

SCHEDULES

SEVENTH SCHEDULE

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

PART V

SPECIAL PROVISIONS AS TO BUSINESS, PROFESSIONAL AND OTHER TENANTS

- 19 (1) The provisions of this Part of this Schedule shall have effect where any of the land comprised in a compulsory rights order is land which, immediately before the operative date of the order, was subject to a tenancy to which Part II of the Act of 1954 applied; and any reference in this Part of this Schedule to a tenancy to which this Part of this Schedule applies is a reference to a tenancy which—
- (a) immediately before the operative date of such an order, was a tenancy to which Part II of that Act applied, and
 - (b) comprises the whole or part of the land comprised in that order.
- (2) In this Part of this Schedule “the Act of 1954” means the ^{M1}Landlord and Tenant Act 1954, and “business” has the same meaning as in Part II of that Act.
- (3) Sub-paragraph (4) of paragraph 12 of this Schedule shall apply for the purposes of this Part of this Schedule as it applies for the purposes of that paragraph.

Marginal Citations

M1 1954 c. 56.

- 20 (1) As from the operative date of the order and so long thereafter as the tenancy continues and the order continues to have effect, so much of the land comprised in the order as—
- (a) is comprised in the tenancy, and
 - (b) immediately before the operative date was occupied by the tenant for the purposes of the relevant business (or for those and other purposes) or was occupied by a person employed by the tenant for the purposes of the relevant business, and
 - (c) is not for the time being so occupied by the tenant or by such a person,
- shall be treated for the purposes of Part II of the Act of 1954 as if it had continued to be so occupied.
- (2) In this paragraph “the relevant business” means the business by reason of which, immediately before the operative date, the tenancy was a tenancy to which Part II of the Act of 1954 applied.

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

- 21 (1) For the purposes mentioned in the next following sub-paragraph, in relation to a tenancy to which this Part of this Schedule applies, paragraphs (f) and (g) of subsection (1) of section thirty of the Act of 1954 (which specify certain grounds on which a landlord may oppose an application for a new tenancy) shall apply as if any reference to the termination of the current tenancy were a reference to the end of the period of occupation.
- (2) The said purposes are—
- (a) the purposes of the operation of subsection (6) of section twenty-five of the Act of 1954 (which requires a notice by the landlord terminating a tenancy to state whether the landlord would oppose an application for a new tenancy, and, if so, on which of the grounds mentioned in section thirty of the Act he would do so) in relation to the service of a notice under the said section twenty-five at any time on or after the operative date of the order in question and before the end of the period of occupation;
 - (b) the purposes of the operation of subsection (6) of section twenty-six of that Act (which enables a landlord, where the tenant has requested a new tenancy, to give notice that he will oppose an application for a new tenancy, and requires him to state on which of the grounds mentioned in section thirty of that Act he will do so) in relation to the service of a notice under that subsection at any such time;
 - (c) the purposes of the operation of the said section thirty and of section thirty-one of that Act (which relates to the dismissal of an application for a new tenancy where the landlord successfully opposes it) in relation to the determination by the court of an application for a new tenancy, where that application falls to be determined at any such time.
- 22 (1) Where an application made under subsection (1) of section twenty-four of the Act of 1954 (whether before or after the commencement of this Act) falls to be determined by the court at a time when the current tenancy is a tenancy to which this Part of this Schedule applies (being a time on or after the operative date of the order in question and before the end of the period of occupation) and on that application an order for the grant of a new tenancy is made under section twenty-nine of that Act, the following provisions of this paragraph shall have effect.
- (2) If it falls to the court to determine the rent payable under the new tenancy, the court shall determine that rent as if the compulsory rights order had not been made, and as if so much of the property comprised in the current tenancy as is comprised in the compulsory rights order were in the state in which it was immediately before the operative date.
- (3) If it falls to the court to determine any of the terms and conditions of the new tenancy (other than any term or condition as to the rent payable thereunder) the court shall determine those terms or conditions as if the compulsory rights order had not been made; but, in so far as any such terms or conditions of the new tenancy impose an obligation or restriction in respect of land comprised in the compulsory rights order, the court may suspend the operation of that obligation or restriction during the period of occupation.
- (4) If the new tenancy continues until after the end of the period of occupation, the landlord or the tenant may, by notice in writing served on his tenant or landlord, demand a reference to the court of the question whether any of the terms and conditions of the tenancy (including any term or condition as to rent) should be

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

varied, having regard to the state of the land and other circumstances existing at the time when the reference is determined by the court:

Provided that the court shall not entertain such a reference unless the proceedings are begun within twelve months after the end of the period of occupation.

