



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART III

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### 52 General application to Scotland.

(1) The provisions of this section shall, in addition to any express provision for the application to Scotland of any provision of this Act, have effect for the general application of this Act to Scotland.

(2) 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—

<sup>F1</sup>[ “ the Act of 1997 ” means the Town and Country Planning (Scotland) Act 1997 ]

“agriculture” has the same meaning as in the <sup>M1</sup>Agriculture (Scotland) Act 1948, and “agricultural” (except in the expressions “agricultural holding” and “agricultural land”) shall be construed accordingly;

<sup>F2</sup>“ agricultural holding ” has the meaning assigned to it by section one of the Scottish Act of [<sup>F3</sup> 1991 ] ; ]

<sup>F2</sup>“agricultural holding” means the land comprised in a lease constituting a 1991 Act tenancy within the meaning of the Scottish Act of 2003 or the land comprised in a lease constituting a short limited duration tenancy [<sup>F4</sup>or a limited duration tenancy][<sup>F4</sup>a limited duration tenancy, a modern limited duration tenancy or a repairing tenancy] (within the meaning of that Act);]

<sup>F5</sup>

.....  
<sup>F6</sup>“ appropriate Minister ” means—

(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, [<sup>F7</sup>the Minister of Transport];

(b) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, the Secretary of State for Energy;

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- (c) in relation to the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;
- (d) <sup>F8</sup> .....
- (e) in relation to statutory undertakers carrying on an undertaking for the supply of . . . <sup>F9</sup> water, the Secretary of State for Scotland; and
- (f) in all other cases, the Secretary of State for the Environment.]

“chattels” means corporeal moveables;  
 “easement” means servitude;  
 “freehold interest” means the interest of the owner <sup>F10</sup>...;  
 “land” includes salmon fishings;

[<sup>F11</sup>“local authority” has the meaning assigned to it by section 235 of the <sup>M2</sup>Local Government (Scotland) Act 1973];

..... <sup>F12</sup>“local planning authority”, “statutory undertakers”, “statutory undertaking” , “heritable security”, “heritable creditor”, and “National Trust for Scotland” have the same meanings as in the Scottish Act of 1947 [<sup>F13</sup>(but “statutory undertakers” and “statutory undertaking” do not include a universal service provider within the meaning of [<sup>F14</sup>Part 3 of the Postal Services Act 2011 ] and his undertaking).];

“owner” in relation to land, subject to subsection (2) of the last preceding section, means the owner <sup>F10</sup>...;

[<sup>F15</sup>“planning permission” means planning permission under Part III of [<sup>F16</sup>Act of 1997]]

“the Landholders Acts” means the Small Landholders (Scotland) Acts 1886 to 1931;

“the Scottish Acquisition of Land Act” means the <sup>M3</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

[<sup>F17</sup>“the Act of 1972” ] means [<sup>F17</sup>the <sup>M4</sup>Town and Country Planning (Scotland) Act 1972];

[<sup>F3</sup>“the Scottish Act of 1991” means the Agricultural Holdings (Scotland) Act 1991];

- (3) For any reference to a [<sup>F18</sup>water authority]there shall [<sup>F19</sup>, except in so far as the context otherwise requires,]be substituted a reference to [<sup>F20</sup>the Scottish Environment Protection Agency].

<sup>F21</sup>(4) .....

- (5) Where, immediately before the coming into operation of an authorisation under section one of this Act, any of the land comprised in the authorisation consists of or includes a holding to which any of the provisions of the Landholders Acts apply or a croft within the meaning of the <sup>M5</sup>Crofters (Scotland) Act 1955, or part of such a holding or croft, the provisions of this Act shall, in relation to that land, have effect subject to the following modifications, that is to say—

- (a) references to an agricultural holding, to the tenant of an agricultural holding and to [<sup>F22</sup>the Scottish Act of 1991] shall include respectively references to such a holding or croft as aforesaid, to a landholder or crofter, and to the Landholders Acts or the <sup>M6</sup>Crofters (Scotland) Act 1955, as the case may be and for references to [<sup>F22</sup>section 45 of the Scottish Act of 1991] there shall be substituted references to section ten of the <sup>M7</sup>Crofters Holding (Scotland)

