

SCHEDULES

SEVENTH SCHEDULE **E+W+S**

ADJUSTMENTS BETWEEN LANDLORDS AND TENANTS AND IN RESPECT OF MORTGAGES AND MINING LEASES AND ORDERS

PART I **E+W+S**

AGRICULTURAL HOLDINGS

- 1 (1) The provisions of this paragraph shall have effect where—
- (a) the land comprised in a compulsory rights order consists of or includes land falling within paragraphs (a) and (b) of subsection (1) of section twenty-four of this Act, and
 - (b) the tenancy under which the tenant could have claimed compensation for the improvements or special system of farming in question, or a subsequent tenancy under which the tenant has retained or succeeded to the relevant right to compensation, terminates on or after the date of entry, but before the end of the period of occupation, without being succeeded by another such subsequent tenancy.
- (2) In the circumstances specified in the preceding sub-paragraph, the provisions of the [^{F1}Act of 1986] as to compensation for long-term improvements, and as to compensation for a special system of farming,—
- (a) shall apply, in relation to the tenancy terminating as mentioned in that sub-paragraph, as if, at the termination of that tenancy, the land in question were in the state in which it was immediately before the date of entry, and
 - (b) if the tenant under that tenancy quitted the holding before the termination of his tenancy, shall so apply as if he had quitted the holding on the termination of his tenancy.
- (3) Subsection (5) of section twenty-four of this Act shall apply for the purposes of sub-paragraph (1) of this paragraph as it applies for the purposes mentioned in that subsection; and subsection (6) of that section shall apply in relation to the last preceding sub-paragraph as it applies in relation to subsection (2) of that section.

Textual Amendments

- F1** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, [Sch. 14 para. 33\(2\)](#)

- [^{F2}1A (1) The provisions of this paragraph shall have effect where—
- (a) paragraphs (a) and (b) of subsection (1) of section 25A of this Act apply, and

*Changes to legislation: There are currently no known outstanding effects
for the Opencast Coal Act 1958, Part I. (See end of Document for details)*

- (b) the farm business tenancy at the end of which the tenant could have claimed compensation for tenant's improvements terminates on or after the date of entry, but before the end of the period of occupation, without being succeeded by another such subsequent tenancy.
- (2) In the circumstances specified in sub-paragraph (1) of this paragraph, the provisions of Part III of the Act of 1995—
- (a) shall apply, in relation to the tenancy mentioned in that sub-paragraph, as if, at the termination of that tenancy, the land in question were in the state in which it was immediately before the date of entry, and
 - (b) if the tenant under that tenancy quitted the holding before the termination of his tenancy, shall so apply as if he had quitted the holding on the termination of his tenancy.
- (3) In sub-paragraph (2) of this paragraph, “holding”, in relation to a farm business tenancy, and “termination”, in relation to a tenancy, have the same meaning as in the Act of 1995.]

Textual Amendments

F2 Sch. 7 para. 1A inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 20(1)(2) (with s. 37)

- 2 (1) The provisions of this paragraph shall have effect where land comprised in an agricultural holding [^{F3}held under a tenancy in relation to which the Act of 1986 applies]is comprised in a compulsory rights order (whether any other land is comprised in the holding, or comprised in the order, or not), and—
- (a) before the date of entry long-term improvements qualifying for compensation under the [^{F4}Act of 1986] (in this Act referred to as “the former improvements”) had been carried out on the land in question, or a special system of farming qualifying for compensation under that Act (in this paragraph referred to as “the former system”) had been adopted on that land, and
 - (b) at the end of the period of occupation the circumstances are such that the provisions of the [^{F4}Act of 1986] referred to in subsection (2) of section twenty-four of this Act (as extended by subsection (6) of that section) would have applied as mentioned in subsection (3) of that section, but for the fact that the benefit of the former improvements, or the increased value attributable to the former system, as the case may be, has been replaced or regained, on the restoration of the land, by works (in this paragraph referred to as “the new improvements”) or the continuous adoption of a system of farming (in this paragraph referred to as “the new system”) of comparable benefit to the land.
- (2) In the circumstances specified in the preceding sub-paragraph, the said provisions of the [^{F4}Act of 1986] shall have effect in relation to the new improvements or the new system, as the case may be, as if those improvements had been carried out, or that system had been adopted, by the person who carried out or adopted the former improvements or the former system.
- (3) Subsections (7) and (8) of section twenty-four of this Act shall apply for the purposes of this paragraph as they apply for the purposes of that section.

