



# Coal Industry Nationalisation Act 1946

1946 CHAPTER 59 9 and 10 Geo 6

An Act to establish public ownership and control of the coal-mining industry and certain allied activities; and for purposes connected therewith. [12th July 1946]

*The National Coal Board*

## **1 Establishment of National Coal Board and functions thereof.**

- (1) There shall be a [<sup>F1</sup>British Coal Corporation] which shall, on and after the primary vesting date, be charged with the duties of—
  - (a) working and getting the coal in Great Britain, to the exclusion (save as in this Act provided) of any other person;
  - (b) securing the efficient development of the coal-mining industry; and
  - (c) making supplies of coal available, of such qualities and sizes, in such quantities and at such prices, as may seem to them best calculated to further the public interest in all respects, including the avoidance of any undue or unreasonable preference or advantage.
- (2) The functions of the [<sup>F1</sup>British Coal Corporation](in this Act referred to as [<sup>F1</sup>“the Corporation”]) shall include the carrying on of all such activities as it may appear to the [<sup>F1</sup>the Corporation] to be requisite, advantageous or convenient for them to carry on for or in connection with the discharge of their duties under the preceding subsection, and in particular, but without prejudice to the generality of this section,—
  - (a) searching and boring for coal in Great Britain, to the exclusion [<sup>F2</sup>(save as in this Act provided)] of any other person;
  - (b) treating, rendering saleable, supplying and selling coal;
  - (c) producing, manufacturing, treating, rendering saleable, supplying and selling products of coal;
  - (d) producing or manufacturing any goods or utilities which are of a kind required by the [<sup>F1</sup>the Corporation] for or in connection with the working and getting of coal or any other of their activities, or which can advantageously be produced or manufactured by the [<sup>F1</sup>the Corporation] by reason of their having materials or facilities for the production or manufacture thereof in connection with the

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- working and getting of coal or any other of their activities, and supplying and selling goods or utilities so produced or manufactured;
- [<sup>F3</sup>(e) any activities which can advantageously be carried on by the [<sup>F1</sup>the Corporation] with a view to making the best use of their assets];
- (f) activities conducive to advancing the skill of persons employed or to be employed for the purposes of any of the activities aforesaid, or the efficiency of equipment and methods to be used therefor, including the provision by the [<sup>F1</sup>the Corporation] themselves, and their assisting the provision by others, of facilities for training, education and research.
- (3) The [<sup>F4</sup>Corporation] shall have power to do any thing and to enter into any transaction (whether or not involving the expenditure, borrowing in accordance with the provisions of this Act in that behalf or lending of money, the acquisition of any property or rights, or the disposal of any property or rights not in their opinion required for the proper discharge of their functions) which in their opinion is calculated to facilitate the proper discharge of their duties under subsection (1) of this section or the carrying on by them of any such activities as aforesaid, or is incidental or conducive thereto.
- (4) The policy of the [<sup>F4</sup>Corporation] shall be directed to securing, consistently with the proper discharge of their duties under subsection (1) of this section,—
- the safety, health and welfare of persons in their employment;
  - the benefit of the practical knowledge and experience of such persons in the organisation and conduct of the operations in which they are employed;
  - that the revenues of the [<sup>F4</sup>Corporation] shall not be less than sufficient for meeting all their outgoings properly chargeable to revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under sections twenty-eight and twenty-nine of this Act) on an average of good and bad years.

#### Textual Amendments

- F1** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(1\)](#)
- F2** Words inserted by [Coal Industry Act 1990 \(c. 3, SIF 86\)](#), s. 4(4)
- F3** [S 1\(2\)\(e\)](#) substituted by [Coal Industry Act 1977 \(c. 39\)](#), [Sch. 4 para. 1\(2\)](#)
- F4** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

#### Modifications etc. (not altering text)

- C2** [S. 1](#) amended by [Coal Industry Act 1977 \(c. 39\)](#), s. 11(1)
- C3** [S. 1](#) amended (5.7.1994) by [1994 c. 21](#), s. 7(2) (with ss. 40(7), 66)
- C4** [S. 1\(1\)](#) amended (31.10.1994) by [1994 c. 21](#), s. 11(5) (with ss. 40(7), 66); [S.I. 1994/2553](#), art. 2
- C5** [S. 1\(2\)](#) transfer of powers (with modifications) (31.10.1994) by [1994 c. 21](#), s. 11(4) (with ss. 40(7), 66); [S.I. 1994/2553](#), art. 2
- C6** [S. 1\(2\)\(f\)](#) extended by [National Coal Board \(Additional Powers\) Act 1966 \(c. 47\)](#), s. 1(2)
- C7** [S. 1\(3\)](#) transfer of powers (with modifications) (31.10.1994) by [1994 c. 21](#), s. 11(4) (with ss. 40(7), 66); [S.I. 1994/2553](#), art. 2
- C8** [S. 1\(4\)\(c\)](#) extended by [Coal Industry Act 1980 \(c. 50, SIF 86\)](#), s. 2(2)

## 2 Constitution of the Board.

- (1) [<sup>F5</sup>The Corporation] shall be a body corporate by the name of [<sup>F5</sup>“British Coal Corporation”], with perpetual succession and a common seal . . . <sup>F6</sup>.

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- (2) The [F7Corporation] shall consist of a chairman and [F8not less than eight nor more than fourteen other members].
- (3) The chairman and other members of the [F7Corporation] shall be appointed by [F9the Secretary of State] (in this Act referred to as “the Minister”) from amongst persons appearing to him to be qualified as having had experience of, and having shown capacity in, industrial, commercial or financial matters, applied science, administration, or the organisation of workers.
- (4) ..... F10
- (5) The Minister shall appoint one of the members of the [F7Corporation] to act as deputy chairman.
- (6) There shall be paid to the members of the [F7Corporation] such salaries and allowances as may be determined by the Minister with the approval of [F11the Treasury], and, on the retirement or death of any of them as to whom it may be so determined to make such provision, such pensions and gratuities to them or to others by reference to their service as may be so determined.
- The said salaries and allowances, and any such pensions and gratuities as aforesaid, shall be paid out of the revenues of the [F7Corporation].
- (7) The Minister may make regulations with respect to—
- (a) the appointment of, and the tenure and vacation of office by, the members of the [F12Corporation];
  - (b) the quorum, proceedings and meetings of the [F12Corporation], and determinations of the [F12Corporation]; and
  - (c) the execution of instruments and the mode of entering into contracts by and on behalf of the [F12Corporation], and the proof of documents purporting to be executed, issued or signed by the [F12Corporation] or a member, officer or servant thereof.
- (8) Subject to the provisions of any regulations made under the last preceding subsection, the [F12Corporation] shall have power to regulate their own procedure.

#### Textual Amendments

- F5** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(2\)](#)
- F6** Words repealed by [Charities Act 1960 \(c. 58\)](#), [Sch. 7 Pt. II](#)
- F7** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)
- F8** Words substituted by [Coal Industry Act 1973 \(c. 8\)](#), s. 10, [Sch. 1 para. 1](#)
- F9** Words substituted by virtue of [S.I. 1957/48 \(1957 I, p. 1439\)](#), 1969/1498, arts. 2(1), 5(6) and 1970/1537, arts. 2(2), 7(4)
- F10** [S. 2\(4\)](#) repealed by [House of Commons Disqualification Act 1957 \(c. 20\)](#), [Sch. 4 Pt. I](#)
- F11** Words substituted by virtue of [S.I. 1981/1670](#), [arts. 2\(1\)\(c\)](#), (2), 3(5)
- F12** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

#### Modifications etc. (not altering text)

- C9** [S. 2\(3\)\(5\)](#) extended by [Coal Industry Act 1949 \(c. 53\)](#), [s. 1\(2\)](#), (4) respectively
- C10** [S. 2\(6\)](#) excluded by [Coal Industry Act 1965 \(c. 82\)](#), [s. 4\(1\)](#)  
[S. 2\(6\)](#) modified (31.10.1994) by [1994 c. 21](#), [s. 23\(6\)](#) (with [ss. 40\(7\)](#), 66); [S.I. 1994/2553](#), [art. 2](#)

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### 3 Powers of the Minister in relation to the Corporation.

- (1) The Minister may, after consultation with the [<sup>F13</sup>Corporation], give to the [<sup>F13</sup>Corporation] directions of a general character as to the exercise and performance by the [<sup>F13</sup>Corporation] of their functions in relation to matters appearing to the Minister to affect the national interest, and the [<sup>F13</sup>Corporation] shall give effect to any such directions.
- (2) In framing programmes of reorganisation or development involving substantial outlay on capital account, the [<sup>F13</sup>Corporation] shall act on lines settled from time to time with the approval of the Minister.
- (3) In the exercise and performance of their functions as to training, education and research, the [<sup>F13</sup>Corporation] shall act on lines settled as aforesaid.
- (4) The [<sup>F13</sup>Corporation] shall afford to the Minister facilities for obtaining information with respect to the property and activities of the [<sup>F13</sup>Corporation] [<sup>F14</sup>in Great Britain or elsewhere], and shall furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished, in such manner and at such times as he may require.

#### Textual Amendments

**F13** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), **Sch. 1 para. 1(3)**

**F14** Words inserted by [Coal Industry Act 1977 \(c. 39\)](#), **Sch. 4 para. 1(3)**

#### Modifications etc. (not altering text)

**C11** [S. 3\(4\)](#) extended by [Coal Industry Act 1971 \(c. 16\)](#), s. 7(7)

### 4 Consumers' councils.

- <sup>F15</sup>(1) There shall be established for the purposes mentioned in this section two consumers' councils, to be known respectively as the Industrial Coal Consumers' Council and the Domestic Coal Consumers' Council.
- (2) Each of the said councils shall consist of such number of persons as the Minister may think fit, appointed by him . . . <sup>F16</sup> —
  - (a) in the case of the Industrial Coal Consumers' Council, after consultation with such bodies representative of the interests concerned as the Minister thinks fit, to represent consumers of coal, coke and manufactured fuel respectively, for industrial purposes or other purposes involving supply in bulk, and persons engaged in organising or effecting the sale or supply, whether for home use or for export, of coal, coke and manufactured fuel respectively, for those purposes;
  - (b) in the case of the Domestic Coal Consumers' Council, after consultation with such bodies representative of the interests concerned as the Minister thinks fit, to represent consumers of coal, coke and manufactured fuel respectively, for domestic purposes and other purposes not falling within the preceding paragraph, and persons engaged in organising or effecting the sale or supply of coal, coke and manufactured fuel respectively, for those purposes.

In formulating his proposals for appointments to each of the said councils, the Minister shall have particular regard to nominations made to him by the said bodies representative of the interests concerned of persons recommended by them as having

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both adequate knowledge of the requirements of those interests and also qualifications for exercising a wide and impartial judgment on the matters to be dealt with by the council generally.

- (3) The Industrial Coal Consumers' Council shall be charged with the duties—
- (a) of considering any matter affecting the sale or supply, whether for home use or for export, of coal, coke or manufactured fuel for the purposes mentioned in paragraph (a) of subsection (2) of this section which is the subject of a representation made to them by consumers for those purposes of coal, coke or manufactured fuel, as the case may be, or which appears to them to be a matter to which consideration ought to be given apart from any such representation, . . . <sup>F16</sup>;
  - (b) of considering, and reporting to the Minister on, any such matter which may be referred to them by the Minister.
- (4) The Domestic Coal Consumers' Council shall be charged with the like duties in relation to the sale or supply of coal, coke and manufactured fuel for the purposes mentioned in paragraph (b) of subsection (2) of this section.
- (5) . . . . . <sup>F17</sup>
- (6) The said councils shall be furnished by the Minister with such clerks, officers and staff as appear to him, with the concurrence of [<sup>F18</sup>the Treasury] as to numbers, to be requisite for the proper discharge of their functions, and the Minister shall pay to the members of the said councils such allowances, and to the clerks, officers and staff of the said councils such remuneration and allowances, as he may with the approval of [<sup>F18</sup>the Treasury] determine, and shall pay such expenses incurred by the said councils as he may so determine.
- (7) Provision may be made by regulations for or in connection with any such matters in relation to the said consumers' councils as are mentioned in subsection (7) of section two of this Act in relation to the [<sup>F19</sup>Corporation], and for the appointment of a chairman of each of the said councils, with or without provision for another to act in his place, and, subject to the provisions of any such regulations, the said councils shall have power to regulate their own procedure.
- (8) Each of the said councils shall make an annual report to the Minister, and the Minister shall lay the reports before each House of Parliament.]
- (9) . . . . . <sup>F17</sup>
- (12) In this section the expression “manufactured fuel” means any manufactured fuel (including carbonised briquettes and ovoids) of which coal or coke is the principal constituent.