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Act 1886, or section fourteen of the <sup>M8</sup>Crofters (Scotland) Act 1955, as the case may require:

Provided that for the purposes of section twenty-three of this Act any improvement on the holding for which the landholder or the crofter would on the termination of his tenancy be entitled to compensation under the Landholders Acts or the <sup>M9</sup>Crofters (Scotland) Act 1955, as the case may be, shall be treated as a separate holding, and any compensation payable under the said section in respect of the improvement shall be payable to the landholder or crofter as if he were the owner thereof; and sections twenty-four and twenty-five shall not apply to any improvement in respect of which compensation is so payable;

- (b) any dispute as to a right to compensation under this Act of a landholder or crofter or of the owner of a holding or croft in respect thereof or as to the amount of any such compensation, and any matter arising in relation to a holding or croft which is referred to arbitration under this Act, shall be determined by the Scottish Land Court, and the provisions of the Landholders Acts shall, with any necessary modifications, apply for the purpose as they apply for the determination of matters referred to that Court under those Acts.

- F<sup>23</sup>(6) .....  
F<sup>23</sup>(7) .....  
F<sup>23</sup>(8) .....

#### Textual Amendments

- F1** Definition in s. 52(2) inserted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 5(5)(a)**
- F2** Words in s. 52(2) substituted (S.) (27.11.2003) by Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **Sch. para. 5(a)**
- F3** Words in s. 52(2) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88, 89(2), **Sch. 11 para. 18** (a)(b) (with s. 45(3), Sch. 12 para. 3)
- F4** Words in s. 52(2) 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(3)** (with sch. 2 para. 1)
- F5** Definition repealed by S.I. 1970/1681, **Sch. 4**
- F6** Definition inserted by S.I. 1976/1775, **Sch. 3 para. 2(2)**
- F7** Words substituted by virtue of S.I. 1979/571, **arts. 2(1), 3(5)**
- F8** S. 52(2):para. (d) in the definition of “appropriate Minister” repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(11))
- F9** Words repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), **Sch. 18**
- F10** Words in s. 52(2) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 12 para. 22(a), 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F11** Definition inserted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 27 Pt. II para. 141**
- F12** Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
- F13** Words in s. 52(2) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 16(3)**
- F14** Words in s. 52(2) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 81**; S.I. 2011/2329, art. 3
- F15** Definition inserted by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 14**
- F16** Words in definition in s. 52(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 5(5)(b)**
- F17** Words substituted by virtue of Town and Country Planning (Scotland) Act 1972 (c. 52), **Sch. 22 para. 2**
- F18** Words substituted by virtue of Water Act 1973 (c. 37), **s. 9**

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- F19** Words in s. 52(3) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 37** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F20** Words in s. 52(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 5(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F21** S. 52(4) omitted (1.6.2009) by virtue of *The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009* (S.I. 2009/1307), art. 1, **Sch. 1 para. 33** (with Sch. 5)
- F22** Words in s. 52(5)(a) substituted (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991* (c. 55. SIF 2:3), ss. 88, 89(2), Sch. 11 para. 19(a)(b)(with s. 45(3), Sch. 12 para. 3)
- F23** S. 52(6)-(8) repealed (28.11.2004) by *Abolition of Feudal Tenure etc. (Scotland) Act 2000* (asp 5), ss. 71, 77(2), **Sch. 12 para. 22(b), 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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**Modifications etc. (not altering text)**

- C1** “The Scottish Act of 1947” means *Town and Country Planning (Scotland) Act 1947* (c. 53)
- C2** S. 52(2) transfer of functions (5.3.2009) by *Secretary of State for Energy and Climate Change Order 2009* (S.I. 2009/229), arts. 1(2), 4, **Sch. 1(a)**

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**Marginal Citations**

- M1** 1948 c. 45.  
**M2** 1973 c. 65.  
**M3** 1947 c. 42.  
**M4** 1972 c. 52.  
**M5** 1955 c. 21.  
**M6** 1955 c. 21.  
**M7** 1886 c. 29.  
**M8** 1955 c. 21.  
**M9** 1955 c. 21.

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 52.