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I. (See end of Document for details)

[^{F5}(3A) The references in sub-paragraph (1)(a) of this paragraph to the Act of 1986 include references to the Act of 1948.]

Textual Amendments

- F3** Words in Sch. 7 para. 2(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 20(3) (with s. 37)
- F4** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, Sch. 14 para. 33(3)(a)
- F5** Sch. 7 para. 2(3A) inserted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, Sch. 14 para. 33(3)(b)

[^{F6}2A (1) The provisions of this paragraph shall have effect where land comprised in a farm business tenancy is comprised in a compulsory rights order (whether any other land is comprised in the holding, or comprised in the order, or not), and—

- (a) before the date of entry there had been provided in relation to the land in question tenant's improvements (in this paragraph referred to as "the former 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, and
- (b) at the end of the period of occupation the circumstances are such that Part III of that Act would have applied as mentioned in subsections (3) and (4) of section 25A of this Act, but for the fact that the benefit of the former tenant's improvements has been replaced, on the restoration of the land, by other improvements (in this paragraph referred to as "the new improvements") of comparable benefit to the land.

(2) In the circumstances specified in sub-paragraph (1) of this paragraph, Part III of the Act of 1995 shall have effect in relation to the new improvements as if those improvements were tenant's improvements.

(3) Subsections (2) and (6) of section 25A of this Act shall apply for the purposes of this paragraph as they apply for the purposes of that section.]

Textual Amendments

- F6** Sch. 7 para. 2A inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 20(4) (with s. 37)

3 (1) Where by virtue of section twenty-four of this Act a tenant is entitled to compensation for long-term improvements or for a special system of farming, as mentioned in that section, and—

- (a) after the end of the period of occupation expenses are incurred in replacing the benefit of the improvements by other long-term improvements of comparable benefit to the land, or in regaining the increased value attributable to that system of farming by the continuous adoption of a special system of farming of comparable benefit to the land, as the case may be, and
- (b) the person incurring those expenses (whether he is the landlord or not) is entitled to compensation in respect of those expenses under section twenty-two of this Act,

the provisions of the [^{F7}Act of 1986] shall apply as if the works in respect of which those expenses are incurred were improvements carried out by the landlord at the

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I. (See end of Document for details)

request of the tenant, if apart from this paragraph they would not constitute such improvements.

- (2) Subsection (8) of section fourteen of this Act shall not affect the operation of [F8 section 13 of the Act of 1986 in so far as the said section 13] applies in accordance with the preceding sub-paragraph.

Textual Amendments

- F7** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(4)(a)**
- F8** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(4)(b)**

[F9]3A Where by virtue of section 25A of this Act a tenant is entitled to compensation for tenant's improvements as mentioned in that section and—

- (a) after the end of the period of occupation expenses are incurred in replacing the benefit of the tenant's improvements by other improvements of comparable benefit to the land, and
- (b) the person incurring those expenses (whether he is the landlord or not) is entitled to compensation in respect of those expenses under section 22 of this Act,

section 13 of the Act of 1995 shall apply as if the works in respect of which those expenses are incurred were not tenant's improvements, if apart from this paragraph they would constitute such improvements.]

