time being of that land took possession of any such trees.

(2) The provisions of the said section twenty-three (as modified by paragraph 27, or by that paragraph as applied by paragraph 45, of the Tenth Schedule to the Act), or, as the case may be, those provisions as applied by the said section twenty-nine, shall, in their application in relation to the said land, be further modified to the extent that the reference in subsection (1) of the said section twenty-three to the value of a freehold interest in a holding computed in accordance with paragraph (*c*) of subsection (2) of that section shall be construed as a reference to the value of such an interest computed in accordance with sub-paragraph (*a*) of paragraph (3) of this regulation, together with, in a case where the sum referred to in paragraph (1) of this regulation, or the value, at the date of requisition, of the trees possession of which was taken as mentioned in that paragraph, is less than an amount computed in accordance with sub-paragraph (*b*) of the said paragraph (3), an amount equal to the difference between those amounts.

(3) For the purposes of the last preceding paragraph there shall be computed—

(*a*) the value of a freehold interest in the holding computed in accordance with paragraph (*c*) of subsection (2) of the said section twenty-three, as modified as aforesaid, and further modified to the extent that it shall be assumed for the purposes of the said paragraph (*c*) that all the trees in respect of which the sum referred to in paragraph (1) of this regulation was paid, or possession of which was taken as mentioned in that paragraph, were felled immediately before the date of requisition, but that, in all other respects, the state of the land to which this regulation applies was, at that time, the state in which it might reasonably have been expected to be at the terminal date if possession thereof had not been taken in the exercise of emergency powers and (where such was the case) retained by virtue of rights conferred by a compulsory rights order, and it had continued to be used for the purpose of woodlands;

(*b*) the amount which the value of a freehold interest in the holding, computed in accordance with sub-paragraph (*a*) of the next following paragraph, is less than the value of such an interest computed in accordance with sub-paragraph (*b*) of that paragraph.

(4) For the purposes of sub-paragraph (*b*) of the last preceding paragraph there shall be computed the following values, that is to say—

(*a*) the value which a freehold interest in the holding would have at the terminal date if all the trees in respect of which the sum referred to in paragraph (1) of this regulation was paid, or possession of which was taken as mentioned in that paragraph, had been felled immediately before the date of requisition, but otherwise the holding were in the state in which it was immediately before the date of requisition;

(*b*) the value which a freehold interest in the holding would have at the terminal date if the part of the holding (if any) which, immediately before the date of requisition, was not a part whereon the trees referred to in the preceding sub-paragraph were standing were in the state in which

it was immediately before the date of requisition, the remainder of the holding being taken to be in the state in which it might reasonably have been expected to be at the terminal date if possession of such remainder had not been taken in the exercise of emergency powers and (where such was the case) retained by virtue of rights conferred by a compulsory rights order, and it had continued to be used for the purpose of woodlands.

(5) The provisions of paragraph 28 of the Tenth Schedule to the Act, or, as the case may be, those provisions as applied by paragraph 45 of the said Schedule, shall, in their application in relation to the land to which this regulation applies, be modified to the extent that the sum required to be deducted from the amount of any compensation as mentioned in the said paragraph 28 shall not include the sum referred to in paragraph (1) of this regulation, or any part thereof.

(6) The provisions of subsection (4) of the said section twenty-three shall apply in computing value as mentioned in sub-paragraphs (*a*) and (*b*) of paragraph (4) of this regulation as they apply in computing value as mentioned in subsection (2) of the said section twenty-three.

7.—(1) This regulation applies, except in a case to which regulation five or regulation six applies, to land—

(*a*) which, at the commencement of the Act, was land already requisitioned for opencast operations or land requisitioned as an opencast storage site, or

(*b*) possession of which was, after the commencement of the Act, taken in the exercise of emergency powers for the purpose of working coal on that land, or on land contiguous therewith, by opencast operations,

and which, immediately before the date of requisition, was used as woodlands.