#### Textual Amendments

- F15** S. 4(1)-(8) repealed as to Industrial Coal Consumers' Council by [European Communities Act 1972 \(c. 68\)](#), [Sch. 3 Pt. IV](#).
- F16** Words repealed by [European Communities Act 1972 \(c. 68\)](#), [Sch. 3 Pt. IV](#)
- F17** S. 4(5)(9)-(11) repealed by [European Communities Act 1972 \(c. 68\)](#), [Sch. 3 Pt. IV](#)
- F18** Words substituted by virtue of S.I. 1981/1670, [arts. 2\(1\)\(c\)\(2\)](#), 3(5)
- F19** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

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**Modifications etc. (not altering text)**

- C12 S. 4 amended by [Coal Consumers' Councils \(Northern Irish Interests\) Act 1962 \(c. 22\)](#), [s.1](#)
- C13 S. 4(2) modified by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\)](#), [s. 14\(1\)](#)

*Transfer of assets to the Board*

**5 Transfer of assets generally.**

- (1) The assets described in Part I of the First Schedule to this Act shall vest in the Board, by virtue of this section and without further assurance, on such date as the Minister may by order appoint in that behalf (in this Act referred to as “the primary vesting date”).
- (2) The assets described in Part II of the First Schedule to this Act shall be subject to the following provision, that is to say, the Board and the owner thereof shall each have the option to require that any such assets shall vest in the Board, exercisable by notice in writing given to the other, and any such assets as to which that option is duly exercised shall vest in the Board as aforesaid on the first day of the month next after that in which the notice is given:

Provided that if the notice is given before the primary vesting date, the vesting shall be on that date.

- (3) The assets described in Parts III and IV respectively of the First Schedule to this Act shall be subject to the like provision as is mentioned in the last preceding subsection, except that, if the party to whom the notice is given (whether the owner or the Board) gives to the other a counter-notice in writing objecting, as respects all or any of the assets to which the original notice relates, to the vesting thereof in the Board, the question whether the assets as to which objection is so made or any of them are so to vest shall be determined by arbitration under this Act, and the date of vesting of such of them as under the arbitrator’s award are so to vest shall be as it would have been if the original notice had been given on the date of the award.

In considering any question which is to be determined by arbitration under this subsection the arbitrator shall have regard to all the circumstances, and in particular, where the exercise of the option in question is by the Board, to the importance to the Board, for the purposes of any activities which they are required or authorised to carry on, of the assets being vested in them, and, where the exercise of the option is by the owner, to the extent to which the severance of the assets in question from other assets of his which are vested or to be vested in the Board affects the usefulness to him of the assets in question.

- (4) ..... F20

- (5) Where an asset vests in the Board by virtue of the exercise of such an option as aforesaid, the owner thereof shall be deemed, as respects the period of his ownership thereof between the primary vesting date and the date of the vesting thereof, to have held it as an agent of the Board, and shall accordingly be liable to account to the Board for all rents, profits and other income for that period arising therefrom or from the use thereof, and be entitled to be indemnified against all expenses, liabilities and other outgoings for that period incident thereto or to the use thereof.

- (6) The vesting of any assets by virtue of this section shall take effect free from any charge or lien for securing money or money’s worth to which they are subject.

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- (7) The Minister may by regulations make such provision supplementary to or consequential on the provisions of this section and of the First Schedule to this Act as appears to him to be necessary or expedient, and in particular, but without prejudice to the generality of this subsection, provision may be made by regulations made thereunder—
- (a) for designating, with effect where so prescribed from the date on which the assets in question vest in the Board, easements and other property and rights that are to vest in the Board with any of the assets vesting in them by virtue of this section;
  - (b) for designating, with effect as aforesaid, easements and other restrictions, rights and liabilities subject to which, or free from which, any of the said assets are to vest in the Board;
  - (c) for apportionments consequent on the vesting provided for by this section of interests in respect of which periodical payments are accruing at the date of their vesting;
  - (d) for apportionments and indemnities consequent on the severance of leasehold interests, or of interests held subject to leases, by reason of the vesting provided for by this section;
  - (e) for the registration of the title of the Board to assets vesting in them by virtue of this section of a kind subject to provision for the registration of title thereto;
  - (f) for vesting in the Board the property in and the right to possession of documents of such kinds relating to the title to, or to the management of, things interests in which vest in the Board by virtue of this section, as may be specified in the regulations, for conferring on the Board the right to production of any other such documents as aforesaid as may be so specified and to delivery of copies thereof, and for requiring persons having possession or control of any such documents as aforesaid to furnish in writing, to such person or authority as may be specified in the regulations, such information with respect to the documents as may be so specified;
  - (g) for the modification of provisions of the Coal Acts 1938 to 1943, which may be necessary or expedient in consequence of the vesting in the Board by virtue of this section of assets previously in the ownership of the Coal Commission.
- (8) Notwithstanding anything in subsection (1) of this section, the Minister may by order exclude from the operation of that subsection an asset described in Part I of the First Schedule to this Act, if an application in that behalf is made to him by the Board not later than the expiration of one year from the primary vesting date and the owner of the asset in question consents.

Where an order under this subsection is made after the primary vesting date, the asset in question, and any easements, property and rights which would otherwise have been vested in the Board therewith, shall be deemed never to have vested in the Board.

#### Textual Amendments

**F20** Ss. 5(4),(10)–(25) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), [Sch. 1 Pt. X](#)

## 6 Transfer of interests in patents and designs.

- (1) The following assets, namely, proprietary interests of colliery concerns and of class A and class B subsidiaries thereof in patents for inventions intended for use or capable

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of being used for or in connection with colliery production activities as defined in Part I of the First Schedule to this Act, and in copyrights in registered designs intended for application or capable of being applied to articles adapted for use for or in connection with such activities, shall be subject to the following provision, that is to say, the Board and the owner thereof shall each have the option to require that any such assets shall vest in the Board, exercisable by notice in writing given to the other, and unless the party to whom the notice is given (whether the owner or the Board) gives to the other a counter-notice in writing objecting, as respects all or any of the assets to which the original notice relates, to the vesting thereof in the Board, the assets shall vest in the Board on the first day of the month next after that in which the notice is given:

Provided that if the notice is given before the primary vesting date, the vesting shall be on that date.

- (2) Where a counter-notice is given as mentioned in the preceding subsection, the question whether the assets as to which objection is made, or any of them, are to vest in the Board shall be determined by arbitration under this Act.

In considering any question which is to be determined by arbitration under this subsection, the arbitrator shall have regard to the matters to which he is required by subsection (3) of section five of this Act to have regard in considering a question which is to be determined by arbitration thereunder.

- (3) If, upon a reference under the last preceding subsection where the exercise of the option in question is by the Board, the arbitrator is of opinion with respect to any patent or copyright which is the subject of the reference that the Board ought to be enabled to do all or any of the following things in relation to the invention which is the subject of the patent, namely, to make, use, exercise or vend it, or ought to be enabled to apply the design which is the subject of the copyright, as the case may be, but that the proprietary interest in the patent or copyright ought not to vest in the Board, he shall have power by his award to grant to the Board a licence under the patent or copyright (not being an exclusive licence) on such terms as may be settled by him and specified in the award, being terms appearing to him to be such as would be agreed upon between a willing grantor and a willing grantee.
- (4) An award granting a licence under the last preceding subsection shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting the licence which the owner of the proprietary interest in the patent or copyright and all other parties having any interest therein had executed with full capacity so to do, and the award shall operate to take away from any such party any right in relation thereto the exercise whereof would be inconsistent with the exercise of the licence in accordance with and subject to the terms on which it is granted.
- (5) Where the award of the arbitrator under subsection (2) of this section is that a proprietary interest in a patent or copyright is to vest in the Board, the date of its vesting shall be such as it would have been if the original notice had been given on the date of the award.
- (6) Subsections (1), (2) and (5) of this section shall apply to interests of colliery concerns and of class A and class B subsidiaries thereof in such patents and copyrights as are mentioned in the said subsection (1), being interests subsisting by virtue of licences, as they apply to proprietary interests.
- (7) Subsections (4) to (6) of section five of this Act shall apply with requisite modifications for the purposes of this section as they apply for the purposes of the said



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section five and of the First Schedule to this Act, and subsection (7) of that section shall so apply subject to the further modification that the power thereby conferred shall extend so as to authorise the making of provision for adapting the terms of licences to changes consequent on the passing of this Act in the circumstances in which they will fall to be exercised after the date of a transfer of interests subsisting by virtue thereof.

- (8) In this section the expression “proprietary interest”, in relation to a patent, means the interest of a person whose name is for the time being entered or required to be entered in the register of patents as the grantee or proprietor of the patent or as one of two or more grantees or proprietors thereof, and, in relation to a registered design, means the interest of a person whose name is for the time being entered or required to be entered in the register of designs as the proprietor of the design or as one of two or more proprietors thereof.
- (9) Part V of the First Schedule to this Act shall apply (so far as relevant) for the purposes of this section as it applies for the purposes of that Schedule with the substitution, for references to an option notice date, of references to the date on which a notice exercising an option under subsection (1) of this section is given.
- (10) A patentee shall not be deemed to be precluded from making to the Comptroller General of Patents, Designs and Trade Marks a request under [F21section 46 of the M1Patents Act 1977], for a patent to be indorsed with the words “licences of right” by reason of a licence having been granted under the patent under this section.

#### Textual Amendments

F21 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. 17(2)(a)

#### Marginal Citations

M1 [1977 c. 37](#).

## 7 Transfer of rights and liabilities under contracts.

- (1) Subject to the provisions of this section, contracts such as are mentioned in the Second Schedule to this Act shall have effect in favour of and against the Board as therein mentioned and to the extent therein mentioned.
- (2) If in the case of any of the provisions of such a contract as is mentioned in the Second Schedule to this Act, being provisions so entered into as to render that Schedule applicable to them subject to the limitations contained in this section and being provisions which were entered into on or after the first day of August, nineteen hundred and forty-five, or which have been varied after that date, the Board are of opinion that that Schedule ought not to apply thereto, either at all or to any particular extent, on the ground that they were not reasonably necessary for the purposes mentioned in paragraph 1 of that Schedule, or that they were entered into with unreasonable want of prudence, the Board may, at any time within twelve months from the date as from which the Board would become subject to liabilities thereunder apart from this provision, give notice to the effect that they are of that opinion to each of the parties to the contract, and if the Board give such a notice, the Second Schedule to this Act shall not apply to the provisions to which the notice relates, either at all or to the extent specified in the notice, as the case may be:

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Provided that any of the parties to the contract may, within the prescribed period from the date on which the notice is served and subject as mentioned in the next succeeding subsection, refer the matter to arbitration under this Act, and, if the matter is so referred, the arbitrator shall consider whether or not the provisions in question were reasonably necessary as aforesaid, or were entered into as aforesaid, and shall determine whether, and to what extent, the Second Schedule to this Act is to apply to them.