- (5) On a reference under the last preceding sub-paragraph, the court shall determine what variations (if any) should be made in the terms and conditions of the tenancy, as mentioned in that 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 tenancy shall have effect, or, as the case may be, shall be treated as having had effect, subject to any variations determined by the court under this paragraph.
- 23 (1) The provisions of this paragraph shall have effect, in the case of a tenancy to which this Part of this Schedule applies, where an application under subsection (1) of section twenty-four of the Act of 1954—
- (a) is made by the tenant before the end of the period of occupation, but falls to be determined by the court after the end of that period, or
 - (b) is made by the tenant within twelve months after the end of that period,
- and the landlord opposes the application on grounds consisting of or including any of the grounds specified in paragraphs (a) and (c) of subsection (1) of section thirty of that Act (which relate respectively to the state of repair of the holding and to the tenant's use or management of the holding during the current tenancy).
- (2) If the court is satisfied that the matters to which the objection in question relates are 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, in so far as it considers it reasonable to do so in the circumstances, may disregard those matters in determining whether to make an order for the grant of a new tenancy.
- (3) The provisions of the last preceding sub-paragraph shall be without prejudice to the operation of paragraph 14 of this Schedule in relation to things done or omitted during the period of occupation.
- 24 (1) In relation to an application made under subsection (1) of section twenty-four of the Act of 1954 (whether before or after the commencement of this Act) which falls to be determined by the court at a time when the current tenancy is a tenancy to which this Part of this Schedule applies (being a time on or after the operative date of the order in question and before the end of the period of occupation) section thirty-seven of that Act (under which a tenant is entitled to compensation from the landlord if an order for the grant of a new tenancy is precluded on certain grounds therein mentioned) shall apply subject to the following provisions of this paragraph.
- (2) In subsection (1) of that section—
- (a) the reference to paragraphs (f) and (g) of subsection (1) of section thirty of that Act shall be construed as a reference to those paragraphs as modified by sub-paragraph (1) of paragraph 21 of this Schedule;
 - (b) the reference to quitting the holding shall be construed as a reference to the termination of the current tenancy.
- (3) In subsection (2) of that section, for any reference to the rateable value of the holding there shall be substituted a reference to the amount which would have been the rateable value of the holding on the material date if—

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

- (a) the compulsory rights order in question had not been made, and the [F1opencast planning permission] referred to in that order had not been granted and no application [F2for opencast planning permission had been made], and
 - (b) so much of the land comprised in the order as is comprised in the current tenancy had remained in the state in which it was immediately before the operative date of the order.
- (4) Paragraphs (a) to (c) of subsection (5) of that section shall not apply; but—
- (a) the amount which, in the circumstances mentioned in the last preceding subparagraph, would have been the rateable value of the holding on the material date shall be taken to be the value which, in those circumstances, and apart from any exemption from assessment to rates, would on a proper assessment have been the value to be entered in the valuation list as the annual value of the holding; and
 - (b) the provisions of subsection (5) of that section as to the determination of disputes and as to appeals, and the provisions of subsection (6) of that section (which authorises the Commissioners of Inland Revenue to make rules as to procedure) shall apply in relation to any dispute or reference relating to that amount as they apply in relation to any such dispute or reference as is mentioned in those provisions.
- (5) The modifications of the said section thirty-seven specified in the preceding provisions of this paragraph shall apply without prejudice to the operation, in relation to that section, of paragraph 20 of this Schedule.
- (6) In this paragraph “the material date”, in relation to an application under subsection (1) of section twenty-four of the Act of 1954, means the date of the landlord’s notice under section twenty-five of that Act or under subsection (6) of section twenty-six of that Act, as the case may be, and “annual value” has the same meaning as in section thirty-seven of that Act.

Textual Amendments

- F1** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 17\(a\)](#)
- F2** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 17\(b\)](#)

Changes to legislation:

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