



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART II

### COMPENSATION FOR COMPULSORY RIGHTS ORDERS

#### *Compensation in respect of agricultural land*

#### 17 General provisions as to annual compensation.

- (1) Where a compulsory rights order comprises the whole or part of a holding to which this section applies, compensation shall be payable <sup>F1</sup>. . . in respect of that holding—
  - (a) for the year beginning with the operative date, and
  - (b) for each subsequent year which begins with an anniversary of that date and falls [<sup>F2</sup>wholly or partly]within the period of occupation.

[<sup>F3</sup>(1A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.]

- (2) For the purposes of this Part of this Act, where land, immediately before the operative date of a compulsory rights order,—
  - (a) was occupied as a unit, and
  - (b) was so occupied wholly or mainly for the purposes of agriculture carried on by way of a trade or business,

the entirety of that land (excluding the coal and any other minerals vested [<sup>F4</sup>in the Coal Authority or the person entitled to rights conferred by the order]) shall be taken, in relation to that compulsory rights order, to constitute a holding to which this section applies.

- (3) [<sup>F5</sup>Subject to subsection (3A) of this section,]the person entitled to any compensation payable <sup>F1</sup>. . . for any year by virtue of this section in respect of a holding shall be the person who—

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- (a) in respect of so much (if any) of the holding as is not comprised in the compulsory rights order, is for the time being entitled to occupy that part of the holding, and
- (b) in respect of so much of the holding as is comprised in the order, would be entitled for the time being to occupy it if the order had not been made.

[<sup>F6</sup>(3A) Where—

- (a) any compensation is payable for any year by virtue of this section in respect of any holding, and
- (b) the amount of that compensation falls to be calculated in accordance with section 18 of this Act by reference to the market value of rights which, if the compulsory rights order were not in force, could not be conferred for that year or any part of it except by or with the consent of one or more persons who are included in the persons directly concerned but do not fall within subsection (3) of this section,

the entitlement to that compensation shall be apportioned, according to the extent to which those rights could not be conferred for that year or part of a year without their participation or consent, between those persons and any person falling within that subsection.

(3B) Subject to subsection (3C) of this section, the persons entitled under subsection (3A) of this section to a share of any compensation shall include persons whose participation in or consent to the conferring of any right would be required if the right were conferred at some time after the beginning of the year or part of a year in question; and any apportionment under subsection (3A) of this section shall take account of the length of the period for which any person is, during that year or part of a year, a person without whose participation or consent any right could not be conferred.

(3C) No person shall be entitled under subsection (3A) of this section to any share of any compensation in respect of any such easement or right as might give rise to an entitlement to compensation under section 31 of this Act.]

(4) .....

**Textual Amendments**

- F1** Words in s. 17(1)(3) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, Sch. 8 para. 15(1)(a), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F2** Words in s. 17(1)(b) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(1)(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F3** S. 17(1A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F4** Words in s. 17(2) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F5** Words in s. 17(3) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(4)(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F6** S. 17(3A)-(3C) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 15(5)(7)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

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**Changes to legislation:** There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Compensation in respect of agricultural land. (See end of Document for details)

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[<sup>F7</sup>18 **Calculation of compensation under section 17.**

- (1) The compensation payable for any year in respect of a holding to which section 17 of this Act applies shall be a sum equal to the annual borrowing cost for that year of the market value of the rights conferred by the compulsory rights order in relation to the holding.
- (2) For the purposes of this section the market value of any rights conferred by a compulsory rights order shall be equal to the amount which, as at the date of entry, would (apart from the order) represent the fair market price, as between willing and independent parties, for the grant of those rights by a person entitled to grant them and for the period for which the order is to have effect.
- (3) In calculating for the purposes of this section the fair market price for the grant of any rights, due allowance shall be made for any entitlement to compensation which may arise, otherwise than by virtue of section 17, under any of the provisions of this Act.
- (4) For the purposes of this section the annual borrowing cost for any year of any amount (“the market price”) is the aggregate sum which would fall to be paid in that year by way of payments of interest and re-payments of capital if the market price had been borrowed on the date of entry on terms which—
  - (a) required interest to be paid and capital to be repaid by way of the relevant number of equal annual instalments; and
  - (b) provided for interest on outstanding capital to become due immediately before the time for the payment of each instalment, at an annual rate equal, as at the entry date, to the rate prescribed under section 35(8) of this Act;and in this subsection “the relevant number” means the number of years for which, when it was confirmed, the compulsory rights order was to have effect.
- (5) Nothing in section 17 of this Act or this section shall confer any entitlement to compensation in respect of the annual borrowing cost of—
  - (a) any amount representing the value of any person’s interest in coal, or
  - (b) any amount representing the value of any opportunity arising by virtue of an interest or right in or in relation to any land to obtain or make use of any rights to win, work or get any coal.
- (6) Where the period for which a compulsory rights order is to have effect is extended under this Act, section 17 of this Act and this section shall have effect in relation to the additional period as if the rights conferred for that period had been conferred by a new compulsory rights order.]

**Textual Amendments**

**F7** S. 18 substituted (31.10.1994) (in relation to any compulsory rights order confirmed on or after that date) by 1994 c. 21, s. 52, **Sch. 8 para. 16** (with s. 40(7)); S.I. 1994/2553, **art. 2**

<sup>F8</sup>19 .....