- (3) In the case of a provision for the rendering of personal services or for the giving of consideration therefor, being a provision which was entered into on or after the first day of August, nineteen hundred and forty-five, or which has been varied after that date, a reference to arbitration as aforesaid shall not be made unless the Minister consents.
- (4) As regards the time of operation of subsection (2) of this section,—
- (a) where the application of the Second Schedule to this Act to a provision of a contract is excluded to any extent by a notice under that subsection without any reference to arbitration as aforesaid, or by the determination of the arbitrator on such a reference, the said Schedule shall be treated as having never applied;
  - (b) where on such a reference it is determined by the arbitrator, contrary to such a notice, that the said Schedule is to apply to any extent to a provision of a contract, the said Schedule shall be treated as having applied continuously, without regard to the service of the notice;

and any adjustments required in consequence of the provisions of this subsection shall be ascertained by agreement between the parties to the contract and the Board, or, in default of agreement, by arbitration under this Act, and shall be made accordingly.

- (5) Where by virtue of subsection (2) of this section the Board do not become subject to a liability under a contract to which they would have become subject under the provisions of the Second Schedule to this Act apart from that subsection, the parties to the contract respectively shall be discharged from that liability and from any liability as respects consideration to be given under the contract attributable to that liability.

## **8 Vesting of rights to use of certain property.**

- (1) On the primary vesting date the rights and powers vested in the Coal Commission by section fifteen of the <sup>M2</sup>Coal Act 1938 (which relates to the use as therein mentioned of underground land) shall vest in the Board by virtue of this section and without further assurance, and accordingly, as from that date references in that section to the Coal Commission shall be construed as references to the Board; and that section shall extend so as to confer on the Board, in relation to minerals other than coal, being minerals interests in which vest in the Board by virtue of section five of this Act or are otherwise acquired by them, the like rights and powers as respects operations for the like purposes as are mentioned in the said section fifteen.
- (2) The Board shall be entitled for the purposes mentioned in paragraph 20 of the First Schedule to this Act to use land appearing to the Board to fall within that paragraph pending their decision as to the extent of the land required for those purposes to be acquired by option under section five of this Act and pending the taking effect of such an option when exercised, but subject to an obligation on the Board to pay proper compensation, of an amount to be determined in case of difference by arbitration under this Act, for such use and for any damage sustained in consequence of such use by the

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owner of any interest in the land used which is not subsequently vested in the Board pursuant to the exercise of such an option:

Provided that the Board shall have the option to make good any such damage to the reasonable satisfaction of the owner of any such interest in lieu of paying compensation for the damage.

- (3) The Board shall be entitled, for the purposes of colliery production activities within the meaning of the First Schedule to this Act, to make, use and exercise the invention which is the subject of a patent a proprietary or other interest in which appears to them to fall within subsection (1) of section six of this Act or subsection (6) thereof, and to apply a registered design in the copyright in which such an interest appears to them so to fall, pending their decision as to the exercise by them of an option under that section with respect to the interest in question and pending the taking effect of such an option when exercised or (in the case of an option with respect to a proprietary interest) the grant of a licence in lieu of the vesting of the interest in them.

The exercise by the Board in any manner or for any purpose of the right conferred on them by this subsection shall, in a case in which the relevant interest in the patent or copyright is not subsequently vested in them pursuant to the exercise of such an option as aforesaid, be subject to an obligation on them to pay proper compensation, of an amount to be determined in case of difference by arbitration under this Act, to any person entitled during any period during which the right is exercised in that manner or for that purpose to authorise the exercise thereof in that manner or for that purpose.

**Modifications etc. (not altering text)**

C14 S. 8(1) restricted (31.10.1994) by 1994 c. 21, s. 51(8) (with ss. 40(7), 66); S.I. 1994/2553, art. 2

**Marginal Citations**

M2 1938 c. 52.

**9 Ascertainment of assets, rights and liabilities transferred, and determination of questions as to transfer.**

- (1) Regulations shall be made for ascertaining, verifying and recording particulars (whether relating to subject matter, value, ownership or other matters), as may appear to the Minister to be requisite for the purposes of this Act, of the assets, property and rights that vest in the Board by virtue of section five or six of this Act or of regulations made thereunder, and of contractual rights and liabilities so far as transferred to the Board by virtue of section seven of this Act.

- (2) All the said assets, property, rights and liabilities are in this Act referred to as the “transferred interests”:

Provided that references to the transferred interests do not include references to assets, property, rights or liabilities of the Coal Commission.

- (3) Any question arising in giving effect to the provisions of this Act—
- (a) as to what is or is not included in the assets described in the First Schedule to this Act or in any Part thereof or in section six of this Act, or otherwise as to the construction or effect, so far as regards the vesting of assets, property or rights in the Board, of section five or six of this Act or of regulations made thereunder, or of that Schedule, or

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- (b) as to the existence or extent of any such liability to account or right to be indemnified as is mentioned in subsection (5) of section five of this Act, or otherwise as to the construction or effect of that subsection, or
- (c) as to whether a contract is such a contract as is mentioned in the Second Schedule to this Act, or otherwise as to the construction or effect, so far as regards the transfer to the Board of rights or liabilities under contracts, of that Schedule,

shall be determined by arbitration under this Act.

(4) Regulations may be made—

- (a) for securing that, when compensation has been made under this Act on the basis that any assets, property, rights or liabilities have vested in or been transferred to the Board or have vested in them free from any charge or lien, restriction, right or liability, or when particulars of transferred interests have been recorded on that basis or other proceedings for the purposes of dealing with transferred interests for compensation have been taken on that basis and the particulars or other proceedings have become conclusive for those purposes, persons shall be estopped from questioning the vesting in or transfer to the Board of the assets, property, rights or liabilities, or the vesting thereof in them free from that charge or lien, restriction, right or liability; and
- (b) otherwise for preventing the assertion, as respects matters dealt with for compensation under this Act, of claims of title made on a basis inconsistent with that on which those matters have been dealt with for that purpose.

10— ..... F22  
25.

**Textual Amendments**  
 F22 Ss. 5(4),(10)–(25)repealed by Statute Law (Repeals) Act 1973 (c. 39), Sch. 1 Pt. X

*Financial provisions*

26 ..... F23

**Textual Amendments**  
 F23 Ss. 26, 27(1)–(3), (9) repealed by Coal Industry Act 1965 (c. 82), Sch. 2

[<sup>F24</sup>27 **Temporary borrowing powers of the Board.**

- (1) ..... F25
- (4) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of [<sup>F26</sup>the payment of interest on and the discharge of any other financial obligation in connection with], any sum borrowed by the [<sup>F27</sup>Corporation], otherwise than from the Minister, under [<sup>F28</sup>[<sup>F29</sup>section 1] of the <sup>M3</sup>Coal Industry Act 1965][<sup>F30</sup>or under section 2(3) of the <sup>M4</sup>Coal Industry Act 1973].

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- (5) Any sums required by the Treasury for fulfilling any such guarantee shall be charged on and issued out of the Consolidated Fund.
- (6) Immediately after any guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament, and where any sum is issued out of the Consolidated Fund for fulfilling such a guarantee the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.
- (7) Any sum issued for fulfilling a guarantee given under this section shall be repaid by the [<sup>F27</sup>Corporation] to the Treasury, together with interest thereon at such rate as the Treasury may determine, in such manner, and over such period, as the Treasury may determine after consultation with the Minister.
- (8) Any sums received by the Treasury under the last preceding subsection shall be paid into the Exchequer.
- (9) ..... <sup>F25</sup>]

**Textual Amendments**

- F24** S. 27 substituted by [Coal Industry Act 1962 \(11 & 12 Eliz. 2 c. 6\)](#), **s. 1**
- F25** [Ss. 26, 27\(1\)–\(3\)](#), (9) repealed by [Coal Industry Act 1965 \(c. 82\)](#), **Sch. 2**
- F26** Words substituted by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#) s. 4, Sch. 2
- F27** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), **Sch. 1 para. 1(3)**
- F28** Words substituted by [Coal Industry Act 1965 \(c. 82\)](#), **Sch. 1 para. 1**
- F29** Words substituted by [Coal Industry Act 1971 \(c. 16\)](#), **s. 4(2)**
- F30** Words added by [Coal Industry Act 1973 \(c. 8\)](#), **Sch. 1 para. 2**

**Marginal Citations**

- M3** [1965 c. 82](#).
- M4** [1973 c. 8](#).

**28 Payments to the Minister by the Corporation.**

- (1) The [<sup>F31</sup>Corporation] shall make to the Minister, at such times and in such manner as he may, with the approval of the Treasury, direct,—
  - <sup>F32</sup>(a) .....
  - <sup>F33</sup>(b) payments of interest on sums lent to the [<sup>F31</sup>Corporation] by the Minister under section 1(6) of the <sup>M5</sup>Coal Industry Act 1965 at such rate as he may so direct, and payments, of such amounts as he may so direct, in or towards repayment of such sums.]
- (2) Sums received by the Minister under this section shall be paid into the Exchequer . . .  
<sup>F34</sup>
- (3) The Minister shall lay before each House of Parliament a statement of any payments due from the [<sup>F31</sup>Corporation] under this section which are not duly paid to him as required thereunder.

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#### Textual Amendments

- F31** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)
- F32** [S. 28\(1\)\(a\)](#) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), [Sch. 1 Pt. X](#)
- F33** [S. 28\(1\)\(b\)](#) substituted by [Coal Industry Act 1965 \(c. 82\)](#), [Sch. 1 para. 2](#)
- F34** Words repealed by [National Loans Act 1968 \(c. 13\)](#), [Sch. 6 Pt. I](#)

#### Modifications etc. (not altering text)

- C15** [S. 28](#) excluded and extended by [Coal Industry Act 1980 \(c. 50, SIF 86\)](#), s. 2(2)
- C16** [S. 28\(1\)\(b\)\(2\)](#) amended by [National Loans Act 1968 \(c. 13\)](#), [Sch. 1](#)

#### Marginal Citations

- M5** [1965 c. 82.](#)

## 29 Reserve fund of the Board.

- (1) The Board shall establish a reserve fund.
- (2) The management of the said fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the [<sup>F35</sup>Corporation] may determine:

Provided that—

- (a) no part of the said fund shall be applied otherwise than for purposes of the [<sup>F35</sup>Corporation]; and
- (b) the power of the Minister to give directions to the [<sup>F35</sup>Corporation] shall extend to the giving to them, with the approval of the Treasury, of directions as to any matter relating to the establishment or management of the said fund, the carrying of sums to the credit thereof, or the application thereof, notwithstanding that the directions may be of a specific character.

#### Textual Amendments

- F35** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

## 30 Application of surplus revenues of the Corporation.

Any excess of the [<sup>F36</sup>Corporation's] revenues for any financial year of the [<sup>F37</sup>Corporation] over their outgoings for that year properly chargeable to revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under the two last preceding sections) shall be applied for such purposes as the [<sup>F37</sup>Corporation] may determine:

Provided that—

- (a) no part of any such excess shall be applied otherwise than for purposes of the [<sup>F37</sup>Corporation]; and
- (b) the power of the Minister to give directions to the [<sup>F37</sup>Corporation] shall extend to the giving to them, with the approval of the Treasury, of directions as to the application of any such excess, notwithstanding that the directions may be of a specific character.

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#### Textual Amendments

- F36** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(4\)](#)  
**F37** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

#### Modifications etc. (not altering text)

- C17** [S. 30](#) extended by [Coal Industry Act 1980 \(c. 50, SIF 86\)](#), s. 2(2)  
**C18** [S. 30](#) extended by [Coal Industry Act 1965 \(c. 82\)](#), s. 2(3)

### 31 Board's accounts and audit thereof.

- (1) The [<sup>F38</sup>Corporation] shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year of the [<sup>F38</sup>Corporation] a statement of accounts in such form as the Minister may direct, being a form which shall conform with the best commercial standards and which shall distinguish the colliery activities and each of the main ancillary activities of the [<sup>F38</sup>Corporation] [<sup>F39</sup> in Great Britain or elsewhere].
- (2) The accounts of the [<sup>F38</sup>Corporation] shall be audited by auditors to be appointed annually by the Minister.
- (3) So soon as the accounts of the [<sup>F38</sup>Corporation] have been audited, they shall send a copy of the statement of accounts referred to in subsection (1) of this section to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the [<sup>F38</sup>Corporation].
- (4) The Minister shall lay a copy of every such statement and report before each House of Parliament.