Textual Amendments

- F9** [Sch. 7 para. 3A](#) inserted (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 20(5)** (with s. 37)

- 4 (1) The provisions of this paragraph shall apply where—
- (a) immediately before the operative date of a compulsory rights order, any of the land comprised in the order consisted of or included an agricultural holding or part of an agricultural holding, and
 - (b) the tenancy relating to that holding continues until after the end of the period of occupation.
- (2) The landlord or the tenant of the agricultural holding may, by notice in writing served on his tenant or landlord, demand a reference to arbitration under the [F10 Act of 1986] of the question whether any of the terms and conditions of the contract of tenancy (including any term or condition relating to rent) should be varied in consequence of any change in the state of the land resulting from the occupation or use of the land in the exercise of rights conferred by the order.
- (3) On a reference under this paragraph the arbitrator shall determine what variations (if any) should be made in the terms and conditions of the contract of tenancy, as mentioned in the last preceding sub-paragraph, and the date (not being earlier than the end of the period of occupation) from which any such variations are to take effect or to be treated as having taken effect; and as from that date the contract of tenancy shall have effect, or, as the case may be, shall be treated as having had effect, subject to any variations determined by the arbitrator under this paragraph.

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I. (See end of Document for details)

- (4) [^{F11}section 84 of the Act of 1986] shall apply to references to arbitration by virtue of this paragraph as it applies to matters which by virtue of the [^{F11}Act of 1986] are required to be determined by arbitration thereunder.
- (5) The provisions of this paragraph shall not affect any right of the landlord or the tenant, or the jurisdiction of the arbitrator, under [^{F12}section 12 or section 13 of the Act of 1986]; but where there is a reference to arbitration under either of those sections and under this paragraph in respect of the same agricultural holding, and it appears to the arbitrator that the reference under that section relates wholly or mainly to the consequences of the occupation or use of the land in the exercise of rights conferred by the order, he may direct that proceedings on the two references shall be taken concurrently.
- (6) In the last preceding sub-paragraph references to [^{F13}section 13 of the Act of 1986] include references to the provisions of that section as applied by paragraph 3 of this Schedule.
- [^{F14}(7) In this paragraph “agricultural holding” does not include an agricultural holding held under a farm business tenancy.]

Textual Amendments

- F10** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(5)(a)**
- F11** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(5)(b)**
- F12** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(5)(c)**
- F13** Words substituted by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(5)(d)**
- F14** [Sch. 7 para. 4\(7\)](#) added (1.9.1995) by [1995 c. 8, ss. 40, 41\(2\)](#), **Sch. para. 20(6)** (with s. 37)

- [^{F15}4A (1) The provisions of this paragraph shall apply where—
- (a) immediately before the operative date of a compulsory rights order, any of the land comprised in the order is subject to a farm business tenancy, and
 - (b) that tenancy continues until after the end of the period of occupation.
- (2) The landlord or tenant under the tenancy may, by notice in writing served on his tenant or landlord, demand a reference to arbitration of the question whether any of the terms and conditions of the tenancy (including any term or condition relating to rent) should be varied in consequence of any change in the state of the land resulting from the occupation or use of the land in the exercise of rights conferred by the order; and subsection (3) of section 28 of the Act of 1995 shall apply in relation to a notice under this sub-paragraph as it applies in relation to a notice under subsection (2) of that section.
- (3) On a reference by virtue of this paragraph, the arbitrator shall determine what variations (if any) should be made in the terms and conditions of the tenancy, and the date (not being earlier than the end of the period of occupation) from which any such variations are to take effect or to be treated as having taken effect; and as from that date the tenancy shall have effect, or, as the case may be, shall be treated as having had effect, subject to any variations determined by the arbitrator under this paragraph.

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I. (See end of Document for details)

- (4) The provisions of this paragraph shall not affect any right of the landlord or the tenant, or the jurisdiction of the arbitrator, under Part II of the Act of 1995; but where—
- (a) there is a reference by virtue of this paragraph and a reference under Part II of that Act in respect of the same tenancy, and
 - (b) it appears to the arbitrator that the reference under Part II of that Act relates wholly or mainly to the consequences of the occupation or use of the land in the exercise of rights conferred by the order,
- he may direct that proceedings on the two references shall be taken concurrently.]