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**Textual Amendments**

**F8** S. 19 repealed (31.10.1994) by 1994 c. 21, s. 52, **Sch. 11 Pt. III** (with s. 40(7)); S.I. 1994/2552, art. 2, **Sch. 1**, Appendix

**F9**<sup>20</sup> .....

**Textual Amendments**

**F9** S. 20 repealed (31.10.1994) by 1994 c. 21, s. 67, **Sch. 11 Pt. III**, Appendix (with s. 40(7)); S.I. 1994/2552, art. 2, **Sch. 1**, Appendix

**21 Terminal compensation.**

- (1) Where a compulsory rights order comprises the whole or part of a holding to which this section applies, the provisions of this and the two next following sections shall have effect as to compensation payable [<sup>F10</sup>in respect of that holding by the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order.].
- (2) Subsection (2) of section seventeen of this Act shall have effect in relation to this section as it has effect in relation to that section, and references to a holding to which this section applies shall be construed accordingly.
- (3) Compensation payable in respect of a holding under the provisions referred to in subsection (1) of this section shall consist of either or both of the following, that is to say—
  - (a) compensation by way of payment of cost of works, and
  - (b) compensation by reference to the diminution in value of the holding.

**Textual Amendments**

**F10** Words in s. 21(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 18** (with s. 40(7)); S.I. 1994/2553, art. 2

**22 Compensation by way of payment of cost of works.**

- (1) Subject to the following provisions of this section, compensation by way of payment of cost of works shall, in the case of a compulsory rights order, be payable in respect of a holding to which the last preceding section applies if—
  - (a) at the end of the period of occupation, any land forming part of the holding and comprised in the order has not been restored to the condition in which it was immediately before the date of entry, and
  - (b) after the end of the period of occupation, expenses are reasonably incurred by any person in respect of work carried out (over and above the ordinary maintenance and use of the land) for the purpose of further restoring that land to or towards that condition or a condition substantially similar thereto.

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- (2) Where in accordance with the preceding subsection compensation by way of payment of cost of works is payable—
  - (a) the person entitled thereto shall be the person by whom the expenses in question are incurred, and
  - (b) the compensation shall be payable from time to time as the expenses are incurred and shall be of an amount equal to the amount of the expenses.
- (3) The provisions of the Third Schedule to this Act shall have effect with respect to compensation by way of payment of cost of works under this section.

### **23 Compensation by reference to the diminution in value of the holding.**

- (1) Compensation by reference to the diminution in value of a holding to which section twenty-one of this Act applies shall be payable if the value of a freehold interest in the holding, computed in accordance with paragraph (a) of the next following subsection, or in accordance with paragraph (b) of that subsection, as the case may be, but (in either case) with the benefit of any prospective right to compensation by way of payment of cost of works in respect of the holding, is less than the value of such an interest computed in accordance with paragraph (c) of that subsection.
- (2) For the purposes of the preceding subsection there shall be computed the following values, that is to say,—
  - (a) where the entirety of the holding is comprised in the order, the value at the end of the period of occupation of a freehold interest in the holding;
  - (b) where part of the holding is not comprised in the order, the value which a freehold interest in the holding would have at the end of the period of occupation if that part of the holding were in the state in which it was immediately before the date of entry, the remainder of the holding being taken to be in the state in which it is at the end of the period of occupation;
  - (c) in either case, the value which a freehold interest in the holding would have at the end of the period of occupation if the entirety of the holding were in the state in which it was immediately before the date of entry.
- (3) Where in accordance with subsection (1) of this section compensation by reference to the diminution in value of a holding is payable, the amount of the compensation shall be the amount of the difference between the values mentioned in that subsection, and the person entitled to that compensation shall be the person who at the end of the period of occupation is the owner of the holding.
- (4) In computing value as mentioned in any of paragraphs (a), (b) and (c) of subsection (2) of this section, it shall be assumed that a freehold interest in the holding is, in the circumstances mentioned in the paragraph in question, being offered for sale in the open market by a willing seller immediately after the end of the period of occupation, with vacant possession of the holding and free from incumbrances, other than any easement or similar right, any right restrictive of the use of land, and any mining lease or order conferring working rights, affecting the holding or any part thereof at that time.

### **[<sup>F11</sup>23A Additional compensation on re-occupation.**

- (1) Subject to the following provisions of this section, with a view to furthering the resumption of agriculture on land formerly comprised in a compulsory rights order, a

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person shall be entitled to compensation by virtue of this section in respect of a holding to which section 21 of this Act applies if he is in occupation of the holding at the end of the period of occupation or if he enters into occupation of the holding at or after the end of that period, provided that he is occupying the holding or (as the case may be) he enters into occupation of the holding wholly or mainly for the purposes of agriculture carried on by way of a trade or business.

- (2) No compensation shall be payable to a person by virtue of this section unless he is either the person who, immediately before the operative date of the compulsory rights order, was entitled to occupy the holding (in this subsection referred to as “ the original occupier ”) or a person who, before the end of the period of occupation, became entitled to the relevant interest in the holding in accordance with the disposition of the original occupier’s estate effected by his will, or the law relating to intestacy, or the combination of his will and that law.
- (3) In subsection (2) above—
  - “ the relevant interest ”, in relation to any person, means the interest by virtue of which he became entitled to occupy the holding (or would have become so entitled if the compulsory rights order had not been made); and
  - “ will ” includes a codicil.
- (4) The compensation payable in respect of a holding by virtue of this section shall be payable [<sup>F12</sup>by the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order] and, subject to the following provisions of this section, shall be an amount equal to the compensation payable in respect of that holding under [<sup>F13</sup>section 17] of this Act for the last twelve months of the period of occupation.
- (5) Subject to the following provisions of this section, in any case where the compensation last payable in respect of a holding under [<sup>F13</sup>section 17] was in fact payable by reference to a period of less than twelve months, the compensation payable in respect of that holding by virtue of this section shall be an amount equal to the compensation which was so payable under [<sup>F13</sup>section 17], multiplied by the fraction of which the numerator is 365 and the denominator is the number of days in the period by reference to which the compensation was so payable under those sections.
- (6) Where the person entitled, immediately after the end of the period of occupation, to occupy the holding concerned ceases, before he enters into occupation, to be entitled to occupy some part of it then, subject to subsection (7) below,—
  - (a) his entry into occupation of the part which he remains entitled to occupy shall be treated for the purposes of subsection (1) above as entry into occupation of the holding; but
  - (b) the compensation payable to him by virtue of this section shall be such proportion of the compensation which would have been so payable had he remained entitled to enter into occupation of the whole of the holding as is properly attributable to the part of the holding which he remains entitled to occupy.
- (7) If, immediately before the end of the period of occupation, only part of the holding concerned (in this subsection referred to as “ the compensatable portion ”) was comprised in the compulsory rights order and (after the end of the period of occupation) subsection (6) above applies, then—