#### Textual Amendments

- F38** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)  
**F39** Words added by [Coal Industry Act 1977 \(c. 39\)](#), [Sch. 4 para. 1\(4\)](#)

#### Modifications etc. (not altering text)

- C19** [S.31\(1\)](#) amended by [Coal Industry Act 1971 \(c. 16\)](#), s. 8(1)

### 32 Issue of stock in exchange for Coal Commission Stock.

- (1) The Treasury shall have power to issue to the National Debt Commissioners such an amount of government stock of such value on the date of issue thereof as is requisite for fulfilling any agreement made between them for the exchange of Coal Commission Stock for stock of His Majesty's Government in the United Kingdom.
- (2) The Treasury may cancel any Coal Commission Stock surrendered to them in pursuance of any such agreement.

### 33 General provisions as to stock.

- (1) Stock issued for compensation, . . . <sup>F40</sup> and stock issued for the purposes of the exchange provided for by the last preceding section, shall bear such rate of interest, and

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be subject to such conditions as to repayment, redemption and other matters (including provision for a sinking fund), as the Treasury may determine.

- (2) Any expenses incurred in connection with the issue or repayment of such stock shall be charged on and issued out of the [<sup>F41</sup>National Loans Fund].
- (3) ..... <sup>F42</sup>
- (4) ..... <sup>F43</sup>
- (5) ..... <sup>F44</sup>
- (6) Section forty-seven of the <sup>M6</sup>Finance Act 1942 (which empowers the Treasury to make regulations as respects the transfer and registration of stock and registered bonds of the descriptions specified in Part I of the Eleventh Schedule to that Act), and any regulations made under that section which are in force immediately before the passing of this Act, shall have effect as if such stock . . . <sup>F40</sup> were included among the stocks mentioned in the said Part I and among the stocks to which the said regulations apply.
- (7) Such stock shall be subject to the provisions of the <sup>M7</sup>National Debt Act 1870, so far as is consistent with the tenor of this Act.
- (8) Paragraphs 3 . . . <sup>F45</sup> and 5 of the Second Schedule to the <sup>M8</sup>National Loans Act 1939 (which applies certain enactments to securities issued under that Act), shall have effect as if references to securities so issued included references to such stock.

**Textual Amendments**

- F40** Words repealed by [Coal Industry Act 1949 \(c. 53\)](#), [s. 6](#)
- F41** Words substituted by [National Loans Act 1968 \(c. 13\)](#), [Sch. 5](#)
- F42** [S. 33\(3\)](#) repealed by [National Loans Act 1968 \(c. 13\)](#), [Sch. 6 Pt. I](#)
- F43** [S. 33\(4\)](#) repealed by [Finance Act 1954 \(c. 44\)](#), [Sch. 6](#)
- F44** [S. 33\(5\)](#), [34\(2\)](#) repealed by [National Loans Act 1968 \(c. 13\)](#), [Sch. 6 Pt. I](#)
- F45** Words repealed by [Income Tax Act 1952 \(c. 10\)](#), [Sch. 25](#)

**Marginal Citations**

- M6** [1942 c. 21](#).
- M7** [1870 c. 71](#).
- M8** [1939 c. 17](#).

**34 Issues out of the Consolidated Fund for money payments and for advances to the Board.**

- (1) The Treasury may issue to the Minister out of the [<sup>F46</sup>National Loans Fund] such sums as are necessary to enable him to make [<sup>F47</sup>money payments under this Act and loans to the Board under section 1(6) of the <sup>M9</sup>Coal Industry Act 1965].
- (2) ..... <sup>F48</sup>

**Textual Amendments**

- F46** Words substituted by [National Loans Act 1968 \(c. 13\)](#), [Sch. 1](#)
- F47** Words substituted by [Coal Industry Act 1965 \(c. 82\)](#), [Sch. 1 para. 3](#)
- F48** [S. 34\(2\)](#) repealed by [National Loans Act 1968 \(c. 13\)](#), [Sch. 6 Pt. I](#)



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#### Marginal Citations

M9 1965 c. 82.

### 35 Account of Minister's receipts.

- (1) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct, an account of sums received by him under section twenty-eight of this Act, and of sums issued to and received by him under subsection (1) of the last preceding section, and of the disposal by him of those sums respectively.
- (2) Any account prepared under this section shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before each House of Parliament.

*Savings, and provisions consequential on nationalisation*

### 36 Savings as to certain coal, etc.

- (1) Paragraph (a) of the subsection (1) of section one of this Act shall not render unlawful the digging or carrying away of coal that is necessary to be dug or carried away in the course of activities other than colliery activities, and interests of persons other than the Coal Commission in any such coal, or in a mine of coal used immediately before the primary vesting date exclusively or mainly in the course of such other activities, shall be excepted from the vesting provided for by section five of this Act.

- (2) A licence may be granted by the [F49Corporation], either unconditionally or subject to any conditions specified in the licence, and either irrevocably or subject to revocation as therein specified, for the working and getting of—

[F50(a) coal which, in accordance with the licence, is to be worked at a mine (within the meaning of the M10Mines and Quarries Act 1954) with respect to which the Corporation are satisfied that the number of persons employed to work below ground there is at no time likely to exceed, or greatly to exceed, 150]

(b) coal present amongst other minerals that appears to the [F49Corporation] to be of so small value that the working thereof is unlikely to be undertaken otherwise than as ancillary to the working of those other minerals; [F51or

(c) coal which, in accordance with the licence, is to be worked by opencast operations, where the amount of coal got by such operations from the area specified in the licence is, in the opinion of the [F49Corporation], not likely to exceed, or greatly to exceed, [F52250,000][F53tonnes];]

and paragraph (a) of subsection (1) of section one of this Act shall not render unlawful any working or getting of coal for which a licence is in force under this subsection in accordance with the terms of the licence.

- [F54(2A) A licence may be granted by the Corporation, either unconditionally or subject to any conditions specified in the licence, and either irrevocably or subject to revocation as therein specified, for the searching and boring for coal in any area for a specified period—

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- (a) with a view to a licence under subsection (2) of this section subsequently being granted as respects coal in that area or any part of it; or
- (b) in connection with an existing licence under that subsection as respects coal in that area;
- and section 1(2)(a) of this Act shall not render unlawful anything done in accordance with such a licence.]
- (3) A licence [<sup>F55</sup>under this section] may be granted either generally or with effect only as to working and getting [<sup>F56</sup>or, as the case may be, searching and boring] by a particular person or as to particular coal or subject to other limitations, and the conditions which may be specified in such a licence may include (without prejudice to the generality of the power to impose conditions conferred by that subsection) conditions requiring the rendering of a payment in the nature of rent [<sup>F55</sup>and, in the case of a licence under subsection (2) of this section,] for controlling the sale or supply of coal gotten as respects price, the person to whom it may be sold or supplied, or other matters.
- (4) Nothing in this Act shall affect any power exercisable by virtue of any of the Defence (General) Regulations, 1939.

#### Textual Amendments

- F49** Word substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(1)(2), **Sch. 1 para. 1(3)**
- F50** S. 36(2)(a) substituted by Coal Industry Act 1990 (c. 3, SIF 86), s. 4(1)(a)
- F51** Words inserted by Opencast Coal Act 1958 (c. 69), s. 46(1)
- F52** S. 36(2)(c) for “twenty-five thousand” there is substituted “250,000” by Coal Industry Act 1990 (c. 3, SIF 86), s. 4(1)(b)
- F53** Word substituted by Coal Industry Act 1977 (c. 39), **Sch. 4 para. 1(5)**
- F54** S. 36 (2A) inserted by Coal Industry Act 1990 (c. 3, SIF 86), s. 4(2)
- F55** Words substituted by Coal Industry Act 1990 (c. 3, SIF 86), s. 4(3)
- F56** Words inserted by Coal Industry Act 1990 (c. 3, SIF 86), s. 4(3)

#### Marginal Citations

- M10** 1954 c. 70.

### 37 Provisions as to superannuation, etc., rights.

- (1) Regulations shall be made for all or any of the following purposes relating to pensions, gratuities and other like benefits, that is to say,—
- (a) for providing for such benefits in favour of persons who have been in the [<sup>F57</sup>Corporation’s] employment, or in favour of other persons by reference to the employment of such persons;
- (b) for providing for such benefits in favour of persons who have been in employment in or in connection with coal industry activities or transferred allied activities but have not been taken into the service of the [<sup>F58</sup>Corporation], or in favour of other persons by reference to the employment of such persons;
- (c) for the establishment and administration of schemes or other arrangements and of funds for the purposes of the preceding paragraphs, for the continuance, amendment or revocation of existing schemes or other arrangements relating to the like purposes (whether subsisting by virtue of trust, contract or

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otherwise) and of trust deeds, rules or other instruments made for the purposes thereof, for the transfer in whole or in part or extinguishment of liabilities under any such existing schemes or arrangements, and for the transfer in whole or in part, or winding up, of funds held for the purposes of any such existing schemes or arrangements, so however that nothing in this paragraph shall be construed as authorising diversion of any such funds to purposes other than those of the preceding paragraphs.

[<sup>F59</sup>(1A) Regulations may be made for providing pensions, gratuities and other like benefits in favour of persons specified in the Table in Schedule 2A to this Act, and references in subsection (1)(c) above to the purposes of paragraphs (a) and (b) of that subsection shall include references to the purposes of this subsection.]

(2) In the case of persons, whether taken into the service of the [<sup>F58</sup>Corporation] or not, who have been in employment in or in connection with coal industry activities or transferred allied activities before the primary or other relevant vesting date, the regulations to be made for the purposes of the preceding subsection shall be so framed as to secure that, where either—

(a) a right to, . . . <sup>F60</sup> any particular benefits in favour of any such person, or in favour of another person by reference to his employment, ceases or is prejudiced by reason of his ceasing in consequence of the passing of this Act to be employed by his previous employer or to be employed in the activities aforesaid, or

(b) any such person has retired from employment as aforesaid before the primary or other relevant vesting date, and he, or another person by reference to his employment, has been in receipt of benefits granted in respect of his employment, whether as of right or under customary practice,

the same benefits, or substituted benefits not less advantageous, shall be provided for under the regulations:

Provided that this subsection shall have effect subject to such limitations as may be prescribed for meeting cases in which any such rights, expectations or benefits may have been created or granted, otherwise than in the ordinary course, in connection with any provision made by this Act or with any anticipation of the making of any such provision.

(3) Regulations made for the purposes of this section may be made so as to have effect from a date earlier than that on which they are made.

(4) Liabilities (whether of obligation or under customary practice) in relation to pensions, gratuities and other like benefits, of a kind subsisting under such existing schemes or arrangements as aforesaid in connection with the carrying on of any coal industry activities or transferred allied activities, shall be taken into account in the valuation of compensation units comprising transferred interests owned, or in things used, for such activities, and the amount referred to in subsection (4) of section thirteen of this Act which a compensation unit might have been expected to realise on the assumed sale therein referred to shall be estimated on the basis that the purchaser would be in the like position as the owner of the transferred interests comprised in the unit as respects such liabilities and as respects resort to any transferred funds held for the purposes of such existing schemes or arrangements.

