



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

26 Compensation for short-term improvements and related matters.

- (1) Where, in the exercise of rights conferred by a compulsory rights order, [^{F1}any person occupies] any land which, immediately before the date of entry, was agricultural land [^{F2}and was not comprised in a farm business tenancy], compensation shall be payable [^{F1}by that person] in respect of any improvements or other matters to which this section applies in relation to that land.
- [^{F3}(1A) Compensation shall not be payable by virtue of this section where a person's occupation of any land, in exercise of rights conferred by a compulsory rights order, is confined to replacing in occupation a person previously entitled to exercise the rights conferred by that order.]
- (2) This section applies, in relation to any land,—
- (a) to any improvements, of a description specified in Part I of the Fourth Schedule to this Act, which had been carried out on that land before the date of entry, and
 - (b) to any matters, of a description specified in Part II of the Fourth Schedule to this Act, which applied to that land immediately before that date:

Provided that, in relation to land which, immediately before the date of entry, was not occupied by a tenant, Part II of the Fourth Schedule to this Act shall apply subject to the modifications specified in Part III of that Schedule.

- (3) Where compensation is payable ^{F4}... under this section in respect of any improvements or other matters, the compensation shall be of an amount equal to the amount of the compensation which would have been payable in respect of those improvements or matters under the [^{F5}Act of 1986] if—

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- (a) where the land in question did not form part of an agricultural holding immediately before the date of entry, it had formed part of such a holding immediately before that date, and
- (b) in any case, the tenancy of the agricultural holding comprising that land had terminated on the date of entry and the tenant thereunder had then quitted the holding.
- (4) The person entitled to any compensation payable by virtue of this section—
- (a) in the case of land which, immediately before the date of entry, was occupied by a tenant, shall be that tenant, and
- (b) in any other case, shall be the person who was the owner of the land immediately before the date of entry.
- (5) If, by virtue of the power conferred by [^{F6}section 91 of the Act of 1986, the provisions of Schedule 8] to that Act are varied, the Minister may by order make such corresponding variations in the provisions of Parts I, II and III of the Fourth Schedule to this Act as he may consider appropriate.
- [^{F7}(5A) the reference in subsection (3) of this section to the 1986 Act includes a reference to the 1948 Act]
- (6) In the application of this section to Scotland
- [^{F8}(za) in subsection (1) of this section, the words “and was not comprised in a farm business tenancy” shall be omitted;]
- , [^{F9}(a)] the following subsection shall be substituted for subsection (2) of this section:
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- “(2) This section applies, in relation to any land, to any improvements of a description specified in Part IV of the Fourth Schedule to this Act, which had been carried out on that land before the date of entry:
- Provided that, in relation to land which, immediately before the date of entry, is not occupied by a tenant, Part IV of that Schedule shall apply subject to the modifications set out in Part V of that Schedule”
- [^{F10}(b) in subsection (3) of this section for the reference to the Act of 1986 there shall be substituted a reference to the Scottish Act of 1991 or, as the case may be, to the Scottish Act of 2003; and]
- [^{F11}(c) in subsection (5) of this section there shall be substituted—
- (i) for the reference to section 91 of the Act of 1986 a reference to section 73 of the Scottish Act of 1991;
- (ii) for the reference to Schedule 8 to the Act of 1986 a reference to Part III of Schedule 5 to the Scottish Act of 1991;
- (iii) for the reference to Parts I, II and III of the Fourth Schedule to this Act a reference to Parts IV and V of that Schedule.]

Textual Amendments

- F1** Words in s. 26(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 20(1)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F2** Words in s. 26(1) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 17(1)(2)** (with s. 37)
- F3** S. 26(1A) inserted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 20(2)** (with s. 40(7); S.I. 1994/2553, **art. 2**
- F4** Words in s. 26(3) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, **Sch. 8 para. 20(3)**, **Sch. 11 Pt. II**

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- F5** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 28(2)**
- F6** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 28(3)**
- F7** S. 26(5A) inserted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99, 100, Sch. 13 para. 3, **Sch. 14 para. 28(4)**
- F8** S. 26(6)(za) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 17(1)(3)** (with s. 37)
- F9** Word in s. 26(6) inserted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88, 89(2), **Sch. 11 para. 15** (with s. 45(3), Sch. 12 para. 3)
- F10** S. 26(6)(b) substituted (27.11.2003) by Agricultural Holdings (Consequential Amendments) (Scotland) Order 2003 (S.S.I. 2003/583), art. 1, **Sch. para. 4**
- F11** Words in s. 26(6) substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88, 89(2), **Sch. 11 para. 15** (with s. 45(3), Sch. 11 para. 3)

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