(2) The provisions of section twenty-two (as modified by paragraph 27, or by that paragraph as applied by paragraph 45, of the Tenth Schedule to the Act), or, as the case may be, those provisions as applied by section twenty-nine, of the Act, shall, in their application in relation to any land to which this regulation applies, be further modified to the extent that it shall be assumed, for the purposes of those provisions, that, immediately before the date of requisition, the condition of the land in question was the condition in which it might reasonably have been expected to be at the terminal date if possession thereof had not been taken in the exercise of emergency powers and (where such was the case) retained by virtue of rights conferred by a compulsory rights order, and the land had continued to be used for the purpose of woodlands.

(3) The provisions of section twenty-three (as modified by paragraph 27, or by that paragraph as applied by paragraph 45, of the Tenth Schedule to the Act), or, as the case may be, those provisions as applied by section twenty-nine, of the Act, shall, in their application in relation to any land to which this regulation applies, be further modified to the extent that it shall be assumed, for the purposes of paragraph (*c*) of subsection (2) of the said section twenty-three, or, as the case may be, of that paragraph as applied by the said section twenty-nine, that, immediately before the date of requisition, the state of the land to which this regulation applies was the state in which it might reasonably have been expected to be at the terminal date if possession thereof had not been taken in the exercise of emergency powers and (where such was the case) retained by virtue of rights conferred by a compulsory rights order, and it had continued to be used for the purpose of woodlands.

Dated this twelfth day of August, nineteen hundred and fifty-nine.

Mills,
Minister of Power.

EXPLANATORY NOTE

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

These regulations modify certain of the compensation provisions of the Opencast Coal Act, 1958, in their application to land which—

(*a*) when the Act came into operation on the 30th September, 1958, was held under requisition for opencast coal operations or as an opencast storage site, or which was requisitioned for opencast coal operations on or after the 30th September, 1958, and

(*b*) was used as woodlands immediately before it was requisitioned.

Regulations 4 to 6 apply in cases where the owner of woodlands requisitioned before the 30th September, 1958, received a lump sum payment in respect of some or all of the trees on the land or was allowed to take possession of some or all of the trees after requisition. Regulation 4 modifies the provisions of section 19 of the Act so that in assessing additional annual compensation for any year no account is taken of any sum which, if the woodlands had not been requisitioned, might have been received by the occupier of the holding on a sale of any of the trees in respect of which the lump sum was paid, or which the owner was allowed to take away. This regulation only applies, however, where the person who would, but for the requisition or a subsequent compulsory rights order, be entitled to occupy the land in question is also the owner of that land.

Regulation 5 modifies the provisions of section 22 of the Act so that, in assessing terminal compensation by way of payment of cost of works, it shall be assumed that, immediately before the date of requisition, the land was bare of all trees in respect of which the lump sum was paid or which the owner was allowed to take away, but that otherwise it was in the condition in which it might reasonably have been expected to be at the end of the period of occupation if it had not been requisitioned and had continued to be used as woodlands.

Regulation 6 modifies the provisions of section 23 of the Act so that terminal compensation by reference to the diminution in value of the relevant holding shall consist of (1) a sum calculated in accordance with section 23 on the assumption that all the trees in respect of which the lump sum was paid, or which the owner was allowed to take away, were felled immediately before the date of the requisition but that otherwise the requisitioned land was at that time in the state in which it might reasonably have been expected to be at the end of the period of occupation if there had been no requisition and it had continued to be used as woodlands, and (2) a sum equal to the amount, if any, by which the diminution in the value of the relevant holding attributable to the loss of the trees in respect of which the lump sum was paid, or which the owner was allowed to take away, exceeds the amount of the lump sum or, in the case of trees which the owner was allowed to take away, the value of those trees. This regulation also modifies paragraph 28 of the Tenth Schedule to the Act so that no part of the lump sum paid in respect of the trees is deducted from the amount of any compensation payable under section 23 of the Act as modified by the regulation.

Regulation 7 applies in relation to any land requisitioned for opencast purposes which was used as woodlands immediately before it was requisitioned, except in cases covered by regulation 5 or regulation 6; that is to say it does not apply in cases where a lump sum payment was made in respect of trees or where the owner was allowed to take possession of any trees after requisition. The regulation modifies the provisions of sections 22 and 23 of the Act so that, in assessing compensation under them, it shall be assumed that, immediately before requisition, the land in question was in the state in which it might reasonably have been expected to be at the end of the period of occupation if it had not been requisitioned and had continued to be used as woodlands.