



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

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 [^{F1}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 [^{F2}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 [^{F3}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.

Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent
Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 24. (See end of Document for details)

- (3) The said provisions of the [F⁴Act 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 [F⁴Act 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 [F⁴Act 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 [F⁵section 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 [F⁶section 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 [F⁷Act 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 [F⁷Act 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) [F⁸section 83(4)] of that Act (which relates to the time for settling such claims) shall apply with the substitution, for the reference to [F⁹eight] months from

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the termination of the tenancy, of a reference to [F⁹eight] 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 [F¹⁰Act 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 [F¹⁰Act 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 [F¹¹section 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 [F¹²Act 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 [F¹³Schedule 7 to the Act of 1986].

[F¹⁴(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.]

[F¹⁵(10) In the application of this section to Scotland [F¹⁶the 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).

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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Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 24. (See end of Document for details)

Textual Amendments

- F1** 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)
- F2** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(2)**
- F3** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(3)**
- F4** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(4)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** 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)**
- F12** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(8)**
- F13** Words substituted by **Agricultural Holdings Act 1986** (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(9)**
- F14** 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)**
- F15** 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)
- F16** 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—
- immediately before the date of entry, constitutes or forms part of an agricultural holding [^{F17}held under a tenancy in relation to which the Act of 1986 applies], and
 - is land on which, before that date, there have been carried out long-term improvements qualifying for compensation under the [^{F18}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—
- 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

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- (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 [F19 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 [F20 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 [F20 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 [F20 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 [F21 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 [F22 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 [F23 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:

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Provided that—

- (a) any provisions of the [^{F23}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) [^{F24}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 [^{F25}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 [^{F25}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 [^{F26}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 [^{F27}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 [^{F28}Schedule 7 to the Act of 1986].
- [^{F29}(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.]
- ^{F30}[(10) In the application of this section to Scotland [^{F31}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—
- [^{F32}(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 [^{F33}, 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;]

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- [^{F32}(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
 - (ii) in the case of a short limited duration tenancy [^{F34}, 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

- F17** 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)
- F18** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(2)**
- F19** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(3)**
- F20** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(4)**
- F21** 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)**
- F22** 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)**
- F23** 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)**
- F24** 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)**
- F25** 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)**
- F26** 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)**
- F27** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(8)**
- F28** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 26(9)**
- F29** 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)**
- F30** 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)
- F31** Words in s. 24(10) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 15(3)** (with s. 37)

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***Changes to legislation:** There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 24. (See end of Document for details)*

- F32** 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**
- F33** 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)**
- F34** 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)**

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- S - Scotland extent

Changes to legislation:

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