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SCHEDULES

SECOND SCHEDULE

Section 142.

PROCEDURE FOR MAKING REGULATIONS

PART I

PROCEDURE FOR MAKING GENERAL REGULATIONS

- 1 Before the Minister makes any general regulations he shall publish in the London Gazette and, if the regulations apply to Scotland, in the Edinburgh Gazette and (whether the regulations apply to Scotland or not) in such other manner as he thinks best adapted for informing persons affected, notice of his intention to make the regulations, specifying a place where copies of a draft thereof may be obtained and the time (which shall be not less than twenty-one days from the date of the publication) within which any objection made with respect to the draft regulations must be sent to him.
- 2 Every objection so made must be in writing and must state—
 - (a) the specific grounds of objection ; and
 - (b) the omissions, additions or modifications asked for;and the Minister shall consider any such objection made by or on behalf of any person appearing to him to be affected, being an objection sent to him within the time specified in the notice, but shall not be bound to consider any other objection.
- 3 If there are no objections which the Minister is required by the last foregoing paragraph to consider, he may make the regulations in the terms of the draft.
- 4 The following provisions shall have effect where the Minister does not proceed under the last foregoing paragraph:—
 - (a) if he is not required by paragraph 2 of this Schedule to consider a general objection and if either he is not so required to consider any special objection or all special objections which he is so required to consider appear to him, upon consideration thereof, to be frivolous, he may, unless he decides to take no further proceedings with respect thereto, either make the regulations in the terms of the draft or, if he thinks fit so to do, refer the draft regulations for inquiry and report under Part III of this Schedule ; and
 - (b) in any other case, he shall, unless he decides to take no further proceedings with respect thereto, refer the draft regulations for inquiry and report as aforesaid.
- 5 Where, under the last foregoing paragraph, the Minister refers the draft regulations for inquiry and report under Part III of this Schedule, he shall consider the report and, unless he decides to take no further proceedings with respect to the draft regulations, may,—

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- (a) if the report of the person or persons holding the inquiry does not recommend the making of any modifications in the draft regulations, make the regulations in the terms of the draft; or
- (b) if the said report recommends the making of modifications in the draft regulations, make the regulations in the terms of the draft subject to such modifications as give effect to the recommendations made in the report.

6 In this Part of this Schedule—

- (a) the expression " general objection" means, in relation to draft regulations, an objection to any provision thereof, being an objection made by or on behalf of owners of mines or quarries who employ not less than one third of the total number of persons employed at all the mines and quarries affected by the draft regulations or by or on behalf of an association or body representative of not less than one third of the total number of persons so employed ; and
- (b) the expression " special objection" means, in relation to draft regulations,—
 - (i) an objection to any provision thereof, being an objection made by or on behalf of owners of a class of mines or quarries or a sub-division of a class of mines or quarries and expressed to be made on the ground that, having regard to the special conditions of, or the special methods of working at, mines or quarries of that class or sub-division, the provision objected to ought not to apply thereto; or
 - (ii) an objection to a provision thereof applicable only to a particular class of mines or quarries or a particular sub-division of such a class, being an objection made by or on behalf of owners of mines or quarries of that class or sub-division, as the case may be, who employ not less than one-third of the total number of persons employed at all mines or quarries of that class or sub-division, or by or on behalf of an association or body representative of not less than one-third of the total number of persons so employed;
 not being, in either case, an objection which, by virtue of sub-paragraph (a) of this paragraph, is a general objection.

PART II

PROCEDURE FOR MAKING SPECIAL REGULATIONS

- 7 Special regulations with respect to a mine or quarry shall not be made otherwise than on the application of an inspector, the owner of the mine or quarry, not less than one-third of the total number of persons employed thereat or an association or body representative of not less than one-third of the total number of persons so employed.
- 8 An application for the making of special regulations must be accompanied by a draft of the regulations sought to be made.
- 9 Before the Minister makes any special regulations he shall publish in such manner as he thinks best adapted for informing persons affected notice of his intention to make the regulations, specifying the place where copies of a draft thereof may be obtained and the time (which shall be not less than twenty-one days from the date of the publication) within which any objection made with respect to the draft regulations must be sent to him.