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- (a) if the part of the holding which the person concerned ceased to be entitled to occupy comprises the whole of the compensatable portion, no compensation shall be payable to him by virtue of this section;
- (b) if the person concerned remains entitled to occupy the whole of the compensatable portion, the compensation so payable to him shall not be reduced under paragraph ( b ) of subsection (6) above; and
- (c) in any other case, for the purpose of determining the proportion of the compensation properly attributable to any part of the holding under paragraph ( b ) of subsection (6) above, the holding shall be treated as consisting of the compensatable portion only. ]

#### Textual Amendments

- F11** S. 23A inserted by [Coal Industry Act 1975 \(c. 56\), s. 6\(1\)](#)
- F12** Words in s. 23A(4) substituted (31.10.1994) by [1994 c. 21, s. 52](#), Sch. 8 para. 19(1)(b) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F13** Words in s. 23A substituted (31.10.1994) by [1994 c. 21, s. 52](#), [Sch. 8 para. 19\(1\)\(a\)\(2\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)

## 24 Tenant's right to compensation for improvements and other matters. **E+W**

- (1) The provisions of this section shall have effect where the land comprised in a compulsory rights order consists of or includes land which—
  - (a) immediately before the date of entry, constitutes or forms part of an agricultural holding [<sup>F14</sup>held under a tenancy in relation to which the Act of 1986 applies], and
  - (b) is land on which, before that date, there have been carried out long-term improvements qualifying for compensation under the [<sup>F15</sup>Act of 1986], or there has been adopted a special system of farming qualifying for compensation under that Act.

In the following provisions of this section land comprised in a compulsory rights order which falls within paragraphs (a) and (b) of this subsection is referred to as “the tenant's land”.

- (2) If at the end of the period of occupation—
  - (a) the tenant's land has lost the benefit of any of the improvements, or of the special system of farming, as the case may be, and
  - (b) that land is subject to the same tenancy as immediately before the date of entry, or is subject to a subsequent tenancy under which the tenant has retained or succeeded to the relevant right to compensation,

and the tenancy under which that land is then held continues after the end of the period of occupation, the provisions of the [<sup>F16</sup>Act of 1986] as to compensation for long-term improvements, and as to compensation for a special system of farming, shall apply as mentioned in the next following subsection.

- (3) The said provisions of the [<sup>F17</sup>Act of 1986] shall apply as if—
  - (a) the tenant's land were in the state in which it was immediately before the date of entry, and

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- (b) the tenancy under which that land is held at the end of the period of occupation had terminated immediately after the end of that period and the tenant thereunder had then quitted the holding:

Provided that (in a case where long-term improvements qualifying for compensation under the [F17] Act of 1986] had been carried out on the tenant's land) if the tenant's land has lost the benefit of some of those improvements, but has not lost the benefit of all of them, those provisions of the [F17] Act of 1986] shall apply as mentioned in paragraphs (a) and (b) of this subsection, but as if the improvements of which the tenant's land has not lost the benefit had not been long-term improvements qualifying for compensation under that Act.

- (4) For the purposes of subsections (2) and (3) of this section—
  - (a) the tenant's land shall be taken to have lost the benefit of a long-term improvement if the benefit of that improvement has been lost (wholly or in part) without being replaced by another long-term improvement of comparable benefit to the land;
  - (b) the tenant's land shall be taken to have lost the benefit of a special system of farming if the increased value attributable to that system of farming has been lost (wholly or in part) without being regained by the continuous adoption of a system of farming of comparable benefit to the land.
- (5) For the purposes of paragraph (b) of subsection (2) of this section, the tenant's land shall be taken to be subject to such a subsequent tenancy as is therein mentioned if either—
  - (a) by virtue of [F18] section 69(1) of the Act of 1986 or paragraph 5(1) of Part I of Schedule 9 to that Act](which relate respectively to improvements made during one of a series of tenancies) the same tenant would have the like right to compensation in right of the subsequent tenancy as he would have had in right of the previous tenancy, or
  - (b) by virtue of [F19] section 69(2) or (3) of the Act of 1986 or paragraph 5(2) of Part I of Schedule 9 to that Act](which relate respectively to improvements paid for by an incoming tenant) the tenant under the subsequent tenancy would have the like right to compensation as the tenant would have had under the previous tenancy.
- (6) The provisions of the [F20] Act of 1986] referred to in subsection (2) of this section shall be taken to include any provisions of that Act as to the making of claims for any such compensation as is mentioned in that subsection, as to the calculation of any such compensation and the settlement or determination of such claims, as to the recovery of any such compensation, and as to any other matters incidental thereto:

