

## SCHEDULES

### SEVENTH SCHEDULE

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

#### PART III

##### *GENERAL PROVISIONS FOR PROTECTION IN RESPECT OF TENANCIES AND MORTGAGES*

- 14 Where any land comprised in a compulsory rights order is subject to a tenancy or mortgage, and—
- (a) any obligation or restriction imposed by the terms and conditions of the tenancy or mortgage would (apart from this Act) fall to be performed or observed at a time within the period of occupation, whether by the landlord or the tenant, or by the mortgagee or the mortgagor, as the case may be, and
  - (b) in consequence of the rights conferred by the order, or of anything done in the exercise of those rights, that obligation or restriction cannot be so performed or observed at that time,
- the failure to perform or observe the obligation or restriction at that time shall be deemed not to be a breach of any of the terms and conditions of the tenancy or mortgage.
- 15 (1) Where at any time while any land was comprised in a compulsory rights order it was subject to a tenancy or mortgage which continues until after the end of the period of occupation, and at any time within twelve months after the end of that period proceedings are brought to enforce a right of re-entry, forfeiture or foreclosure, or a right to damages or any other remedy, in respect of any failure after the end of that period to comply with any of the terms and conditions of the tenancy or mortgage, the person against whom the proceedings are brought may apply in those proceedings for relief under this paragraph.
- (2) If, in a case where application is made for relief under this paragraph, the court to which the application is made is satisfied that the failure to comply with the term or condition in question was attributable to a change in the state of the land resulting from the occupation and use thereof in the exercise of rights conferred by the compulsory rights order, the court may grant such relief, in respect of the matters to which the proceedings relate, as the court may consider reasonable in the circumstances.
- 16 The provisions of paragraphs 14 and 15 of this Schedule shall be without prejudice to the provisions of paragraph 4 or paragraph 12 of this Schedule, or to any of those provisions as applied in relation to mortgages by paragraph 7 or paragraph 13 thereof.

**Changes to legislation:**

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