#### Textual Amendments

**F57** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(4\)](#)

*Status: Point in time view as at 01/02/1991.*

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- F58** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(1\)\(2\), Sch. 1 para. 1\(3\)](#)  
**F59** [S. 37\(1A\)](#) inserted by [Coal Industry Act 1977 \(c. 39\), s. 12\(1\)](#)  
**F60** Words repealed retrospectively by [Coal Industry Act 1949 \(c. 53\), s. 4\(3\)](#)

**Modifications etc. (not altering text)**

- C20** [S. 37](#) amended retrospectively by [Coal Industry Act 1949 \(c. 53\), s. 4\(1\)](#); extended by [Coal Industry Act 1949 \(c. 53\), s. 4\(4\)](#) and [Coal Industry Act 1965 \(c. 82\), s. 4\(1\)](#)  
**C21** [S. 37\(1\)\(a\)](#) extended by [Miners' Welfare Act 1952 \(c. 23\), s. 14](#)  
**C22** [S. 37\(1\)\(c\)](#) extended by [Coal Industry Act 1949 \(c. 53\), s. 4\(2\)](#)

**38 Transfer to the Board of property and functions of the Coal Commission, other than interests in coal.**

- (1) On the primary vesting date there shall vest in the Board, by virtue of this subsection and without further assurance,—
- (a) all interests of the Coal Commission not vested in the Board by virtue of section five of this Act in land or other fixed property within the meaning of the First Schedule to this Act, and all interests of theirs in movable property within the meaning of that Schedule; and
  - (b) the property in, and the right to possession of, all records and other documents the property in which and the right to possession of which are vested in the Coal Commission by subsection (2) of section fourteen of the <sup>M11</sup>Coal Act 1938.
- (2) As from the primary vesting date, a contract to which the Coal Commission is a party shall have effect in favour of and against the [<sup>F61</sup>Corporation] as if the [<sup>F61</sup>Corporation] had been a party thereto instead of the Commission.
- (3) On the primary vesting date there shall be transferred to the Board all the functions of the Coal Commission—
- <sup>F62</sup>(a) .....
  - (b) under the Coal Act 1938, with respect to the payment of compensation in respect of holdings within the meaning of that Act, apportionments provided for by section eleven of that Act consequent on severance of interests, and the payment of costs required by that Act to be paid by them, and accordingly, as from that date, references to the Coal Commission in . . . <sup>F63</sup> the following provisions of the said Act of 1938, namely, sections . . . <sup>F63</sup> eleven, subsection (1) of section fourteen, . . . <sup>F63</sup> shall, so far only as may be necessary in consequence of the transfer of those functions, be construed as references to the [<sup>F61</sup>Corporation].
- (4) At such time as the Treasury direct the Coal Commission's reserve fund shall be wound up and the investments and cash of which it consists shall be transferred by the Commission to the Board, who shall carry them to the credit of the reserve fund established by them under section twenty-nine of this Act.
- (5) . . . . . <sup>F64</sup>

**Textual Amendments**

- F61** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(1\)\(2\), Sch. 1 para. 1\(3\)](#)  
**F62** [S. 38\(3\)\(a\)](#) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), Sch. 1 Pt. X](#)

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- F63** Words repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), Sch. 1 Pt. X](#)
- F64** [S. 38\(5\)](#) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), Sch. 1 Pt. X](#)

**Marginal Citations**

- M11** [1938 c. 52.](#)

**39 Abolition of coal advisory committee under 10 & 11 Geo. 5. c. 50, s. 4.**

On the primary vesting date section four of the Mining Industry Act 1920, shall cease to have effect in so far as it requires the Minister to appoint a committee for the purpose of giving him advice and assistance on matters connected with his powers and duties under that Act relating to coal and the coal industry.

**40** ..... **F65**

**Textual Amendments**

- F65** [S. 40](#) repealed by [Miners' Welfare Act 1952 \(c. 23\), Sch. 2](#)

**41 Power to vary trusts of property provided out of the Miners' Welfare Fund.**

[<sup>F66</sup>(1) Where any trusts subsisting immediately before the first day of July, nineteen hundred and fifty-two, are in force in respect of property consisting—

- (a) of property representing an application of moneys standing to the credit of the miners' welfare fund; or
- (b) of property representing such an application and other property held therewith where the value of the property representing such application substantially exceeds the value of that other property,

and it appears to the Minister that any variation of those trusts (including provisions relating to the appointment or removal of trustees) is expedient in the interests of social welfare activities, he may by order make provision for that variation.

(2) No order shall be made under this section except on the application of the Social Welfare Organisation, nor unless the Minister is satisfied that the said Organisation have given notice by advertisement or otherwise, describing the proposals and affording to persons who would be affected thereby an opportunity to object to them, and have taken such other steps (if any) as appear to the Minister to be appropriate in the circumstances for ascertaining the views of such persons.]

(3) Trusts as varied by an order under this section may be varied by a subsequent order made thereunder.

(4) ..... **F67**

**Textual Amendments**

- F66** [S. 41\(1\)\(2\)](#) substituted by [Miners' Welfare Act 1952 \(c. 23\), s. 11\(1\)](#)
- F67** [S. 41\(4\)](#) repealed by [Charities Act 1960 \(c. 58\), Sch. 7 Pt. II](#)

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**Modifications etc. (not altering text)**

**C23** “Social Welfare Organisation” means Coal Industry Social Welfare Organisation incorporated under Companies Act 1948 (c. 38): Miners' Welfare Act 1952 (c. 23), s. 12(1)

**42 †Duty of the Minister to prosecute safety and health research, and winding up of research endowment fund.**

(1) ..... **F68**

(3) The trust declared by a deed executed on the nineteenth day of April, nineteen hundred and twenty-six, by Ernest Arthur Gowers, Permanent Under-Secretary for Mines, and Ernest Julian Foley, Senior Assistant Under-Secretary, both of the Mines Department of the Board of Trade, to apply the income of the Mining Research (Safety and Health) Endowment Fund in or towards defraying the expenses of and incidental to the work of research into the causes of mining dangers (including dangers to health) and the means for preventing such dangers carried on under the direction of the Safety in Mines Research Board, shall be determined, and—

- (a) all property subject to the trust, and all property held by the trustees together with such property, shall, by virtue of this paragraph, vest in the Minister;
- (b) the Minister shall, at such time as the Treasury direct, sell and convert into money so much of the property so vesting as does not consist of cash, and shall pay into the Exchequer the proceeds of sale and so much of the property so vesting as consists of cash; and
- (c) the Minister shall pay into the Exchequer income of the property so vesting which accrues before the sale thereof under the last preceding paragraph.

(4) As respects an amount of stock of any description vested in the Minister by virtue of the last preceding subsection, the Bank of England shall make, in the register relating to stock of that description kept by them under the Government Stock Regulations, 1943, such alterations as are requisite in consequence of the enactment of paragraph (a) of that subsection.

**Textual Amendments**

**F68** Ss. 42(1)(2) repealed by S.I. 1974/2011

**Modifications etc. (not altering text)**

**C24** Unreliable marginal note

**43** ..... **F69**

**Textual Amendments**

**F69** S. 43 repealed by Mines (Working Facilities and Support) Act 1966 (c. 4), s. 15(2). Sch. 1

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#### **44 Winding-up of coal-selling schemes, and of S. Yorks. Mines Drainage Committee.**

- (1) The provisions of Part I of the Third Schedule to this Act shall have effect with respect to the vesting in the Board of assets of bodies administering schemes under Part I of the <sup>M12</sup>Coal Mines Act 1930, the making of compensation in respect of the vesting of such assets in the Board, the effect of such contracts to which any such body or a selling agent appointed by any such body is a party as are mentioned in that Part of that Schedule, the winding up of the affairs of those bodies and the consequential matters therein mentioned.
- (2) The Provisions of Part II of the Third Schedule to this Act shall have effect with respect to the vesting in the Board of assets, rights and liabilities of the South Yorkshire Mines Drainage Committee constituted by the South Yorkshire Mines Drainage Scheme 1929, made under section eighteen of the <sup>M13</sup>Mining Industry Act 1920, the dissolution of that Committee and the transitional matters mentioned in that Part of that Schedule.
- (3) The provisions of Part III of the Third Schedule to this Act shall have effect for the purpose of supplementing the provisions of Parts I and II thereof.

##### **Marginal Citations**

- M12** 1930 c. 34.  
**M13** 1920 c. 50.

#### **45 Provisions as to Doncaster Drainage District and certain dock etc., undertakings.**

- (1) His Majesty may by Order in Council make such provision as appears to him to be requisite or expedient, in consequence of the passing of this Act for—
  - (a) modifying or discharging rights conferred and obligations imposed by the <sup>M14</sup>Doncaster Area Drainage Act 1929, or the <sup>M15</sup>Doncaster Area Drainage Act 1933, on mine-owners working or proposing to work minerals under any lands situated within the Doncaster Drainage District or on the Catchment Board of the River Ouse (Yorks) Catchment Area or the Catchment Board of the River Trent Catchment Area, or for substituting other rights and obligations in lieu of all or any of the rights and obligations so conferred and imposed;
  - (b) varying the constitutions of the said Catchment Boards.
- (2) His Majesty may by Order in Council make such provision as appears to him to be requisite or expedient, in consequence of the passing of this Act, with respect to the Blyth Harbour Commissioners, the Upper Mersey Navigation Commissioners, the Commissioners of the Port or Harbour of Newport and the Tyne Improvement Commission, and any other body carrying on a dock, harbour, canal or inland navigation undertaking under authorisation conferred by an Act or by an order or scheme made under, or confirmed by, an Act, being an Act, or an order or scheme, as the case may be, which provides for the representation on the body of the interests of persons of a class of which the Board are members.
- (3) An Order in Council under either of the preceding subsections may make provision for any incidental or supplementary matters for which it appears to His Majesty in Council to be requisite or expedient for the purposes of the Order to provide, and for any requisite amendment or repeal (in the case of an Order under subsection (1)) of any provision of the <sup>M16</sup>Doncaster Area Drainage Act 1929, or the <sup>M17</sup>Doncaster

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Area Drainage Act 1933, and (in the case of an Order under subsection (2)) of any provision of any Act, order or scheme regulating the constitution of any such body as is mentioned in that subsection.

- (4) The draft of any Order in Council proposed to be made under subsection (1) or (2) of this section shall not be submitted to His Majesty until it has lain before each House of Parliament for a period of forty days, and if within that period either House of Parliament resolves that the draft be not submitted to His Majesty, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (5) An Order in Council under subsection (1) or (2) of this section may be varied or revoked by a subsequent Order in Council thereunder.

#### Marginal Citations

- M14 1929 c. xvii.  
M15 1933 c. x.  
M16 1929 c. xvii.  
M17 1933 c. x.

#### *Miscellaneous provisions as to the Corporation*

#### **46 Duty of the Corporation as to establishment of machinery for settlement of terms and conditions of employment, etc.**

- (1) It shall be the duty of the [<sup>F70</sup>Corporation] to enter into consultation with organisations appearing to them to represent substantial proportions of the persons in the employment of the [<sup>F70</sup>Corporation], or of any class of such persons, as to the [<sup>F71</sup>Corporation's] concluding with those organisations agreements providing for the establishment and maintenance of joint machinery for—
- (a) the settlement by negotiation of terms and conditions of employment, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements; and
  - (b) consultation on—
    - (i) questions relating to the safety, health or welfare of such persons;
    - (ii) the organisation and conduct of the operations in which such persons are employed and other matters of mutual interest to the [<sup>F70</sup>Corporation] and such persons arising out of the exercise and performance by the [<sup>F70</sup>Corporation] of their functions.
- (2) The [<sup>F70</sup>Corporation] shall deposit with [<sup>F72</sup>the Secretary of State] copies of any such agreement as aforesaid entered into by the [<sup>F70</sup>Corporation] and of any instrument varying the terms of any such agreement.

#### Textual Amendments

- F70 Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(1\)\(2\), Sch. 1 para. 1\(3\)](#)



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- F71** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), **Sch. 1 para. 1(4)**
- F72** Words substituted by virtue of [S.I. 1957/48](#) (1957 I, p. 1439), [1959/1769](#) (1959 I, p. 1795), art. 2(1), [1968/729](#), arts. 2(1), 3(2), [1969/1498](#), arts. 2(1), 5(6) and [1970/1537](#), arts. 2(2), 3, 7(4)

#### **47 Corporation not to be exempt from taxation, etc.**

Nothing in this Act shall be deemed to exempt the [<sup>F73</sup>Corporation] from liability for any tax, duty, rate, levy, or other charge whatsoever, whether general or local.

