



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART III

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### 51 Interpretation.

(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

- <sup>F1</sup> . . . . .
- [<sup>F2</sup>“the Act of 1986” means the <sup>M1</sup>Agricultural Holdings Act 1986;]
- [<sup>F3</sup> “ the Act of 1995 ” means the Agricultural Tenancies Act 1995; ]
- [<sup>F4</sup>“the Act of 1971” ] means the [<sup>F4</sup>Town and Country Planning Act 1971];
- “The Act of 1948” means the Agricultural Holdings Act 1948;
- [<sup>F5</sup>“The Act of 1990” means the Town and Country Planning Act 1990;]
- “agriculture” has the same meaning as in the Agriculture Act 1947, and “agricultural” (except in the expressions “agricultural holding” and “agricultural land”) shall be construed accordingly;
- “agricultural holding” has the meaning assigned to it by section one of the [<sup>F6</sup> Act of 1986]; “agricultural land” means land used for agriculture which is so used for the purposes of a trade or business;
- <sup>F7</sup> . . . . .
- [<sup>F8</sup> “ appropriate Minister ” means—
- (a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, [<sup>F9</sup> the Minister of Transport];
  - (b) in relation to statutory undertakers carrying on an undertaking for the supply of <sup>F10</sup> . . . hydraulic power, the [<sup>F11</sup>Secretary of State for Trade and Industry];
  - (c) in relation to the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;
  - (d) <sup>F12</sup> . . . . .

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- (e) in relation to any [<sup>F13</sup> internal drainage board], the Minister of Agriculture, Fisheries and Food;
- (f) <sup>F14</sup> ..... and
- (g) in all other cases, the Secretary of State for the Environment.]

<sup>F15</sup> .....

<sup>F16</sup> .....

“coal” means bituminous coal, cannel coal and anthracite;

“compulsory rights order” has the meaning assigned to it by section four of this Act;

<sup>F17</sup> .....

“date of entry” has the meaning assigned to it by section five of this Act;

<sup>F18</sup> .....

“emergency powers” means any powers exercisable by virtue of the Defence (General) Regulations, 1939, or by virtue of the Requisitioned Land and War Works Act 1945, or by virtue of the prerogative of the Crown;

[<sup>F19</sup> “ farm business tenancy ” has the same meaning as in the Act of 1995; ]

“functions” includes powers and duties, and references to the performance of functions shall be construed accordingly;

“incumbrance”, in relation to any land, includes any interest in or right over that land (including any such right inuring for the benefit of the public or of a section thereof);

“land” includes land covered by water;

“local planning authority” and “local authority” have the meanings assigned to them by [<sup>F20</sup> the Act of 1971];

“minerals” includes stone, slate, clay, gravel, sand and similar deposits;

“mineral undertaking” means an undertaking for the working and getting of minerals, whether by underground or by surface working;

“mining lease” means a lease for the purpose of working and getting minerals, whether by underground or by surface working; and in this definition “lease” includes an underlease and an agreement for a lease or underlease and a tenancy agreement, and also includes a licence, but does not include an option to take a lease, underlease or tenancy agreement, and does not include a mortgage;

“the Minister” means [<sup>F21</sup>the Secretary of State];

“mortgage” includes any charge or lien on property for securing money or money’s worth, and “mortgagee” and “mortgagor” shall be construed accordingly;

“National Trust” has the same meaning as in the Act of 1947;

<sup>F22</sup> .....

[<sup>F23</sup> “ opencast planning permission ” means planning permission which permits [<sup>F24</sup> the working of coal by opencast operations or the carrying out of ] operations incidental to such working; ]

“operative date” has the meaning assigned to it by section four of this Act;

“order conferring working rights” means an order made under [<sup>F25</sup>the Mines (Working Facilities and Support) Act 1966];

“owner” in relation to land, subject to the next following subsection, means the estate owner in respect of the fee simple thereof;

“period of occupation” has the meaning assigned to it [<sup>F26</sup>by section 5 of this Act];

[<sup>F27</sup> “ permitted activites ” means—

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- (a) the working of coal by opencast operations pursuant to opencast planning permission and the carrying out of operations incidental to such working; and
- (b) the carrying out of any conditions subject to which opencast planning permission has been granted;];

“persons directly concerned” has (subject to the provisions of sections seven and eight of this Act) the meaning assigned to it [F26]by section 5 of this Act];

[F28]“planning permission” means planning permission under Part III of [F29]the Act of 1990]]

“prescribed” means prescribed by regulations made under this Act;

“restoration”, in relation to land, includes rehabilitation, and “restore” shall be construed accordingly;

F30 .....

F31 . . . .

F31 . . . .

