



# Opencast Coal Act 1958

## 1958 CHAPTER 69

### 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:—

" the Acquisition of Land Act " means the Acquisition of Land (Authorisation Procedure) Act, 1946;

" the Act of 1947 " means the Town and Country Planning Act, 1947;

" the Act of 1948 " means the Agricultural Holdings Act, 1948;

" 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 Act of 1948 ;

" agricultural land " means land used for agriculture which is so used for the purposes of a trade or business;

" appropriate Minister " in relation to a statutory undertaking has the same meaning as in the Act of 1947, in relation to a sewerage undertaking or sewage disposal undertaking means the Minister of Housing and Local Government, and in relation to a river board or other drainage authority means the Minister of Agriculture, Fisheries and Food;

" the authorised purposes " and " authorised operations " have the meanings assigned to them respectively by section one of this Act;

" the Board " means the National Coal Board ;

" coal " means bituminous coal, cannel coal and anthracite ;

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

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

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*Status: This is the original version (as it was originally enacted).*

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" drainage authority " has the same meaning as in the Land Drainage Act, 1930;

" 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 ;

" 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 the Act of 1947;

" 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 the Minister of Power;

" 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;

" opencast site order " has the meaning assigned to it by section four of this Act;

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

" order conferring working rights " means an order made under Part I of the Mines (Working Facilities and Support) Act, 1923;

" 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 in relation to opencast site orders by section five and in relation to storage site orders by section six of this Act;

" persons directly concerned " has (subject to the provisions of sections seven and eight of this Act) the meaning assigned to it in relation to opencast site orders by section five and in relation to storage site orders by section six of this Act;

" prescribed " means prescribed by regulations made under this Act;

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

" river board " has the same meaning as in the River Boards Act, 1948 ;

" sewage disposal undertaking " means an undertaking for the purification and disposal of the contents of sewers (as defined by the Public Health Act, 1936);

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*Status: This is the original version (as it was originally enacted).*

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" sewerage undertaking " means an undertaking for the drainage of any locality by means of sewers (as defined by the Public Health Act, 1936);

" statutory undertakers " and " statutory undertaking " have the same meanings as in the Act of 1947 ;

" storage site order " has the meaning assigned to it by section four of this 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.

- (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.

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, surf ace), 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.

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- (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.
- (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.