##### **Textual Amendments**

- F73** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), **Sch. 1 para. 1(3)**

#### **48 Transfer of liability for subsidence from colliery concerns to the Corporation.**

- (1) Liabilities to which, apart from this section, colliery concerns would be subject either—

- (a) for breaches of rights of support, being breaches arising from acts or omissions done or occurring in the course of colliery activities, or
- (b) to pay compensation for, or to make good, by virtue of terms or conditions on or subject to which rights to withdraw support are exercisable, damage arising from acts or omissions so done or occurring, or
- (c) to contribute, under section seventy-nine A of the provisions substituted by Part II of the <sup>M18</sup>Mines (Working Facilities and Support) Act 1923, for sections seventy-eight to eighty-five of the <sup>M19</sup>Railways Clauses Consolidation Act 1845, towards expenses properly incurred by a railway company in making good damage so arising,

shall, in any case where the cause of action in respect of the breach of the right of support accrues, or the damage to be compensated or made good by virtue of the said terms or conditions arises, or the execution by the railway company of works for making good the damage is begun, as the case may be, on or after the primary vesting date, be enforceable against the [<sup>F74</sup>Corporation] as if the acts or omissions in question had been those of the [<sup>F74</sup>Corporation] and not of those concerns.

- (2) The [<sup>F74</sup>Corporation] shall indemnify colliery concerns against expense reasonably incurred by them in disposing of claims in respect of such liabilities as are mentioned in the preceding subsection but are not thereby rendered enforceable against the [<sup>F74</sup>Corporation], being expense falling due for discharge on or after the primary vesting date:

Provided that provision may be made by regulations for rendering the right to indemnity under this subsection subject to conditions as to the giving of notices of claims and the furnishing of information with respect thereto, the making of settlements, payments or admissions, the conduct and control of the defence in proceedings, subrogation, and such other matters as may be prescribed, and such conditions may extend to things done or omitted before the date on which the regulations are made.

##### **Textual Amendments**

- F74** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), **Sch. 1 para. 1(3)**

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**Marginal Citations**

- M18 1923 c. 20.
- M19 1845 c. 20.

**49 Provisions as to liability of the Corporation in actions, etc.**

- (1) ..... F75
- (3) No right adverse to the title of the [F76Corporation]to any coal or mine of coal shall be capable of being acquired under the M20Limitation Act 1939.
- (4) For the avoidance of doubt it is hereby declared that the authorisations conferred on the [F76Corporation]by section one of this Act, whilst discharging them in the exercise and performance of the functions therein mentioned from limitations to which they might otherwise have been subject arising from the law relating to the capacity of statutory corporations, are not to be construed as authorising disregard of any enactment or any act or omission unlawful on any other ground.

**Textual Amendments**

- F75 S. 49(1)(2) repealed by Law Reform (Limitation of Actions, &c.) Act 1954 (c. 36), s. 1, Sch.
- F76 Word substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(1)(2), Sch. 1 para. 1(3)

**Marginal Citations**

- M20 1939 c. 21.

**50** ..... F77

**Textual Amendments**

- F77 S. 51 repealed by Public Records Act 1958 (c. 51), Sch. 4

**51** ..... F78

**Textual Amendments**

- F78 S. 51 repealed by Public Records Act 1958 (c. 51), Sch. 4

**52 Right to inspection and copies of the Board’s plans of workings.**

Plans in the possession of the [F79Corporation] of workings of coal shall be open during usual business hours to the inspection of any person on payment of such fee as may be prescribed, and any person shall, on payment of such fee as may be prescribed, be entitled to be furnished by the [F79Corporation] with a copy of, or of any part of, any such plan.

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#### Textual Amendments

**F79** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

### 53 Availability of transferred documents and staff for compensation proceedings and windings up.

It shall be the duty of the [<sup>F80</sup>Corporation]—

- (a) to afford, without payment, to a person who had an interest in things in which transferred interests subsisted, such facilities as he may reasonably require, in prosecuting any claim of his to compensation under this Act or winding up affairs of his in consequence of the passing of this Act, for the examination of, and the taking of copies of or extracts from, documents relating to the title to, or to the management of, those things, being documents the property in which, and the right to possession of which, have vested in the [<sup>F80</sup>Corporation]by virtue of paragraph (f) of subsection (7) of section five of this Act; and
- (b) so far as may be reasonably necessary in order to enable that person effectually to avail himself of the right conferred by the preceding paragraph and to prosecute his claim or wind up affairs of his as aforesaid, to enter into arrangements for his having, for such period as may be reasonably necessary for that purpose, the services of any person in the employment of the [<sup>F80</sup>Corporation]who has been in the employment of the first-mentioned person.

#### Textual Amendments

**F80** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

### 54 Annual report of the Corporation.

- (1) The [<sup>F81</sup>Corporation] shall, as soon as possible after the end of each financial year of the [<sup>F81</sup>Corporation] make to the Minister a report on the exercise and performance by them of their functions [<sup>F82</sup>in Great Britain or elsewhere] during that year and on their policy and programmes, and the Minister shall lay a copy of every such report before each House of Parliament.
- (2) The report for any year shall set out any direction given by the Minister to the [<sup>F81</sup>Corporation]during that year unless the Minister has notified to the [<sup>F81</sup>Corporation]his opinion that it is against the national interest so to do.

#### Textual Amendments

**F81** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

**F82** Words inserted by [Coal Industry Act 1977 \(c. 39\)](#), [Sch. 4 para. 1\(6\)](#)

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### General

#### 55 Payment of certain expenses of the Minister out of moneys provided by Parliament.

There shall be paid out of moneys provided by Parliament any expenses incurred by the Minister in—

- (a) the payment of remuneration, allowances, expenses and costs which he is required to pay by virtue of subsection (6) of section four . . . <sup>F83</sup>

#### Textual Amendments

**F83** Words repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), Sch. 1 Pt. X](#)

#### 56 Restriction on disclosure of information.

- (1) No information relating to any individual business, being information which has been obtained by, or on behalf of, any person for the purposes of functions of his under this Act, shall, without the previous consent in writing of the owner for the time being of that business, be published or disclosed otherwise than in connection with the execution, or for the purposes of, this Act or of any regulation having effect by virtue of this Act.
- (2) Nothing in the preceding subsection shall apply to any publication or disclosure of any information made for the purposes of any legal proceedings (including arbitrations) pursuant to this Act, or of any criminal proceedings which may be taken whether pursuant to this Act or otherwise, or for the purposes of any report of any such proceedings as aforesaid.
- (3) If any person publishes or discloses any information in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

#### 57 Use for purposes this Act of information obtained under Coal Act 1938.

Section fifty-three of the <sup>M21</sup>Coal Act 1938 (which prohibits, subject to certain exceptions, the disclosure of information obtained by virtue of section fourteen of that Act) shall not apply to a disclosure of information made in connection with the execution, or for the purposes of, this Act or of any regulation having effect by virtue of this Act.

#### Marginal Citations

**M21** [1938 c. 52.](#)

#### 58 Penalties for giving false information, etc.

If any person—

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- (a) being required under regulations made under this Act to produce any document, or without being so required but for the purpose of obtaining for himself or any other person any compensation, interim income or capital outlay refund under this Act, with intent to deceive produces any document which he knows to be false in a material particular; or
- (b) being required under regulations so made to furnish any information, or without being so required but for the purpose aforesaid, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular;

he shall be guilty of an offence and liable on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

## **59 Provisions as to prosecutions, and as to offences by corporations.**

- (1) Proceedings for an offence against this Act or regulations made thereunder shall not, in England, be instituted except by or with the consent of the Minister or by the Director of Public Prosecutions.
- (2) Where an offence against this Act or regulations made thereunder has been committed by a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

## **60 Service of notices, etc.**

Any notice or other document required or authorised to be given, made, delivered or served under this Act or regulations made thereunder may be given, made, delivered or served either—

- (a) by delivering it to the person to whom it is to be given, made or delivered, or on whom it is to be served; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
- (d) in the case of an incorporated company or body, the Central Valuation Board or a District Valuation Board, by delivering it to the secretary or clerk of the company, body or Board at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company, body or Board at that office; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person to whom it should be given, made or delivered, or on whom it should be served, as being a person having any interest in land, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates, and delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part of the premises.

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**Modifications etc. (not altering text)**

- C25** References to registered letter to be construed as including references to letter sent by recorded delivery service: [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1(1)(2), [Sch. para. 1](#)

**61 Arbitration under this Act.**

- (1) For the purposes of the determination of any question as to which this Act or any regulation made thereunder provides that it is to be determined by arbitration under this Act, a panel of persons to act as arbitrators shall be appointed by the Lord Chancellor, and the Lord Chancellor shall nominate two members of the panel as chairman thereof and as deputy chairman respectively.
- (2) Any such question as aforesaid shall be determined by the arbitration of such member of the panel as the chairman, or, in the event of the chairman's being temporarily absent or unable to act, the deputy chairman, may select.

**62 Provisions as to regulations.**

- (1) Regulations made (whether by the Minister or by the Treasury) for the purposes of any provision of this Act (in this section referred to, in relation to the regulations in question, as "the authorising enactment") may, in addition to providing for any matters specified in the authorising enactment, provide—
  - (a) for imposing limits of time within which things to be done for the purposes of the regulations must be done, with or without power to any authority therein specified to extend limits imposed;
  - (b) for punishing persons offending against provisions of the regulations;
  - (c) for the determination of questions of fact or of law which may arise in giving effect to the regulations, and as to evidence for that purpose, and for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including provision as to parties and their representation and provision for the right to appear and be heard (as well in court proceedings as otherwise) of the Minister, District Valuation Boards, referees, or other authorities, and as to awarding costs of proceedings for the determination of such questions, determining the amount thereof and the enforcement of awards thereof;
  - (d) for amending or repealing enactments inconsistent with the provision to be made for the purposes of the authorising enactment, and for applying enactments with or without modification; and
  - (e) for any incidental or supplementary matters for which it appears to the Minister to be necessary or expedient for the purposes of the authorising enactment to provide.

Provided that any punishment imposed by virtue of paragraph (b) of this subsection shall not exceed that provided for by section fifty-eight of this Act or, in the case of a fine imposed in respect of each day on which a person is in default, five pounds.

- (2) Regulations made (whether by the Minister or by the Treasury) under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which any such

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regulations are laid before it resolves that the regulations be annulled, the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations. . . .<sup>F84</sup>

(3) . . . . .<sup>F85</sup>

**Textual Amendments**

**F84** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\), s. 1\(1\), Sch. 1 Pt. XII](#)

**F85** [S. 62\(3\)](#) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\), s. 1\(1\), Sch. 1 Pt. XII](#)

**63 Interpretation.**

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

“coal” means bituminous coal, cannel coal and anthracite;

“coal industry activities” means colliery production, electricity, transport, sales and welfare activities, as defined in Part I of the First Schedule to this Act, and the activities incidental thereto mentioned in paragraph 7 of that Schedule:

“coal industry value” has the meaning assigned to it by paragraph (a) of subsection (2) of section ten of this Act;

“colliery activities” means searching or boring for, winning, working or getting, coal, bringing it to the surface, treating it and rendering it saleable, and includes depositing spoil arising from working coal or from any other of the activities mentioned in this definition;

“colliery concern” means a company whose business includes, or at any time on or after the first day of January, nineteen hundred and forty-six, included, the working of coal (excluding working undertaken for the purpose of digging or carrying away coal in the course of activities other than colliery activities, and working undertaken only as ancillary to the working of minerals other than coal), and any other person whose business includes, or at any such time included, such working of coal as aforesaid;

“Consolidated Fund” means the Consolidated Fund of the United Kingdom, . . .<sup>F86</sup>;

“district wages ascertainment” means the periodical ascertainment of the results of the coal industry in accordance with which the wages of mineworkers have been regulated under agreements in that behalf entered into between colliery owners and mineworkers;

“documents” includes plans, sections, records of survey and similar things; . . .<sup>F87</sup>

“former freeholder’s lease” has the meaning assigned to it by subsection (8) of section eleven of this Act;

“functions” includes both duties and powers;

“mine of coal” means a space occupied by unworked coal or excavated underground for the purposes of colliery activities, and includes a shaft or adit made for those purposes, a coal quarry and opencast workings of coal;

“the Miner’s Welfare Fund” means the fund constituted by subsection (1) of section twenty of the<sup>M22</sup>Mining Industry Act 1920:

“the Minister” means [<sup>F88</sup>the Secretary of State];

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“money payment” has the meaning assigned to it by subsection (3) of section eighteen of this Act;

“prescribed” means prescribed by regulations;

“primary vesting date” has the meaning assigned to it by subsection (1) of section five of this Act;

“regulations” means regulations made by the Minister;

“stock issued for compensation” has the meaning assigned to it by subsection (5) of section twenty-one of this Act;

“transferred allied activities” means such activities as are—

- (a) of a kind referred to in Part II or III of the First Schedule to this Act in relation to the vesting in the Board by option of interests as being interests in things used, available for use or required for certain activities, or as being owned for certain activities, and
- (b) of a kind for which interests that in fact so vest were owned at the date of the vesting or for which things wherein those interests then subsisted were then used,

and that expression includes also activities in connection with farms interests in which in fact so vest, and such activities as are mentioned in subparagraph (2) of paragraph 21 of that Schedule;

“transferred interests” has the meaning assigned to it by section nine of this Act;

“utilities” means electricity, gas, water, steam, compressed air and hydraulic power;

“value for subsidiary purposes” has the meaning assigned to it by paragraph (b) of subsection (2) of section ten of this Act.