“statutory undertakers” and “statutory undertaking” have the same meanings as in [F20]the Act of 1971]] [F32](but excluding a universal service provider within the meaning of [F33]Part 3 of the Postal Services Act 2011] and his undertaking)];

[F34]“successor”, in relation to an applicant for an order under any provision of this Act, means any person (whether or not the immediate successor of the applicant) who—

- (a) in accordance with the provisions of any licence granted to the applicant under Part II of the Coal Industry Act 1994, succeeds to any entitlement of that applicant under that licence to work any coal by opencast operations; or
- (b) becomes entitled by virtue of the grant of a new licence under that Part of that Act to work by such operations any coal which the applicant was previously entitled so to work as a licensed operator within the meaning of that Act;]

.....

“tenancy” has the meaning assigned to it by the Landlord and Tenant Act 1954;

“termination”, in relation to a tenancy, means the cesser of the tenancy, whether by effluxion of time or for any other reason;

“year” means any period of twelve months.

[F35](1A) References in this Act, in relation to any opencast planning permission, to the person with the benefit of that permission shall be construed as a reference to any person who—

- (a) is able, on account of his having all such interests or rights as (apart from that permission) he requires for the purpose, to carry out any of the permitted activities; or
- (b) would be so able if the rights which he had and was entitled to exercise included any such right as he has applied for, or is entitled to apply for, under this Act or any right which has been conferred on him under this Act but has not yet become exercisable.]

(2) In relation to any land which is subject to a long tenancy, “owner” in this Act means the person entitled to that tenancy, so however that for the purposes of this subsection a long tenancy, which is in reversion expectant (whether immediately or not) upon the termination of another long tenancy, shall be disregarded.

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In this subsection “long tenancy” means a tenancy granted for a term of years certain, being a term of ninety-nine years or more, whether subsequently extended (by act of the parties or by virtue of any enactment) or not.

- (3) In this Act “similar right”, where the reference is to an easement or similar right in relation to any land, means any of the following rights, that is to say, any right to take game or fish or other sporting right exercisable in respect of that land, any right to fell and remove trees standing thereon, any right to take timber or other wood, water, turf or other materials therefrom, any right to work minerals thereon (otherwise than by virtue of a mining lease or of an order conferring working rights), and any right to depasture cattle or other animals thereon, except any such sporting or other right which—

- (a) subsists only as a right incidental to the ownership of the land in question, or to some other interest therein, or to a right to occupy that land, or
- (b) is exercisable by virtue of a licence granted otherwise than for valuable consideration;

and any right over land which constitutes an easement or similar right in relation thereto, if apart from this subsection it would not constitute an interest in that land, shall be treated for the purposes of this Act as constituting an interest therein.

- (4) For the purposes of any provision of this Act, in so far as it refers to the state or condition in which land was at a time specified in that provision, regard shall be had to all matters relevant to the state or condition of the land at that time, including (but without prejudice to the generality of this subsection) the characteristics of the soil (whether on or below the surface), the presence of any minerals in or under the land, the growth of trees, hedges or other vegetation thereon, and any buildings, structures, apparatus or other works which were on, in, under or over the land at that time; and any reference in any provision of this Act to the state or condition in which land would have been, or might reasonably have been expected to be, in circumstances specified in that provision, shall be construed accordingly.
- (5) Any reference in this Act to the working of coal by opencast operations includes a reference to the getting and winning of coal worked by such operations, and to the carrying away of any such coal from the land on which it has been worked.
- (6) Any reference in this Act to the working of coal or other minerals on any land, or to the carrying out of any other operations on any land, shall be construed as including a reference to the working of the coal or other minerals, or the carrying out of those operations, as the case may be, in or under that land.
- (7) For the purposes of this Act waste heaps and other deposits resulting from the working of minerals shall be taken to form part of the land on which they are situated, if apart from this subsection they would not be taken to form part thereof, and any reference in this Act to the working of minerals on, in or under land, or to underground or surface working, shall be construed accordingly.
- (8) In relation to land comprised in a compulsory rights order, any reference in this Act to the person who would be entitled to occupy that land if the order had not been made shall be construed, in relation to any time before the date of entry thereunder, as a reference to the person who is for the time being entitled to occupy that land.
- (9) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

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- (10) In the application of this section to Scotland, for references to an underlease there shall be substituted references to a sublease, references to the Public Health Act 1936, shall be omitted, and in subsection (2) the words from “so however that” to “disregarded” shall be omitted.