Provided that—

- (a) any provisions of the [F20] Act of 1986] as to the giving of notice of intention to make a claim shall apply with the modification that the time for giving such a notice shall be any time not later than three months after the end of the period of occupation;
  - (b) [F21] section 83(4)] of that Act (which relates to the time for settling such claims) shall apply with the substitution, for the reference to [F22] eight] months from the termination of the tenancy, of a reference to [F22] eight] months from the end of the period of occupation.
- (7) In this section—



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- (a) any reference to long-term improvements qualifying for compensation under the [F<sup>23</sup>Act of 1986] is a reference to long-term improvements in respect of which, immediately before the date of entry, a tenant of the agricultural holding in question had a prospective right to compensation under that Act on quitting the holding on the termination of his tenancy;
- (b) any reference to a special system of farming qualifying for compensation under the [F<sup>23</sup>Act of 1986] is a reference to a system of farming in respect of which, immediately before the date of entry, a tenant of the agricultural holding in question had a prospective right to compensation under [F<sup>24</sup>section 70] of that Act on quitting the holding on the termination of his tenancy.
- (8) In determining whether the conditions specified in paragraph (a) or paragraph (b) of the last preceding subsection are fulfilled, no account shall be taken of any provision of the [F<sup>25</sup>Act of 1986] whereby a right to compensation is conditional upon the making of a claim, or the giving of notice of intention to make a claim, or is liable to be affected by the service of a notice by the landlord.
- (9) In this Act “long-term improvement” means any improvement (whether begun before or after the first day of March, nineteen hundred and forty-eight) of a description specified in Part I or Part II of [F<sup>26</sup>Schedule 7 to the Act of 1986].
- [F<sup>27</sup>(9A) In this section the references to the Act of 1986 in subsections (1)( b ), (7) and (8) and the second and fourth references to that Act in subsection (3) include references to the Agricultural Holdings Act 1948 (in this Act called the Act of 1948) and the reference to section 70 of the Act of 1986 in subsection (7)( b ) includes a reference to section 56 of the Act of 1948. ]
- [F<sup>28</sup>(10) In the application of this section to Scotland [F<sup>29</sup>the words “held under a tenancy in relation to which the Act of 1986 applies” in subsection (1)(a) of this section shall be omitted and]], for references—
- (a) to the Act of 1986 and to sections 70 and 83(4) of that Act there shall be substituted respectively references to the Scottish Act of 1991 and to sections 44 and 62(3) of that Act;
- (b) to subsections (1), (2) and (3) of section 69 of the Act of 1986 there shall be substituted respectively references to sections 34(5) and 35(4) and (5) of the Scottish Act of 1991 (as they apply to new improvements);
- (c) to Parts I and II of Schedule 7 to the Act of 1986 and to the first day of March 1948 there shall be substituted respectively references to Parts I and II of Schedule 5 to the Scottish Act of 1991 and to the first day of November 1948; and
- (d) to sub-paragraphs (1) and (2) of paragraph 5 of Part I of Schedule 9 to the 1986 Act there shall be substituted respectively references to sections 34(5) and 35(4) of the Scottish Act of 1991 (as they apply to old improvements).

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#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

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#### Textual Amendments

- F14** Words in s. 24(1)(a) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 15(2)** (with s. 37)

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- F15** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(2)**
- F16** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(3)**
- F17** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(4)**
- F18** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(5)(a)**
- F19** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(5)(b)**
- F20** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(6)(a)**
- F21** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(6)(b)**
- F22** Words in s. 24(6) substituted (E.W.) by virtue of Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(6)**
- F23** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(7)(a)**
- F24** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(7)(b)**
- F25** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(8)**
- F26** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(9)**
- F27** S. 24(9A) inserted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(10)**
- F28** S. 24(10) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88, 89(2), **Sch. 11 para. 13** (with s. 45(3), Sch. 12 para.3)
- F29** Words in s. 24(10) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 15(3)** (with s. 37)

## 24 Tenant’s right to compensation for improvements and other matters. **S**

- (1) The provisions of this section shall have effect where the land comprised in a compulsory rights order consists of or includes land which—
- (a) immediately before the date of entry, constitutes or forms part of an agricultural holding [<sup>F65</sup>held under a tenancy in relation to which the Act of 1986 applies], and
  - (b) is land on which, before that date, there have been carried out long-term improvements qualifying for compensation under the [<sup>F66</sup>Act of 1986], or there has been adopted a special system of farming qualifying for compensation under that Act.

In the following provisions of this section land comprised in a compulsory rights order which falls within paragraphs (a) and (b) of this subsection is referred to as “the tenant’s land”.

- (2) If at the end of the period of occupation—
- (a) the tenant’s land has lost the benefit of any of the improvements, or of the special system of farming, as the case may be, and
  - (b) that land is subject to the same tenancy as immediately before the date of entry, or is subject to a subsequent tenancy under which the tenant has retained or succeeded to the relevant right to compensation,

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and the tenancy under which that land is then held continues after the end of the period of occupation, the provisions of the [F67 Act of 1986] as to compensation for long-term improvements, and as to compensation for a special system of farming, shall apply as mentioned in the next following subsection.

- (3) The said provisions of the [F68 Act of 1986] shall apply as if—
- (a) the tenant's land were in the state in which it was immediately before the date of entry, and
  - (b) the tenancy under which that land is held at the end of the period of occupation had terminated immediately after the end of that period and the tenant thereunder had then quitted the holding:

Provided that (in a case where long-term improvements qualifying for compensation under the [F68 Act of 1986] had been carried out on the tenant's land) if the tenant's land has lost the benefit of some of those improvements, but has not lost the benefit of all of them, those provisions of the [F68 Act of 1986] shall apply as mentioned in paragraphs (a) and (b) of this subsection, but as if the improvements of which the tenant's land has not lost the benefit had not been long-term improvements qualifying for compensation under that Act.