- (2) The working of coal by an individual by virtue of the grant of a gale in the Forest of Dean or in any other part of the hundred of St. Briavels in the County of Gloucester shall not be deemed, for the purposes of this Act, to constitute him a colliery concern.
- (3) [<sup>F89</sup>Except as otherwise expressly provided] references in this Act to activities of any kind (whether or not described by that word) shall be construed as limited to activities of that kind carried on in Great Britain, but not so as to exclude, in the case of selling or supplying, selling or supplying for export or selling or supplying imported goods in Great Britain.
- (4) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

#### Textual Amendments

**F86** Words repealed by [Statute Law Revision Act 1963 \(c. 30\)](#)

**F87** Definition repealed by [Coal Industry Act 1956 \(c. 61\), s. 2](#)

**F88** Words substituted by virtue of [S.I. 1957/48 \(1957 I, p. 1439\)](#), [1969/1498](#), arts. 2(1), 5(6) and [1970/1537](#), arts. 2(2), 7(4)

**F89** Words inserted by [Coal Industry Act 1977 \(c. 39\), Sch. 4 para. 1\(7\)](#)

#### Modifications etc. (not altering text)

**C26** [S. 63\(3\)](#) restricted by [Coal Industry Act 1977 \(c. 39\), s. 11\(1\)](#)



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#### Marginal Citations

M22 1920 c. 50.

### 64 Application to Scotland.

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.
- (2) For any reference to the High Court there shall be substituted a reference to the Court of Session; [<sup>F90</sup>the expression “charge or lien for securing money or money’s worth” includes a heritable security other than a standard charge constituted by section twelve of the <sup>M23</sup>Church of Scotland (Property and Endowments) Act 1925, and does not include any stipend;] the expression “easement” means servitude; the expression “leasehold interest” means the interest of a lessee in property subject to a lease, . . . <sup>F91</sup>.
- (3) The assets vested in the Board by virtue of section five of this Act shall, so far as consisting of feudal property, include any right of superiority therein other than that of the Crown.
- (4) Subsection (7) of section five of this Act shall have effect as if there were added at the end thereof the following paragraph:
  - “(h) for the completion of the title of the Board to heritable property vesting in them by virtue of this section by the execution and recording in the General Register of Sasines of conveyances of or instruments relating to such property.”
- (5) . . . . . <sup>F92</sup>
- (6) Subsection (4) of section forty-one of this Act shall not apply to orders relating to land in Scotland or to personal estate to be laid out in the purchase of such land.
- (7) Section forty-eight of this Act shall have effect as if in paragraph (c) of subsection (1) thereof for the reference to section seventy-nine A of the provisions therein mentioned there were substituted a reference to section seventy-two A of the provisions substituted by Part II of the <sup>M24</sup>Mines (Working Facilities and Support) Act 1923, as that Part applies to Scotland for sections seventy-one to seventy-eight of the <sup>M25</sup>Railways Clauses Consolidation (Scotland) Act 1845.
- (8) Section forty-nine shall have effect as if in subsection (3), for the words “under the Limitation Act 1939”, there were substituted the words “by prescriptive possession”.
- (9) Documents belonging to the [<sup>F93</sup>Corporation] shall for the purposes of subsection (1) of section five of the <sup>M26</sup>Public Records (Scotland) Act 1937, be deemed to be records belonging to His Majesty.
- (10) Section sixty-one shall have effect with the substitution for any reference to the Lord Chancellor of a reference to the Secretary of State.

#### Textual Amendments

- F90** Words inserted retrospectively by [Coal Industry Act 1949 \(c. 53\), s. 7](#)
- F91** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\), s. 1\(1\), Sch. 1 Pt. XIII](#)
- F92** [S. 64\(5\)](#) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), Sch. 1 Pt. X](#)
- F93** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(1\)\(2\), Sch. 1 para. 1\(3\)](#)

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#### Marginal Citations

**M23** 1925 c. 33.

**M24** 1923 c. 20.

**M25** 1845 c. 33.

**M26** 1937 c. 43.

#### 65 †Short title, extent and repeal.

(1) This Act may be cited as the Coal Industry Nationalisation Act 1946.

(2) This Act shall not extend to Northern Ireland.

(3) ..... <sup>F94</sup>

#### Textual Amendments

**F94** S. 65(3) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

#### Modifications etc. (not altering text)

**C27** Unreliable marginal note

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## SCHEDULES

### FIRST SCHEDULE

Section 5.

#### ASSETS TO BE TRANSFERRED TO THE BOARD

#### PART I

#### ASSETS TO BE TRANSFERRED WITHOUT OPTION

*Unworked coal and mines of coal (and certain associated minerals).*

- 1 (1) Interests in unworked coal, and in mines of coal, of colliery concerns and of the Coal Commission, and, subject to the provisions of section thirty-six of this Act, any other interest being a retained interest within the meaning of the <sup>M27</sup>Coal Act 1938, by virtue of subsections (1) to (5) of section five of that Act.
- (2) Interests of the Coal Commission in minerals other than coal, and interests of colliery concerns and of subsidiaries thereof in unworked minerals other than coal being minerals which can only be economically worked in association with the working of coal or which can only be economically brought to the surface by the use of a mine of coal an interest in which vests in the Board.

#### Marginal Citations

M27 1938 c. 52.

*Collieries, and colliery coke ovens and manufactured fuel plants.*

- 2 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used for colliery activities, coal carbonisation and coal products distillation activities allied with colliery activities, or manufactured fuel activities (in this Act referred to as “colliery production activities”):

Provided that where a colliery concern or a subsidiary thereof, or a concern of which a colliery concern is a subsidiary, operates iron and steel works at the primary vesting date—

- (a) interests of the colliery concern or of a subsidiary thereof in fixed and movable property used for coal carbonisation and coal products distillation activities allied with colliery activities shall be excepted from this paragraph so as to fall instead within paragraph 21 of this Schedule; and
- (b) the activities for which that property is used shall not be treated as colliery production activities by virtue of this paragraph, but without prejudice to the provisions of the said paragraph 21.

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*Colliery electricity plants.*

- 3 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used for or in connection with the following (in this Act referred to as “colliery electricity activities”) namely, generating, transforming or converting electricity consumed exclusively or mainly in the course of colliery production, transport, sales or welfare activities or in the course of any combination of those activities, and interests of such concerns and subsidiaries in fixed and movable property used for or in connection with transmitting or distributing electricity generated, transformed or converted by means of property interests in which vest in the Board by virtue of the preceding provisions of this paragraph.

*Colliery transport loading and storage works.*

- 4 Interests of colliery concerns and of class A subsidiaries thereof (other than any such concerns or subsidiaries whose business includes the operation of iron and steel works) in railways, aerial ropeways, canal wharves, and other fixed and movable property (not being things mentioned in paragraph 12 of this Schedule) used exclusively or mainly for any one or more of the following (in this Act referred to as “colliery transport activities”), namely, the inland transport, loading, discharging, handling, or storing, of products of colliery production activities or articles required for colliery production or electricity activities.

*Colliery merchanting property.*

- 5 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used exclusively or mainly for the purposes of the sale or supply by colliery concerns or by class A subsidiaries thereof of products of colliery production activities (in this Act referred to as “colliery sales activities”), or for the purposes of the sale or supply of such products by bodies administering schemes which, immediately before the primary vesting date, have effect under Part I of the <sup>M28</sup>Coal Mines Act 1930.

**Marginal Citations**

**M28** 1930 c. 34.

*Colliery institutes, etc.*

- 6 (1) Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used as or in connection with an institute, a hospital, baths, a canteen, or otherwise, for providing for the benefit of staff employed in colliery production, electricity, transport, or sales activities (in this Act referred to as “colliery welfare activities”).
- (2) Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used at a coal mine within the meaning of the <sup>M29</sup>Coal Mines Act 1911, in rescue work.

**Marginal Citations**

**M29** 1911 c. 50.

*Status: Point in time view as at 01/02/1991.*

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*Maintenance, operational, office and general equipment.*

- 7 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used exclusively or mainly for any one or more of the following, namely, repairing and maintaining things falling within any of the preceding paragraphs or this paragraph, preparing and adapting such things for use, providing means of access, lighting, heating and ventilation for the purposes of any of the activities therein mentioned, and any other activities incidental to the carrying on of any of the activities therein mentioned, including the organisation and supervision thereof, and securing safety therein.

*Stocks of colliery products.*

- 8 Interests of colliery concerns and of class A subsidiaries thereof in stocks of products of colliery production activities.

*Certain curtilages and development sites.*

- 9 In cases in which an interest in fixed property vests in the Board, whether without option or by virtue of the exercise of an option, and the owner of that interest has also an interest in land used exclusively or mainly for coal industry or transferred allied activities for which that property is used, or an interest in land owned by him exclusively for the purpose of having land available for use for such activities or an extension thereof, the interest of that owner in that land.

## PART II

### *ASSETS TO BE TRANSFERRED AT OPTION OF THE BOARD OR OF OWNERS*

*Colliery stores.*

- 10 (1) Interests of colliery concerns and of class A subsidiaries thereof in consumable or spare stores available for use for colliery production, electricity, transport, sales or welfare activities.
- (2) Interests of companies or other persons, being companies or persons whose business consists exclusively or mainly of activities for the purposes of the purchase for colliery concerns or class A subsidiaries thereof, or for such concerns and such subsidiaries, of things required for colliery production activities, in things required as aforesaid, and in fixed and movable property used exclusively or mainly for activities for those purposes.

*Waterworks.*

- 11 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used for supplying water from a mine of coal, and interests of such concerns and subsidiaries in consumable or spare stores available for use for such activities as are mentioned in this paragraph.

Where an option is exercised for the vesting in the Board of an interest in property mentioned in this paragraph, the activities for which that property is used or that interest is owned shall be treated for the purposes of paragraphs 3 to 8 of this Schedule as if those activities had been colliery production activities.

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*Certain wharves, etc. used for colliery purposes.*

- 12 Interests of colliery concerns and of class A subsidiaries thereof in wharves not being canal wharves, in private harbours, and in staithes, and in fixed and movable property appurtenant thereto, used for colliery transport activities.

*Housing property.*

- 13 Interests of colliery concerns and of class A or class B subsidiaries thereof in dwelling-houses, or in other land, owned by such concerns or subsidiaries for the purposes of providing housing accommodation for staff employed in colliery production, electricity, transport, sales, or welfare activities.

*Farming property.*

- 14 Interests of colliery concerns in farms, farming stock and other agricultural assets

### PART III

*ASSETS TO BE TRANSFERRED AT OPTION OF THE BOARD OR  
OF OWNERS SUBJECT TO ARBITRATION IN CASE OF OBJECTION*

*Manufactured fuel plants other than of collieries.*

- 15 Interests of persons by whom manufactured fuel activities are carried on, other than colliery concerns or class A subsidiaries thereof, in fixed and movable property used exclusively or mainly for the purposes of manufactured fuel activities.

