



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

[^{F1}14A Provisions as to agricultural tenancies in Scotland.

- (1) Without prejudice to the provisions of Part III of this Act as to matters arising between landlords and tenants in consequence of compulsory rights orders, the provisions of this section shall have effect in Scotland where—
 - (a) opencast planning permission has been granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture, and
 - (b) immediately before that permission is granted, any of the land comprised therein consists of an agricultural holding or part of an agricultural holding, whether any of that land is comprised in a compulsory rights order or not.
- (2) In this section—

“ aftercare condition ” means a condition requiring that such steps shall be taken as may be necessary to bring land to the standard required for use for agriculture; and

“ restoration condition ” has the meaning given to it in [^{F2} paragraph 2(2) of Schedule 3 to the Act of 1997] .
- (3) For the purposes of the [^{F3}][^{F4}the Scottish Acts of 1991 and 2003]—
 - (a) the holding shall not be taken to have ceased to be an agricultural holding, and
 - (b) where only part of the holding is comprised in the opencast planning permission, that part shall not be taken to have ceased to form part of an agricultural holding,

by reason only that, while occupied or used for the permitted activities, the land is not being used for agriculture within the meaning of that Act.

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- (4) For the purposes of [F⁵][F⁶the Scottish Acts of 1991 and 2003], the tenant of the holding shall not be taken to have failed to fulfil his responsibilities to farm in accordance with the rules of good husbandry—
- (a) by reason of his having permitted any of the land comprised in the opencast planning permission to be occupied for the purpose of carrying on any of the permitted activities, or by reason of any other thing done or omitted by him for facilitating the use of any of that land for that purpose;
 - (b) where any of that land is comprised in a compulsory rights order, by reason of the occupation or use of any of that land in the exercise of rights conferred by the order, is so far as that occupation or use was not permitted or facilitated by the tenant as mentioned in the preceding paragraph.
- (5) For the purposes of [F⁵][F⁷the Scottish Acts of 1991 and 2003] nothing done or omitted by the tenant or by the landlord of the holding by way of permitting any land in respect of which opencast planning permission has been granted to be occupied for the purpose of carrying on any of the permitted activities, or by way of facilitating the use of any of that land for that purpose, shall be taken to be a breach of any term or condition of the tenancy, either on the part of the tenant or on the part of the landlord.
- (6) For the purposes of [F⁵ section 22(2) of the Scottish Act of 1991], no account is to be taken of permission granted as mentioned in paragraph [F⁵ (b)] of that subsection [F⁸ or (as the case may be) section 17(1)(a) of the Scottish Act of 2003] if the permission —
- (a) is granted on an application by [F⁹a person who is a licensed operator within the meaning of the Coal Industry Act 1994 or whose application for a licence under Part II of that Act is pending]; and
 - (b) relates to the working of coal by opencast operations; and
 - (c) is granted subject to a restoration condition and an aftercare condition.
- (7) [F¹⁰ The condition specified in section 24(1)(e) of the Scottish Act of 1991 (consent of Land Court to notice to quit where land to be used for purposes other than agriculture)] shall not be treated as satisfied[F¹¹, or (as the case may be) the resumption shall not be considered to be for a non-agricultural purpose under section 17(1)(a) of the Scottish Act of 2003,] if the use for the purpose of which the landlord proposes to terminate the tenancy is the use of the land for carrying on any of the permitted activities.
- (8) [F¹²On a determination under section 13 of the Scottish Act of 1991 or (as the case may be) under section 9 of the Scottish Act of 2003,] with respect to the rent which should be properly payable for the holding, in respect of any period for which [F¹³the person with the benefit of the opencast planning permission is] in occupation of the holding, or of any part thereof, for the purpose of carrying on any of the permitted activities, the [F¹⁴Scottish Land Court or arbiter (as the case may be)] shall not take into account any increase or diminution in the rental value of the holding in so far as that increase or diminution is attributable to the occupation of the holding, or of that part of the holding, by [F¹³that person] for the purpose of carrying on any of the permitted activities.
- (9) For the purpose of the operation of [F¹⁰ section 15 of the Scottish Act of 1991] (which relates to increases of rent for improvements carried out by the landlord)[F¹⁵, or (as the case may be) section 10 of the Scottish Act of 2003 (increase in rent: landlord's improvements),] in relation to an improvement carried out on the holding, in a case where the improvement has been affected by anything done for the purpose of carrying on any of the permitted activities, the increase (if any) of the rental value of the

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holding attributable to the carrying out of the improvement shall be assessed as if the improvement had not been so affected.

- (10) The use of land for the working of coal by opencast operations shall not be a use for the purposes of which a landlord shall be entitled to resume the land.]

Textual Amendments

- F1** For S. 14 there is substituted ss. 14, 14A by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 5](#)
- F2** Words in s. 14A(2) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2 para. 5\(2\)](#)
- F3** Words in s. 14A(3) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11 para. 12\(a\)](#)(with s. 45(3), [Sch. 12 para. 3](#))
- F4** Words in s. 14A(3) substituted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(a\)](#)
- F5** Words in s. 14A(4)(5)(6) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11, para. 12\(b\)\(c\)\(d\)](#)(with s. 45(3), [Sch. 12 para. 3](#))
- F6** Words in s. 14A(4) substituted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(a\)](#)
- F7** Words in s. 14A(5) substituted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(a\)](#)
- F8** Words in s. 14A(6) inserted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(b\)](#)
- F9** Words in s. 14A(6)(a) substituted (31.10.1994) by [1994 c. 21, s. 52\(2\)](#), [Sch. 8 para. 11\(1\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F10** Words in s. 14A(7)(8)(9) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11 para. 12\(e\)\(f\)\(g\)](#)(with s. 45(3), [Sch. 12 para. 3](#))
- F11** Words in s. 14A(7) inserted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(c\)](#)
- F12** Words in s. 14A(8) substituted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(d\)\(i\)](#)
- F13** Words in s. 14A(8) substituted (31.10.1994) by [1994 c. 21, s. 52\(2\)](#), [Sch. 8 para. 11\(2\)\(a\)\(b\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F14** Words in s. 14A(8) substituted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(d\)\(ii\)](#)
- F15** Words in s. 14A(9) inserted (S.) (27.11.2003) by [Agricultural Holdings \(Consequential Amendments\) \(Scotland\) Order 2003 \(S.S.I. 2003/583\)](#), art. 1, [Sch. para. 2\(e\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 14A.