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- 10 Every objection so made must be in writing and must state—
- (a) the specific grounds of objection ; and
 - (b) the omissions, additions or modifications asked for;
- and the Minister shall consider any such objection made by or on behalf of any person appearing to him to be affected, being an objection sent within the time specified in the notice, but shall not be bound to consider any other objection.
- 11 If there are no objections which the Minister is required by the last foregoing paragraph to consider, he may make the regulations in the terms of the draft.
- 12 The following provisions shall have effect where the Minister does not proceed under the last foregoing paragraph:—
- (a) if he is required by paragraph 10 of this Schedule to consider an objection made by or on behalf of the owner of the mine or quarry to which the draft regulations relate or by or on behalf of an association or body representative of not less than one-third of the total number of persons employed thereat, he shall, unless he decides to take no further proceedings with respect thereto, refer the draft regulations for inquiry and report under Part III of this Schedule ; and
 - (b) in any other case, he may, unless he decides to take no further proceedings with respect to the draft regulations, either make the regulations in the terms of the draft or, if he thinks fit so to do, refer the draft regulations for inquiry and report as aforesaid.
- 13 Where, under the last foregoing paragraph, the Minister refers the draft regulations for inquiry and report under Part III of this Schedule, he shall consider the report and, unless he decides to take no further proceedings with respect to the draft regulations, may,—
- (a) if the report of the person or persons holding the inquiry does not recommend the making of any modifications in the draft regulations, make the regulations in the terms of the draft; or
 - (b) if the said report recommends the making of modifications in the draft regulations, make the regulations in the terms of the draft subject to such modifications as give effect to the recommendations made in the report

PART III

INQUIRIES UNDER PART I OR II

- 14 The following provisions of this Part of this Schedule shall have effect where any draft regulations are, by virtue of Part I or Part II of this Schedule, referred for inquiry and report under this Part of this Schedule.
- 15 The inquiry shall be held by a competent person or competent persons appointed by the Lord Chancellor and, where two or more persons are appointed to hold the inquiry, the Lord Chancellor shall appoint one of them to preside over it.
- 16 There may be paid by the Minister to the person or persons holding the inquiry such remuneration and allowances as may be fixed by the Lord Chancellor with the approval of the Treasury.
- 17 The inquiry shall be public and shall be held at such place as the Lord Chancellor may appoint.

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- 18 Any of the following persons may appear at the inquiry either in person or by counsel, solicitor or agent, and may give evidence and call such witnesses as he thinks fit, that is to say:—
- (a) the Minister;
 - (b) any person who duly objected to any provision of the draft regulations ; and
 - (c) any other person, being a person who, in the opinion of the person holding the inquiry (or, if two or more persons are holding it, the person presiding over it), is affected by the draft regulations.
- 19 The evidence of the witnesses at the inquiry may, if the person holding it (or, if two or more persons are holding it, the person presiding over it) thinks fit, be taken on oath, and for that purpose the said person may administer oaths.
- 20 The person or persons holding the inquiry shall make a report to the Minister stating whether or not the draft regulations ought, in his or their opinion, to be modified and, if in his or their opinion the draft regulations ought to be modified, stating in what respect they ought to be modified.
- 21 If it appears to the person holding the inquiry (or, if two or more persons are holding it, the person presiding over it) that any objection made thereat to any provision of the draft regulations was frivolous or vexatious, he may order that the expenses incurred by the Minister for the purposes of the inquiry or such part of those expenses as may be specified in the order shall be paid by the person by or on whose behalf the objection was made ; and an order under this paragraph shall, on the application of the Minister, be enforceable by a magistrates' court as if the amount ordered to be paid were a sum adjudged to be paid by an order of that court.
- 22 Subject to the foregoing provisions of this Part of this Schedule, the inquiry and all proceedings preliminary or incidental thereto shall be conducted in accordance with rules made by the Minister.
- 23 Where any draft regulations referred for inquiry and report under this Part of this Schedule apply to Scotland only, this Part of this Schedule shall apply subject to the following modifications:—
- (a) for references to the Lord Chancellor there shall be substituted references to the Lord President of the Court of Session ;
 - (b) an order under paragraph 21 of this Schedule may be recorded in the Books of Council and Session for execution and may be enforced accordingly.