

SCHEDULES

SCHEDULE 2

Section 3.

RETAINED INTERESTS : NOTICES AND COMPENSATION

- 1 The provisions of this Schedule apply where a person (in this Schedule referred to as "the claimant") gives to the Board notice of a retained interest as mentioned in section 3(3)(b) of this Act (in this Schedule referred to as a "retained interest notice").
- 2 (1) Together with a retained interest notice given by him to the Board the claimant shall furnish to the Board adequate proof of his title to the interest at the time the notice is given.
- (2) Within the period of three months beginning on the date on which the Board receive a retained interest notice or within such longer period as may be agreed between the Board and the claimant the Board shall serve on the claimant either—
- (a) a notice in the prescribed form accepting his title to the retained interest and acknowledging the obligation of the Board to pay compensation in respect of it under section 3 of this Act; or
- (b) a notice rejecting the claimant's retained interest notice ;
- and in this Schedule a notice under paragraph (a) above is referred to as an "acceptance notice " and a notice under paragraph (b) above is referred to as a "rejection notice ".
- (3) A rejection notice shall specify the ground or grounds on which the Board reject the claimant's retained interest notice.
- 3 Subject to paragraph 5 below, as soon as practicable after the Board have served an acceptance notice on a claimant, the Board shall pay to the claimant any reasonable legal expenses incurred by him for the purposes of—
- (a) establishing his ownership of the retained interest to which the acceptance notice relates ; and
- (b) giving the retained interest notice by virtue of which the acceptance notice came to be served.
- 4 Subject to paragraph 5 below, where, after the receipt of a retained interest notice, the Board have served an acceptance notice in respect of the retained interest concerned, the service of that acceptance notice shall be a valid ground for the service of a rejection notice in respect of any other retained interest notice received by the Board after the first-mentioned notice and relating to any of the land in which subsists the retained interest in respect of which the acceptance notice was served.
- 5 (1) A claimant who—
- (a) has served a retained interest notice relating to any land (in this paragraph referred to as " the relevant land "); and
- (b) is aggrieved by the service on him of a rejection notice relating to his retained interest notice, other than a rejection notice served pursuant to an order under this paragraph,

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may, within the period of 3 months beginning on the date of service of the rejection notice make an application to the county court for an order directing the Board to withdraw the rejection notice and to serve an acceptance notice in respect of the retained interest which he claims.

- (2) On an application under this paragraph, the court may direct that, in addition to the applicant and the Board, any other person who has given a retained interest notice relating to the whole or part of any of the relevant land shall be made a party to the application unless—
- (a) the Board have already served a rejection notice in respect of that person's retained interest notice ; and
 - (b) the time within which he might have made an application under this paragraph in respect of that rejection notice has expired without such an application having been made.
- (3) On an application under this paragraph the court shall determine whether—
- (a) the applicant, or
 - (b) any other party to the application who contests the applicant's claim, or
 - (c) any other person (whether a party to the application or not) on whom the Board have served an acceptance notice relating to the whole or any part of the relevant land,
- was at the time he gave his retained interest notice entitled to a retained interest in the whole or any part of the relevant land and shall order the Board (so far as they have not already done so) to serve an acceptance notice on that person or, if more than one of them were so entitled to a retained interest in the same piece of land, on that one of them whose retained interest notice was given first.
- (4) An order under sub-paragraph (3) above may contain such provisions as the court considers appropriate to secure—
- (a) that a rejection notice is or has been served on every party to the application (other than the Board) on whom an acceptance notice is not ordered to be or has not been served ; and
 - (b) that, where it appears to the court that an acceptance notice has been served which should not have been served, that notice is cancelled and that the Board bring the cancellation to the notice of the person who, if the notice had not been cancelled, would for the time being have been entitled to receive compensation under section 3(4) of this Act in respect of the interest to which the acceptance notice related.
- (5) If, in accordance with sub-paragraph (4), above, the court orders the cancellation of an acceptance notice, it shall be conclusively presumed for the purposes of section 3 of this Act and of the provisions of this Schedule other than this paragraph—
- (a) that the person on whom the acceptance notice was served did not have a retained interest in the relevant land at the time he served his retained interest notice ; and
 - (b) that the Board served a rejection notice in respect of that retained interest notice.
- (6) Nothing in paragraph 3 above shall affect the power of the court on an application under this paragraph (or in any subsequent proceedings) to make such order as to costs as it thinks fit; and any such order may make such modifications, if any, of the

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Board's obligation under paragraph 3 above as appear to the court to be just in the fight of the other provisions as to costs contained in the order.

6 The person having the right to receive compensation under section 3(4) of this Act in respect of a retained interest to which an acceptance notice relates shall be the person on whom that notice was served, notwithstanding that he may not own the retained interest at the time when the compensation becomes payable and, accordingly, that right shall devolve on his death and may be assigned in like manner as the right of a creditor under an unsecured debt.

7 Notwithstanding anything in paragraph 6 above if, at the time at which compensation becomes payable in respect of a retained interest, the Board pay compensation in good faith to the person who produces the acceptance notice relating to that interest, the surrender of that notice to the Board by way of receipt for the compensation shall constitute an adequate discharge to the Board of their liability to pay that compensation, without any further proof that the person producing the acceptance notice is entitled in accordance with paragraph 6 above to receive the compensation.

8 If at any time—

- (a) after the Board have served an acceptance notice in respect of a retained interest, and
- (b) before the date on which compensation becomes payable in respect of that interest,

the Board enter into an -agreement in that behalf with the person who for the time being has the right to receive any such compensation, then, on payment to that person of such consideration as may be agreed, the Board shall be relieved of any contingent liability under subsection (4) or subsection (6) of section 3 of this Act in respect of that retained interest; and where any such agreement is entered into, paragraph 7 above shall apply in relation to the payment of the consideration agreed as it applies in relation to a payment of compensation at the time referred to in that paragraph.

9 Without prejudice to paragraph 8 above, at any time after the Board have served an acceptance notice in respect of a retained interest, they shall cease to be entitled to acquire by agreement that interest or any other retained interest in coal or a mine of coal comprised in or lying under any of the land in which subsists the retained interest to which the acceptance notice relates.

10 (1) The Board shall keep, at such places as may be prescribed, a record of—
(a) all retained interest notices given to the Board and all acceptance notices and rejection notices served by them, and

(b) all sums paid by way of compensation under section 3(4) of this Act,

and that record shall contain a description of the land in which subsists the retained interest (or in the case of a rejection notice, the claimed retained interest) to which each such notice or payment relates sufficient to enable the land to be identified.

(2) The record kept under this paragraph shall be open to public inspection at all reasonable hours, and different places may be prescribed for the keeping of the record relating to retained interests in different areas.

11 Section 55 of the Coal Act 1938 (service of notices, etc.) shall have effect as if the provisions of this Schedule were included in that Act.