



# 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*

#### **[<sup>F1</sup>23A Additional compensation on re-occupation.**

- (1) Subject to the following provisions of this section, with a view to furthering the resumption of agriculture on land formerly comprised in a compulsory rights order, a person shall be entitled to compensation by virtue of this section in respect of a holding to which section 21 of this Act applies if he is in occupation of the holding at the end of the period of occupation or if he enters into occupation of the holding at or after the end of that period, provided that he is occupying the holding or (as the case may be) he enters into occupation of the holding wholly or mainly for the purposes of agriculture carried on by way of a trade or business.
- (2) No compensation shall be payable to a person by virtue of this section unless he is either the person who, immediately before the operative date of the compulsory rights order, was entitled to occupy the holding (in this subsection referred to as “ the original occupier ”) or a person who, before the end of the period of occupation, became entitled to the relevant interest in the holding in accordance with the disposition of the original occupier’s estate effected by his will, or the law relating to intestacy, or the combination of his will and that law.
- (3) In subsection (2) above—
  - “ the relevant interest ”, in relation to any person, means the interest by virtue of which he became entitled to occupy the holding (or would have become so entitled if the compulsory rights order had not been made); and
  - “ will ” includes a codicil.
- (4) The compensation payable in respect of a holding by virtue of this section shall be payable [<sup>F2</sup>by the person who immediately before the end of the period of occupation

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*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 23A. (See end of Document for details)*

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is the person entitled to the rights conferred by the order] and, subject to the following provisions of this section, shall be an amount equal to the compensation payable in respect of that holding under [F3section 17] of this Act for the last twelve months of the period of occupation.

- (5) Subject to the following provisions of this section, in any case where the compensation last payable in respect of a holding under [F3section 17] was in fact payable by reference to a period of less than twelve months, the compensation payable in respect of that holding by virtue of this section shall be an amount equal to the compensation which was so payable under [F3section 17], multiplied by the fraction of which the numerator is 365 and the denominator is the number of days in the period by reference to which the compensation was so payable under those sections.
- (6) Where the person entitled, immediately after the end of the period of occupation, to occupy the holding concerned ceases, before he enters into occupation, to be entitled to occupy some part of it then, subject to subsection (7) below,—
- (a) his entry into occupation of the part which he remains entitled to occupy shall be treated for the purposes of subsection (1) above as entry into occupation of the holding; but
  - (b) the compensation payable to him by virtue of this section shall be such proportion of the compensation which would have been so payable had he remained entitled to enter into occupation of the whole of the holding as is properly attributable to the part of the holding which he remains entitled to occupy.
- (7) If, immediately before the end of the period of occupation, only part of the holding concerned (in this subsection referred to as “ the compensatable portion ”) was comprised in the compulsory rights order and (after the end of the period of occupation) subsection (6) above applies, then—
- (a) if the part of the holding which the person concerned ceased to be entitled to occupy comprises the whole of the compensatable portion, no compensation shall be payable to him by virtue of this section;
  - (b) if the person concerned remains entitled to occupy the whole of the compensatable portion, the compensation so payable to him shall not be reduced under paragraph ( b ) of subsection (6) above; and
  - (c) in any other case, for the purpose of determining the proportion of the compensation properly attributable to any part of the holding under paragraph ( b ) of subsection (6) above, the holding shall be treated as consisting of the compensatable portion only. ]

#### Textual Amendments

- F1** S. 23A inserted by [Coal Industry Act 1975 \(c. 56\), s. 6\(1\)](#)
- F2** Words in s. 23A(4) substituted (31.10.1994) by [1994 c. 21, s. 52](#), Sch. 8 para. 19(1)(b) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F3** Words in s. 23A substituted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 19\(1\)\(a\)\(2\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 23A.