Textual Amendments

F15 Sch. 7 para. 4A inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 20(7) (with s. 37)

- 5 (1) Where the land comprised in a compulsory rights order consists of or includes the whole or part of an agricultural holding [^{F16}held under a tenancy in relation to which the Act of 1986 applies] , [^{F17}section 10 of the Act of 1986] (which relates to the removal of fixtures and buildings) shall have effect in relation to the holding subject to the following provisions of this paragraph.
- (2) In relation to the service of a notice by the tenant on or after the operative date of the order, in respect of a fixture or building on a part of the holding which is within the land comprised in the order, paragraph (b) of [^{F18}subsection (3)] of that section (under which the tenant is required to give at least one month’s notice of his intention to remove a fixture or building) shall apply with the substitution, for the words “one month”, of the words “fourteen days”.
- (3) Where the tenant has given to the landlord notice under the said [^{F19}subsection (3)] (or under that subsection as modified by the last preceding sub-paragraph) of his intention to remove a fixture or building on a part of the holding which is within the land comprised in the order, and that notice is given on or after the operative date of the order, or, if given before that date, expires on or after that date, [^{F19}subsection (4)] of that section (under which the landlord can elect to purchase a fixture or building which the tenant has signified his intention of removing) shall not apply to that fixture or building.
- (4) The last preceding sub-paragraph shall have effect in relation to a notice served before the operative date of the order notwithstanding that the landlord has given a counter-notice in respect of the fixture or building before the operative date.
- (5) In this paragraph any reference to [^{F20}section 10 of the Act of 1986] includes a reference to the provisions of that section as extended by [^{F20}sub-section (3) of section 79] of that Act (which relates to market gardens).

Textual Amendments

F16 Words in Sch. 7 para. 5(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), Sch. para. 20(8) (with s. 37)

F17 Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, Sch. 14 para. 33(6)(a)

F18 Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, Sch. 14 para. 33(6)(b)

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I. (See end of Document for details)

- F19** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(6)(c)**
- F20** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(6)(d)**

- 6 (1) Where ^{F21}—
- (a) an agricultural holding held under a tenancy in relation to which the Act of 1986 applies, or
- (b) a holding under a farm business tenancy,]
- consists of or includes land which was comprised in a compulsory rights order, and after the end of the period of occupation the landlord proposes to carry out any such work as is mentioned in paragraph (b) of subsection (1) of section twenty-two of this Act, the landlord or any person authorised by him may at all reasonable times enter upon the holding for the purpose of carrying out that work.
- (2) Nothing in the preceding sub-paragraph shall affect any right exercisable by virtue of ^{F22}section 23 of the Act of 1986] (which confers rights of entry for the purposes therein mentioned).
- ^{F23}(2A) In sub-paragraph (1) of this paragraph, “holding”, in relation to a farm business tenancy, has the same meaning as in the Act of 1995.]

Textual Amendments

- F21** Sch. 7 para. 6(1)(a)(b) and the preceding hyphen substituted (1.9.1995) for words in Sch. 7 para. 6(1) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(9)(a)** (with s. 37)
- F22** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 33(7)**
- F23** Sch. 7 para. 6(2A) added (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(9)(b)** (with s. 37)

- 7 The provisions of ^{F24}sub-paragraphs (1) to (6) of]paragraph 4 of this Schedule shall apply in relation to mortgages as they apply in relation to contracts of tenancy, as if any reference in ^{F25}those sub-paragraphs] to such a contract, or to a tenancy, were a reference to a mortgage, and any reference to land consisting of or including an agricultural holding or part of an agricultural holding were a reference to agricultural land subject to a mortgage ^{F26}but not comprised in a farm business tenancy], and any reference to a landlord or to a tenant were a reference to a mortgagor or to a mortgagee, as the case may be.

Textual Amendments

- F24** Words in Sch. 7 para. 7 inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(10)(a)** (with s. 37)
- F25** Words in Sch. 7 para. 7 substituted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(10)(b)** (with s. 37)
- F26** Words in Sch. 7 para. 7 inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 20(10)(c)** (with s. 37)

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I.