- (4) For the purposes of subsections (2) and (3) of this section—
- (a) the tenant's land shall be taken to have lost the benefit of a long-term improvement if the benefit of that improvement has been lost (wholly or in part) without being replaced by another long-term improvement of comparable benefit to the land;
  - (b) the tenant's land shall be taken to have lost the benefit of a special system of farming if the increased value attributable to that system of farming has been lost (wholly or in part) without being regained by the continuous adoption of a system of farming of comparable benefit to the land.
- (5) For the purposes of paragraph (b) of subsection (2) of this section, the tenant's land shall be taken to be subject to such a subsequent tenancy as is therein mentioned if either—
- (a) by virtue of [F69 section 69(1) of the Act of 1986 or paragraph 5(1) of Part I of Schedule 9 to that Act](which relate respectively to improvements made during one of a series of tenancies) the same tenant would have the like right to compensation in right of the subsequent tenancy as he would have had in right of the previous tenancy, or
  - (b) by virtue of [F70 section 69(2) or (3) of the Act of 1986 or paragraph 5(2) of Part I of Schedule 9 to that Act](which relate respectively to improvements paid for by an incoming tenant) the tenant under the subsequent tenancy would have the like right to compensation as the tenant would have had under the previous tenancy.
- (6) The provisions of the [F71 Act of 1986] referred to in subsection (2) of this section shall be taken to include any provisions of that Act as to the making of claims for any such compensation as is mentioned in that subsection, as to the calculation of any such compensation and the settlement or determination of such claims, as to the recovery of any such compensation, and as to any other matters incidental thereto:

Provided that—

- (a) any provisions of the [F71 Act of 1986] as to the giving of notice of intention to make a claim shall apply with the modification that the time for giving such a

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notice shall be any time not later than three months after the end of the period of occupation;

- (b) [<sup>F72</sup>section 83(4)] of that Act (which relates to the time for settling such claims) shall apply with the substitution, for the reference to four months from the termination of the tenancy, of a reference to five months from the end of the period of occupation.

(7) In this section—

- (a) any reference to long-term improvements qualifying for compensation under the [<sup>F73</sup>Act of 1986] is a reference to long-term improvements in respect of which, immediately before the date of entry, a tenant of the agricultural holding in question had a prospective right to compensation under that Act on quitting the holding on the termination of his tenancy;
- (b) any reference to a special system of farming qualifying for compensation under the [<sup>F73</sup>Act of 1986] is a reference to a system of farming in respect of which, immediately before the date of entry, a tenant of the agricultural holding in question had a prospective right to compensation under [<sup>F74</sup>section 70] of that Act on quitting the holding on the termination of his tenancy.

(8) In determining whether the conditions specified in paragraph (a) or paragraph (b) of the last preceding subsection are fulfilled, no account shall be taken of any provision of the [<sup>F75</sup>Act of 1986] whereby a right to compensation is conditional upon the making of a claim, or the giving of notice of intention to make a claim, or is liable to be affected by the service of a notice by the landlord.

(9) In this Act “long-term improvement” means any improvement (whether begun before or after the first day of March, nineteen hundred and forty-eight) of a description specified in Part I or Part II of [<sup>F76</sup>Schedule 7 to the Act of 1986].

[<sup>F77</sup>(9A) In this section the references to the Act of 1986 in subsections (1)( b ), (7) and (8) and the second and fourth references to that Act in subsection (3) include references to the Agricultural Holdings Act 1948 (in this Act called the Act of 1948) and the reference to section 70 of the Act of 1986 in subsection (7)( b ) includes a reference to section 56 of the Act of 1948. ]

<sup>F78</sup>[(10) In the application of this section to Scotland [<sup>F79</sup>the words “held under a tenancy in relation to which the Act of 1986 applies” in subsection (1)(a) of this section shall be omitted and]], for references—

[<sup>F80</sup>(a) to the Act of 1986 and to sections 70 and 83(4) of that Act there shall be substituted respectively references—

(i) in the case of a 1991 Act tenancy within the meaning of the Scottish Act of 2003, to the Scottish Act of 1991 and to sections 44 and 62(3) of that Act; or

(ii) in the case of a short limited duration tenancy [<sup>F81</sup>, a limited duration tenancy or a modern limited duration tenancy] , (within the meaning of the Scottish Act of 2003) to the Scottish Act of 2003 and to section 53(1) of that Act;]

[<sup>F80</sup>(b) to subsections (1), (2) and (3) of section 69 of the Act of 1986 there shall be substituted respectively references—

(i) in the case of a 1991 Act tenancy within the meaning of the Scottish Act of 2003, to sections 34(5) and 35(4) and (5) of the Scottish Act of 1991 (as they apply to new improvements); or

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- (ii) in the case of a short limited duration tenancy [<sup>F82</sup>, a limited duration tenancy or a modern limited duration tenancy] (within the meaning of the Scottish Act of 2003), to sections 45(4) and 46 of the Scottish Act of 2003;]
- (c) to Parts I and II of Schedule 7 to the Act of 1986 and to the first day of March 1948 there shall be substituted respectively references to Parts I and II of Schedule 5 to the Scottish Act of 1991 and to the first day of November 1948; and
- (d) to sub-paragraphs (1) and (2) of paragraph 5 of Part I of Schedule 9 to the 1986 Act there shall be substituted respectively references to sections 34(5) and 35(4) of the Scottish Act of 1991 (as they apply to old improvements).

#### Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F65** Words in s. 24(1)(a) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 15(2)** (with s. 37)
- F66** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(2)**
- F67** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(3)**
- F68** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(4)**
- F69** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(5)(a)**
- F70** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(5)(b)**
- F71** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(6)(a)**
- F72** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(6)(b)**
- F73** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(7)(a)**
- F74** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(7)(b)**
- F75** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(8)**
- F76** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(9)**
- F77** S. 24(9A) inserted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(10)**
- F78** S. 24(10) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), **Sch. 11 para. 13** (with s. 45(3), Sch. 12 para.3)
- F79** Words in s. 24(10) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 15(3)** (with s. 37)
- F80** S. 24(10)(a)(b) substituted (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, **Sch. para. 3**
- F81** Words in s. 24(10)(a)(ii) substituted (S.) (30.11.2017) by [The Land Reform \(Scotland\) Act 2016 \(Supplementary, Consequential, Transitory and Saving Provisions\) Regulations 2017 \(S.S.I. 2017/416\)](#), reg. 1(1), **sch. 1 para. 1(2)(a)**

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*Changes to legislation:* There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Compensation in respect of agricultural land. (See end of Document for details)

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**F82** Words in s. 24(10)(b)(ii) substituted (S.) (30.11.2017) by [The Land Reform \(Scotland\) Act 2016 \(Supplementary, Consequential, Transitory and Saving Provisions\) Regulations 2017 \(S.S.I. 2017/416\)](#), reg. 1(1), [sch. 1 para. 1\(2\)\(b\)](#)

## 25 Deductions from tenant’s compensation.

- (1) Where a tenant of an agricultural holding is entitled to compensation under section twenty-four of this Act in respect of land constituting or forming part of that holding, there shall be deducted from the amount of that compensation, calculated apart from this subsection, the amount of any compensation which would have been recoverable from the tenant by the landlord—
- (a) under [<sup>F30</sup>section 71 of the Act of 1986] (which relates to compensation for dilapidation, deterioration or damage for which the tenant is responsible), or
  - (b) under [<sup>F31</sup>section 72] of that Act (which relates to compensation for general reduction in the value of the holding due to the tenant’s failure to fulfil his responsibilities),

if the tenancy under which that land was held immediately before the date of entry had terminated immediately before that date and the tenant thereunder had then quitted the holding on the termination of his tenancy:

Provided, that for the purposes of this subsection, no account shall be taken of any dilapidation or deterioration of, or damage to, any part of the holding which was not comprised in the compulsory rights order, or of any reduction in the value of any such part of the holding.

- (2) For the purposes of the last preceding subsection, any provision of the [<sup>F32</sup>Act of 1986], whereby any right to compensation is conditional upon the making of a claim, or the giving of notice of intention to make a claim, shall be disregarded.

[<sup>F33</sup>(2A) In this section references to the Act of 1986 and to sections 71 and 72 of that Act include respectively references to the Act of 1948 and to sections 57 and 58 of that Act]

[<sup>F34</sup>(3) In the application of this section to Scotland, for paragraphs (a) and (b) of subsection (1) above there shall be substituted the words “under section 45 of the Scottish Act of 1991 (which relates to compensation for deterioration of a holding or part thereof for which a tenant is responsible).”]

### Textual Amendments

- F30** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, [Sch. 14 para. 27\(2\)\(a\)](#)
- F31** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, [Sch. 14 para. 27\(2\)\(b\)](#)
- F32** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, [Sch. 14 para. 27\(3\)](#)
- F33** S. 25(2A) inserted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, [Sch. 14 para. 27\(4\)](#)
- F34** S. 25(3) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11 para.14](#) (with s. 45(3), Sch. 12 para. 3)

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*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Compensation in respect of agricultural land. (See end of Document for details)*

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<sup>F35</sup>**[25A Tenant’s right to compensation for improvements etc.: farm business tenancies.**

- (1) The provisions of this section shall have effect where—
  - (a) any part of the land comprised in a compulsory rights order is held, immediately before the date of entry, under a farm business tenancy;
  - (b) there have been provided in relation to the land which is both so comprised and so held ( “the tenant’s land”) tenant’s improvements in respect of which, immediately before that date, the tenant had a prospective right to compensation under section 16 of the Act of 1995 on quitting the holding on the termination of the tenancy;
  - (c) at the end of the period of occupation, the tenant’s land has lost the benefit of any such improvement; and
  - (d) immediately after the end of that period, the tenant’s land is comprised in the same tenancy as immediately before the date of entry, or is comprised in a subsequent farm business tenancy at the end of which the tenant is not deprived, by virtue of section 23(3) of that Act, of his right to compensation under section 16 of that Act in respect of any tenant’s improvement provided during the earlier tenancy in relation to the tenant’s land.
- (2) For the purposes of subsection (1) of this section, subsection (2) of section 22 of the Act of 1995 (which requires notice to be given of the intention to make a claim) shall be disregarded.
- (3) Subject to subsection (4) of this section, Part III of the Act of 1995 shall apply as if—
  - (a) the tenant’s land were in the state in which it was immediately before the date of entry, and
  - (b) the tenancy under which that land is held at the end of the period of occupation had terminated immediately after the end of that period and the tenant had then quitted the holding.
- (4) Where the tenant’s land has lost the benefit of some tenant’s improvements but has not lost the benefit of all of them, Part III of the Act of 1995 shall apply as mentioned in subsection (3) above, but as if the improvements of which the tenant’s land has not lost the benefit had not been tenant’s improvements.
- (5) For the purposes of subsections (1) and (4) of this section, the tenant’s land shall be taken to have lost the benefit of a tenant’s improvement if the benefit of that improvement has been lost (wholly or in part) without being replaced by another improvement of comparable benefit to the land.
- (6) In this section “ holding ”, in relation to a farm business tenancy, “ tenant’s improvement ”, “ termination ”, in relation to a tenancy, and references to the provision of a tenant’s improvement have the same meaning as in the Act of 1995.
- (7) This section does not extend to Scotland.]