#### Textual Amendments

- F1** Definition “the Acquisition of Land Act” repealed (E.W.) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34(3), [Sch 6 Pt. I](#)
- F2** Definition inserted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, [Sch. 4 para. 31\(a\)](#)
- F3** Definition in s. 51(1) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), [Sch. para. 19\(a\)](#) (with s. 37)
- F4** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)
- F5** Definition inserted by [1990 c. 11, s. 4](#), [Sch. 2, para. 5\(c\)\(i\)](#)
- F6** Words substituted by [Agricultural Holdings Act 1986 c. 5, ss. 99, 100, Sch. 13 para. 3](#), [Sch. 14 para. 31\(b\)](#)
- F7** Definition repealed by [S.I. 1970/1681](#), [Sch. 4](#)
- F8** Definition inserted by [S.I. 1976/1775](#), [Sch. 3 para. 2\(1\)](#)
- F9** Words substituted by virtue of [S.I. 1979/571](#), [arts. 2\(1\)](#), 3(5)
- F10** Words repealed by virtue of [Gas Act 1986 c. 44, s. 67\(4\)](#), [Sch. 9 Pt. I](#) and [Electricity Act 1989 c. 29, s. 112\(4\)](#), [Sch. 18](#)
- F11** Words in s. 51(1) in the definition of “appropriate Minister” substituted (5.7.1992) by [S.I. 1992/1314, art. 3\(3\)\(4\)](#), [Sch. para. 1\(a\)](#)
- F12** S. 51(1): para. (d) in the definition of “appropriate Minister” repealed (26.3.2001) by [S.I. 2001/1149, art. 3\(2\)](#), [Sch. 2](#) (with [art. 4\(11\)](#))
- F13** In the definition of “appropriate Minister” in para. (e) for “drainage authority” there is substituted (E.W.) “internal drainage board” by [Water Act 1989 c. 15, ss. 190\(1\)](#), [Sch. 25 para. 26\(5\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1), 17, 40(4), 57(6), 58)
- F14** Para. (f) in the definition of “appropriate Minister” repealed (E.W.) by [1989 c. 15, s. 190\(3\)](#), [Sch. 27 Pt. I](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58) by
- F15** Definition repealed by [Housing and Planning Act 1986 c. 63, s. 39\(4\)](#), [Sch. 12 Pt. II](#)
- F16** Definition repealed by [Coal Industry Act 1987 c. 3, s. 10\(3\)](#), Pt. II
- F17** Definition in s. 51(1) repealed (31.10.1994) by [1994 c. 21, s. 67](#), [Sch. 11 Pt. II](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F18** Definition in s. 51(1) repealed (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 3(1), [Sch. 3 Pt. I](#) (with Sch. 2 paras. 10, 14(1), 15)
- F19** Definition in s. 51(1) inserted (1.9.1995) by [1995 c. 8, ss. 41\(2\), 52](#), [Sch. para. 19\(b\)](#) (with s. 37)
- F20** Words in the definition of “statutory undertakers” and “statutory undertaking” in s. 51(1) substituted by virtue of [Town and Country Planning Act 1971, c. 78, Sch. 24, para. 2](#) and by virtue of [1990 c. 11, ss. 2\(3\), 5](#), [Sch. 3 para. 3](#) the reference to “the Act of 1971” has effect as if it included a reference to [1990 c. 8](#)
- F21** Words substituted by virtue of [S.I. 1969/1498, arts. 2\(1\)](#), 5(6) and [S.I. 1970/1537, arts. 2\(2\)](#), 7(4)
- F22** Definition repealed by [Coal Industry Act 1975 c. 56, s. 5\(3\)](#), [Sch. 5](#)
- F23** Definition inserted by [Housing and Planning Act 1986 c. 63, s. 39\(3\)](#), [Sch. 8 para. 13\(a\)](#)
- F24** Words in definition in s. 51(1) substituted (31.10.1994) by [1994 c. 21, s. 52](#), [Sch. 8 para. 36\(1\)\(a\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F25** Words substituted by virtue of [Mines \(Working Facilities and Support\) Act 1966 c. 4, s. 15\(4\)](#)
- F26** Words substituted by [Coal Industry Act 1975 c. 56, s. 4\(2\)](#), [Sch. 3 para. 9](#)
- F27** Definition inserted by [Housing and Planning Act 1986 c. 63, s. 39\(3\)](#), [Sch. 8 para. 13\(b\)](#)
- F28** Definition inserted by [Housing and Planning Act 1986 c. 63, s. 39\(3\)](#), [Sch. 8 para. 13\(c\)](#)
- F29** Words substituted by [Planning \(consequential Provisions\) Act 1990 \(c. 11\)](#), s. 4, [Sch. 2 para. 5\(c\)\(ii\)](#)

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- F30** Definition repealed by Water Resources Act 1963 c. 38, **Sch. 14 Pt. I**
- F31** Definitions of "sewage disposal undertaking" and "sewerage undertaking" repealed (E.W.) by Water Act 1989 c. 15, s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F32** Words in the definition of "statutory undertakers" and "statutory undertaking" in s. 51(1) inserted by virtue of S.I. 2001/1149, art. 3(1), **Sch. 1 para. 16(2)**
- F33** Words in s. 51(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 80**; S.I. 2011/2329, art. 3
- F34** Definition in s. 51(1) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 36(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F35** S. 51(1A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 36(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

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**Modifications etc. (not altering text)**

- C1** S. 51(1) transfer of functions (7.5.2008) by Transfer of Functions (Miscellaneous) Order 2008 (S.I. 2008/1034), arts. 1(2), **5**
- C2** S. 51(1) transfer of functions (5.3.2009) by Secretary of State for Energy and Climate Change Order 2009 (S.I. 2009/229), arts. 1(2), 4, **Sch. 1(a)**

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**Marginal Citations**

- M1** 1986 c. 5.

**Changes to legislation:**

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