



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART II

### COMPENSATION FOR COMPULSORY RIGHTS ORDERS

#### *Compensation in respect of non-agricultural land*

#### **29 Annual and terminal compensation, and compensation in respect of forced sales.**

- (1) Where land, immediately before the operative date of a compulsory rights order,—
- was occupied as a unit, but
  - was not so occupied wholly or mainly for the purposes of agriculture carried on by way of a trade or business,

the entirety of that land (excluding the coal and any other minerals vested in [F<sup>1</sup>the Coal Authority or any licensed operator (within the meaning of the Coal Industry Act 1994)]) shall be taken, in relation to that compulsory rights order, to constitute a holding to which this section applies.

- (2) The provisions of subsections (1), [F<sup>2</sup>(1A) and (3) to (3B) of section 17 of this Act and the provisions of section 18 of this Act], and the provisions of section twenty-seven of this Act, shall have effect in relation to a holding to which this section applies as they have effect in relation to a holding to which section seventeen of this Act applies:

Provided that the provisions of section twenty-seven of this Act shall have effect, in relation to a holding to which this section applies, as if, in paragraph (b) of subsection (1) of that section, for the reference to such a fixture or building as is therein mentioned, there were substituted a reference to any trade or other fixture (not falling within paragraph (a) of that subsection) which the person in question has lawfully removed from the holding.

- (3) The provisions of section twenty-one of this Act (except subsection (2) of that section) and the provisions of sections twenty-two and twenty-three of this Act shall have effect in relation to a holding to which this section applies as they have effect in relation to a holding to which section twenty-one of this Act applies.

*Status: Point in time view as at 01/04/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958,  
Cross Heading: Compensation in respect of non-agricultural land. (See end of Document for details)*

### Textual Amendments

- F1** Words in s. 29(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 22(1)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F2** Words in s. 29(2) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 22(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

## 30 Non-agricultural tenant's improvements.

(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 a holding to which Part I of the Act of 1927 applies, and
- (b) is land on which, before that date, there have been carried out improvements 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, and
- (b) that land is subject to the same tenancy as immediately before the date of entry, and that tenancy continues until after the end of the period of occupation, the provisions of the Act of 1927 as to compensation for improvements shall apply as mentioned in the next following subsection.

(3) The said provisions of the Act of 1927 shall apply as if—

- (a) the tenant’s land were in the state in which it was immediately before the date of entry;
- (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; and
- (c) it were established that, after the termination of that tenancy, there was no intention to demolish or make structural alterations in any premises on the tenant’s land or any part of such premises or to change the use of that land or any premises thereon:

Provided that, if the tenant’s land has lost the benefit of some of the improvements in question, but has not lost the benefit of all of them, those provisions of the Act of 1927 shall apply as mentioned in paragraphs (a) to (c) of this subsection, but as if the improvements of which the tenant’s land has not lost the benefit had not been improvements qualifying for compensation under that Act.

(4) For the purposes of the last preceding subsection the tenant’s land shall be taken to have lost the benefit of an improvement if the benefit of that improvement has been lost (wholly or in part) without being replaced by another improvement of comparable benefit to the land.

(5) The provisions of the Act of 1927 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

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compensation and the determination of such claims, as to the recovery of any such compensation, and as to any other matters incidental thereto:

Provided that the provisions of the Act of 1927 as to the making of such claims shall apply with the modification that the time for making a claim shall be any time not later than three months after the end of the period of occupation.

- (6) In this section any reference to an improvement qualifying for compensation under the Act of 1927 is a reference to an improvement in respect of which, immediately before the date of entry, the tenant of the holding in question had a prospective right to compensation under that Act on quitting the holding on the termination of his tenancy.
- (7) In determining whether the conditions specified in the last preceding subsection are fulfilled, no account shall be taken of any provisions of the Act of 1927 whereby a right to compensation is conditional upon the making of a claim, or is liable to be affected by the service of a notice by the landlord.
- (8) In this section “the Act of 1927” means the <sup>M1</sup>Landlord and Tenant Act 1927, and “improvement” includes the erection of a building.
- (9) In the application of this section to Scotland, for any reference to the Act of 1927, or to any provision thereof, there shall be substituted a reference to any term of the tenant’s lease entitling him to compensation for improvements; and paragraph (c) of subsection (3) shall be omitted.

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**Marginal Citations**

**M1** 1927 c. 36.

**Status:**

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