**Textual Amendments**

**F35** S. 25A inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 16** (with s. 37)

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*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Compensation in respect of agricultural land. (See end of Document for details)*

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## 26 Compensation for short-term improvements and related matters.

- (1) Where, in the exercise of rights conferred by a compulsory rights order, [<sup>F36</sup>any person occupies] any land which, immediately before the date of entry, was agricultural land [<sup>F37</sup>and was not comprised in a farm business tenancy], compensation shall be payable [<sup>F36</sup>by that person] in respect of any improvements or other matters to which this section applies in relation to that land.
- [<sup>F38</sup>(1A) Compensation shall not be payable by virtue of this section where a person's occupation of any land, in exercise of rights conferred by a compulsory rights order, is confined to replacing in occupation a person previously entitled to exercise the rights conferred by that order.]
- (2) This section applies, in relation to any land,—
- (a) to any improvements, of a description specified in Part I of the Fourth Schedule to this Act, which had been carried out on that land before the date of entry, and
  - (b) to any matters, of a description specified in Part II of the Fourth Schedule to this Act, which applied to that land immediately before that date:
- Provided that, in relation to land which, immediately before the date of entry, was not occupied by a tenant, Part II of the Fourth Schedule to this Act shall apply subject to the modifications specified in Part III of that Schedule.
- (3) Where compensation is payable <sup>F39</sup>. . . under this section in respect of any improvements or other matters, the compensation shall be of an amount equal to the amount of the compensation which would have been payable in respect of those improvements or matters under the [<sup>F40</sup>Act of 1986] if—
- (a) where the land in question did not form part of an agricultural holding immediately before the date of entry, it had formed part of such a holding immediately before that date, and
  - (b) in any case, the tenancy of the agricultural holding comprising that land had terminated on the date of entry and the tenant thereunder had then quitted the holding.
- (4) The person entitled to any compensation payable by virtue of this section—
- (a) in the case of land which, immediately before the date of entry, was occupied by a tenant, shall be that tenant, and
  - (b) in any other case, shall be the person who was the owner of the land immediately before the date of entry.
- (5) If, by virtue of the power conferred by [<sup>F41</sup>section 91 of the Act of 1986, the provisions of Schedule 8] to that Act are varied, the Minister may by order make such corresponding variations in the provisions of Parts I, II and III of the Fourth Schedule to this Act as he may consider appropriate.
- [<sup>F42</sup>(5A) the reference in subsection (3) of this section to the 1986 Act includes a reference to the 1948 Act]
- (6) In the application of this section to Scotland
- [<sup>F43</sup>(za) in subsection (1) of this section, the words “and was not comprised in a farm business tenancy” shall be omitted;]
  - , [<sup>F44</sup>(a)] the following subsection shall be substituted for subsection (2) of this section:
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“(2) This section applies, in relation to any land, to any improvements of a description specified in Part IV of the Fourth Schedule to this Act, which had been carried out on that land before the date of entry:

Provided that, in relation to land which, immediately before the date of entry, is not occupied by a tenant, Part IV of that Schedule shall apply subject to the modifications set out in Part V of that Schedule”

[<sup>F45</sup>(b) in subsection (3) of this section for the reference to the Act of 1986 there shall be substituted a reference to the Scottish Act of 1991 or, as the case may be, to the Scottish Act of 2003; and]

<sup>F46</sup>[(c) in subsection (5) of this section there shall be substituted—

- (i) for the reference to section 91 of the Act of 1986 a reference to section 73 of the Scottish Act of 1991;
- (ii) for the reference to Schedule 8 to the Act of 1986 a reference to Part III of Schedule 5 to the Scottish Act of 1991;
- (iii) for the reference to Parts I, II and III of the Fourth Schedule to this Act a reference to Parts IV and V of that Schedule. ]

#### Textual Amendments

- F36** Words in s. 26(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 20(1)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F37** Words in s. 26(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 17(1)(2)** (with s. 37)
- F38** S. 26(1A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 20(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F39** Words in s. 26(3) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, Sch. 8 para. 20(3), **Sch. 11 Pt. II**
- F40** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 28(2)**
- F41** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 28(3)**
- F42** S. 26(5A) inserted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 28(4)**
- F43** S. 26(6)(za) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 17(1)(3)** (with s. 37)
- F44** Word in s. 26(6) inserted (25.9.1991) by **Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3)**, ss. 88, 89(2), **Sch. 11 para. 15** (with s. 45(3), Sch. 12 para. 3)
- F45** S. 26(6)(b) substituted (27.11.2003) by **Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583)**, art. 1, **Sch. para. 4**
- F46** Words in s. 26(6) substituted (25.9.1991) by **Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3)**, ss. 88, 89(2), **Sch. 11 para. 15** (with s. 45(3), Sch. 11 para. 3)

## 27 Compensation in respect of forced sales.

- (1) Where, in consequence of the confirmation of a compulsory rights order, a person incurs a loss in respect of a forced sale of any property consisting of—
- (a) livestock, vehicles, plant, equipment or other chattels which are kept on a holding to which (when the order becomes operative) section seventeen of this Act applies, or which are used for the purposes of such a holding, or
  - (b) a fixture or building (not falling within the preceding paragraph) which he has removed from such a holding in pursuance of [<sup>F47</sup>section 10 of the Act of 1986],

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he shall, subject to the following provisions of this section, be entitled to compensation from [<sup>F48</sup>the person on whose application the compulsory rights order was made] of an amount equal to that loss.

- (2) The preceding subsection shall not apply except where the person incurring the loss is the person who is for the time being entitled to occupy so much of the holding as is comprised in the order, or would be entitled for the time being to occupy it if the order had not been made.
- [<sup>F49</sup>(2A) Where, in the case of any sale in respect of which compensation is payable under this section, a person other than the person who applied for the order is entitled, on the effective date of the sale, to the rights conferred by the compulsory rights order, that compensation shall be payable by the person entitled to those rights, instead of by the person who applied for the order.]
- (3) A person shall not be entitled to compensation under this section in respect of a forced sale unless he has given to [<sup>F50</sup>the person potentially liable] not less than ten days' notice of the intended sale, and has, before the sale, afforded to [<sup>F50</sup>the person to whom the notice was given, or any person designated for the purpose by him,] reasonable facilities to inspect the property intended to be sold, in so far as he was in a position to afford such facilities.
- (4) In the application of this section to Scotland, for the reference to [<sup>F51</sup>section 10 of the Act of 1986] there shall be substituted a reference to [<sup>F52</sup>section 18 of the Scottish Act of 1991].
- [<sup>F53</sup>(5) In this section—
- “effective date”, in relation to a sale, means the date on which the property sold becomes the property of the purchaser; and
- “the person potentially liable”, in relation to a notice relating to a sale, means the person on whom the liability to pay the compensation will fall on the effective date of the sale if the person entitled to the rights conferred by the compulsory rights order in question does not change before that date.

#### Textual Amendments

- F47** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 29(2)**
- F48** Words in s. 27(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 21(1)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F49** S. 27(2A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 21(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F50** Words in s. 27(3) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 21(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F51** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 29(3)**
- F52** Words in s. 27(4) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88, 89(2), **Sch. 11 para. 16** (with s. 45(3), Sch. 12 para. 3)
- F53** S. 27(5) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 21(4)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

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## 28 Special provisions as to market gardens.

- (1) The provisions of this section shall have effect where the land comprised in a compulsory rights order consists of or includes land which, immediately before the date of entry, was agricultural land used as a market garden [<sup>F54</sup>and was not comprised in a farm business tenancy].
- (2) Subject to the next following subsection, section twenty-six of this Act shall have effect in relation to that land as if the descriptions of improvements specified in Part VI of the Fourth Schedule to this Act were included among the descriptions of improvements specified in Part I of that Schedule.
- (3) Where the land in question, immediately before the date of entry, was occupied by a tenant, the last preceding subsection shall not apply to any improvements of a description specified in Part VI of the Fourth Schedule to this Act unless they are improvements in respect of which [<sup>F55</sup>subsections (2) to (5) of section 79 of the Act of 1986] (which relates to market gardens) has effect, whether by virtue of an agreement or of a direction given under [<sup>F56</sup>subsections (2) of section 80] of that Act.
- (4) In relation to land falling within subsection (1) of this section, any reference in the preceding provisions of this Part of this Act to rights under [<sup>F57</sup>sections 10 of the Act of 1986] shall include a reference to rights under that section as extended by [<sup>F58</sup>subsection (3) of section 79 of the Act of 1986.]
- (5) If, by virtue of the power conferred by [<sup>F59</sup>section 91 of the Act of 1986 the provisions of Schedule 10] to that Act are varied, the Minister may by order make such corresponding variations in the provisions of Part VI of the Fourth Schedule to this Act as he may consider appropriate.
- (6) In the application of this section to Scotland [<sup>F60</sup>in subsection (1) of this section, the words “and was not comprised in a farm business tenancy” shall be omitted; and], for the references to [<sup>F61</sup>subsections (2) to (5) of section 79 of the Act of 1986 and subsection (3) of that section]of that section, there shall be substituted respectively references [<sup>F62</sup> section 40 of the Scottish Act of 1991 and to subsection (4)(a) of that section]; for the references to [<sup>F63</sup>subsection (2) of section 80 of the Act of 1986 and to section 10] of that Act there shall be substituted respectively references [<sup>F62</sup>to section 41(1) and to section 18 of the Scottish Act of 1991]; for the references to [<sup>F64</sup>section 91 of the Act of 1986 and to Schedule 10] to that Act there shall be substituted respectively references [<sup>F62</sup>to section 73 of the Scottish Act of 1991 and to Schedule 6 thereto]; and for the reference to Part I of the Fourth Schedule to this Act there shall be substituted a reference to Part IV of that Schedule.

### Textual Amendments

- F54** Words in s. 28(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 18(1)(2)** (with s. 37)
- F55** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13 para. 3](#), **Sch. 14 para. 30(2)(a)**
- F56** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13 para. 3](#), **Sch. 14 para. 30(2)(b)**
- F57** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13 para. 3](#), **Sch. 14 para. 30(3)(a)**
- F58** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13 para. 3](#), **Sch. 14 para. 30(3)(b)**
- F59** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13 para. 3](#), **Sch. 14 para. 30(4)**

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**Changes to legislation:** There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Compensation in respect of agricultural land. (See end of Document for details)

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- F60** Words in s. 28(6) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 18(1)(3)** (with s. 37)
- F61** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 30(5)(a)**
- F62** Words in s. 28(6) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88, 89(2), **Sch. 11 para. 17(a)(b)(c)** (with s. 45(3), Sch. 12 para. 3)
- F63** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 30(5)(b)**
- F64** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 30(5)(c)**

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross  
Heading: Compensation in respect of agricultural land.