*Certain transport, loading and storage works other than of collieries.*

- 16 Interests of persons other than colliery concerns or class A subsidiaries thereof, being persons whose business includes the operation of things mentioned in this paragraph, in railways, aerial ropeways, wharves, harbours, staithes, and other fixed and movable property, used exclusively or mainly for colliery transport activities for the purposes of a particular colliery concern or of a class A subsidiary of such a concern, or of both such a concern and such a subsidiary thereof.

*Associated merchanting property.*

- 17 Interests of companies, being companies in whose respective businesses two or more colliery concerns have interests, in fixed and movable property used exclusively or mainly for the purposes of the sale or supply by such a company of the products of colliery production activities of the interested concerns or any of them.

*Central rescue stations.*

- 18 Interests of any persons, owned by them for the purposes of a central rescue station equipped for rescue work and for the training of rescue workers which is provided and maintained in pursuance of regulations made under the <sup>M30</sup>Coal Mines Act 1911, in fixed and movable property used for those purposes.

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#### Marginal Citations

M30 1911 c. 50.

#### *Brickworks.*

- 19 Interests of colliery concerns and of Class A subsidiaries thereof in fixed and movable property used for the purposes of the making of bricks, tiles or earthenware pipes, or other products manufactured from colliery debris or brick clay or earth, or in connection with those purposes, and interests of such concerns and subsidiaries in consumable or spare stores available for use for such activities as are mentioned in this paragraph.

Where an option is exercised for the vesting in the Board of an interest in property mentioned in this paragraph, the activities for which that property is used or that interest is owned shall be treated for the purposes of paragraphs 3 to 8 of this Schedule as if those activities had been colliery production activities.

#### *Curtilages and development sites not within Part I.*

- 20 In cases in which an interest in fixed property vests in the Board, whether without option or by virtue of the exercise of an option, and the owner of that interest has also an interest in land used partly (but not exclusively or mainly) for coal industry or transferred allied activities for which that property is used, or an interest in land owned by him partly (but not exclusively) for the purpose of having land available for use for such activities or an extension thereof, the interest of that owner in that land.

### PART IV

#### *OTHER ASSETS TO BE TRANSFERRED AT OPTION OF THE BOARD OR OF OWNERS SUBJECT TO ARBITRATION IN CASE OF OBJECTION*

#### *Other colliery assets of any kind, except iron and steel works.*

- 21 (1) Interests of colliery concerns and of class A and class B subsidiaries thereof in any things (other than investments, interests in other concerns owned otherwise than as investments, cash or other liquid assets, patents or copyrights in registered designs, or the benefit of contracts) not rendered subject to vesting in the Board by virtue of any of the preceding paragraphs, of whatsoever kind, except interests of such a concern or a class A or class B subsidiary thereof in iron and steel works, and except interests of such a concern or subsidiary in fixed and movable property used for coal carbonisation and coal products distillation activities allied with colliery activities where the exclusive or main purpose of the activities for which the property is so used is to supply coke to an iron and steel works operated by the concern or a subsidiary thereof or by a concern of which the colliery concern is a subsidiary.
- (2) Where an option is exercised for the vesting in the Board of an interest in property falling within this paragraph, activities of a kind specified by the Board in their notice exercising the option as being activities for which they intend to use that property, or, if the option is exercised by the owner, activities of a kind for which that property is exclusively or mainly used by the colliery concern or its class A or class B subsidiary,

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or for which that interest is exclusively or mainly owned, shall be treated for the purposes of paragraphs 3 to 8 of this Schedule as if those activities had been colliery production activities.

## PART V

### PROVISIONS SUPPLEMENTARY TO THE PRECEDING PROVISIONS OF THIS SCHEDULE

*References to ownership, etc., to be related in general to date for vesting.*

- 22 (1) References in this Schedule to interests of any concern, company or other person shall be construed as references to interests owned by that concern, company or other person immediately before the primary vesting date (in the case of references in Part I) or before the relevant option notice date (in the case of references in Parts II to IV), and references therein to ownership or to use for or in connection with any purpose, or to availability for use for any purpose, shall be construed as references to ownership or to use for or in connection with that purpose, or to availability for use for that purpose, immediately before those dates respectively, subject however to the provisions of the two next succeeding paragraphs.
- (2) References in this Schedule to any business or activities, and references in the definition therein of the expression “subsidiary” to ownership of capital of a company, shall be construed as references to the business or activities as carried on immediately before the dates respectively mentioned in the preceding sub-paragraph, or to the ownership of the capital as held immediately before those dates respectively, subject however to the provisions of the next succeeding paragraph.

*Ownership, etc., discontinued since the 1st January, 1946, to be treated as if continued.*

- 23 (1) Where an interest in a thing was owned by any concern, company or other person or for any purpose, or a thing was used for or in connection with any purpose or available for use for any purpose, at any time during the period beginning with the first day of January, nineteen hundred and forty-six, and ending with the primary vesting date or a relevant option notice date, then—
- (a) if that interest has been dealt with in any manner during that period, whether by sale, exchange, surrender, creation thereof of a lease or other inferior interest, diversion to another purpose, or otherwise howsoever, this Act shall have effect as if the interest had not been so dealt with but had remained subsisting in all respects as it would have been if it had not been so dealt with, and
- (b) if that thing has ceased during that period to be used for or in connection with, or to be available for use, as the case may be, for the purpose in question, this Act shall have effect as if it had not so ceased,
- unless, on a question being raised as to the vesting in the Board of that interest having regard to the preceding provisions of this paragraph it is proved by the person contesting such vesting that the dealing in question, or the cesser of use or availability for use, as the case may be, was due to something done or occurring in the ordinary course of business, and was in no way connected with any provision made by this Act or with any anticipation of the making of any such provision.
- (2) Where during the period aforesaid there has been a discontinuance of any business or activities mentioned in this Schedule or a change relevant to provisions thereof



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in the circumstances of the carrying on of any such business or activities, or there has been a change relevant to the definition therein contained of the expression “subsidiary” in the ownership of the capital of a company, this Act shall have effect as if the discontinuance or change had not taken place, unless the like matters as are mentioned in the preceding sub-paragraph are proved as to the discontinuance or change.

- (3) The regulations as to disposal of compensation to be made under section twenty of this Act may make provision for securing that compensation for the transfer of an interest vesting in the Board having regard to the preceding provisions of this paragraph shall be disposed of with due regard to the rights of any person who has purchased or otherwise dealt with that interest during the period aforesaid in good faith.

*Things not in use owned for a given purpose to be treated as if used therefor.*

- 24 References in this Schedule to things used for any purpose immediately before any date include references to things normally used for that purpose but then temporarily diverted to another use, and to things which are then not in use for any purpose (other than consumable or spare stores) if they are suitable for use for that purpose and an interest therein is then owned for that purpose by a colliery concern or other person whose interest therein would vest in the Board if the things were then in use for that purpose.

*Definitions.*

- 25 In this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say,—

“coal carbonisation and coal products distillation activities allied with colliery activities” means distilling coal, and treating, and rendering saleable, products (including coke) of the distillation of coal;

“consumable or spare stores” means any consumable stores, including supplies of timber or of materials of any kind, and movable property which is surplus to ordinary requirements and which has not at any time been issued for use or as a standby, so however that property surplus to ordinary requirements shall not be treated as falling outside this definition by reason of its having been so issued if it has been withdrawn on being found unnecessary or unsuitable for the purpose for which it was so issued or on the substitution of other property therefor;

“farm” means any agricultural land and agricultural buildings within the meanings assigned to those expressions respectively by the <sup>M31</sup>Rating and Valuation (Apportionment) Act 1928, and “farming stock” and “other agricultural assets” have the meanings assigned to those expressions respectively by the <sup>M32</sup>Agricultural Credits Act 1928;

“fixed property” means all buildings, works, fixtures, and fixed machinery and plant, and the sites thereof;

“interest” does not include a mortgage estate or other interest held by way of security;

“iron and steel works” means an establishment whose activities consist exclusively or mainly of making iron, making steel, or applying a process in making iron or steel, or of any combination of such activities;

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“manufactured fuel activities” means manufacturing and rendering saleable any manufactured fuel (including carbonised briquettes and ovoids) of which coal or coke is the principal constituent;

“movable property” means all movable machinery and plant, wagons and other vehicles, engines, tractors, vessels (other than sea-going vessels) animals, and other movable equipment of any kind;

“option notice date” means the date on which a notice exercising an option under subsection (2) or (3) of section five of this Act is given;

“site” includes, in relation to any fixed property, in addition to the land on which it stands at ground level, so much of the subsoil and of the space above that land as the Board may reasonably require to use for the purposes of any of their functions;

“subsidiary” means, in relation to a colliery or other concern, a company not less than ninety per cent. of the issued share capital of which is in the beneficial ownership of that concern, and, for the purposes of the foregoing definition, shares of a company shall be treated as if they had been in the beneficial ownership of a colliery or other concern if they are in the beneficial ownership of—

- (a) a company that is a subsidiary of that concern within the foregoing definitions, or
- (b) a company which owns not less than ninety per cent. of the issued share capital of that concern (in a case in which it is a company);

“class A subsidiary” means, in relation to a colliery concern, a subsidiary thereof whose business includes coal carbonisation and coal products distillation activities allied with colliery activities or includes manufactured fuel activities; and “class B subsidiary” means, in relation to a colliery concern, a subsidiary thereof not being a class A subsidiary.

#### Marginal Citations

**M31** 1928 c. 44.

**M32** 1928 c. 48.

#### *Application to Scotland.*

26 In the application of this Schedule to Scotland—

the expression “farm” means any agricultural lands and heritages within the meaning of the <sup>M33</sup>Rating and Valuation (Appportionment) Act 1928;

the expression “farming stock” includes agricultural requisites and agricultural produce as defined in the <sup>M34</sup>Agricultural Credits (Scotland) Act 1929, and agricultural tenants’ fixtures and other agricultural fixtures which a tenant is by law authorised to remove;

the expression “mortgage estate” means the right of the creditor in a heritable security;

the expression “other agricultural assets” means a tenant’s right to compensation under the <sup>M35</sup>Agricultural Holdings (Scotland) Acts 1923 <sup>M36</sup>and 1931, for improvement, damage by game, disturbance or otherwise and any other tenant right.

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**Marginal Citations**

- M33** 1928 c. 44.
- M34** 1929 c. 13.
- M35** 1923 c. 10.
- M36** 1931 c. 44.

SECOND SCHEDULE

Section 7.

TRANSFER TO THE BOARD OF RIGHTS AND LIABILITIES UNDER CONTRACTS

- 1 (1) This Schedule shall apply, subject to the limitations contained in section seven of this Act and in sub-paragraph (3) of this paragraph, to the provisions of any contract to which a colliery concern or a Class A subsidiary of such a concern is a party, so far as they are provisions entered into in the course or for the purposes of any coal industry activities or for the purposes of the utilisation or disposal of things owned or used for any such activities.
  - (2) This Schedule shall also apply, subject as aforesaid, to the provisions of any contract to which the owner of an interest falling within Part II, III or IV of the First Schedule to this Act that vests in the Board by virtue of the exercise of an option is a party, so far as they are provisions entered into in the course or for the purposes of any transferred allied activities for which that interest was owned or for which the things wherein that interest subsisted were used or for the purposes of the utilisation or disposal of things owned or used for any such activities.
  - (3) This Schedule shall not apply to any provisions of such a contract as is mentioned in either of the preceding sub-paragraphs being—
    - (a) provisions for or in connection with the lending of money to the concern, subsidiary or owner therein mentioned or the repayment of money so lent, or other provisions for or in connection with the financing of that concern, subsidiary or owner; or
    - (b) provisions for or in connection with the grant (otherwise than to the concern, subsidiary or owner so mentioned by an employee of theirs) of a licence under a patent or under the copyright in a registered design; or
    - (c) provisions for or in connection with pensions, gratuities or other like benefits.
- 2 Provisions of a contract being provisions to which this Schedule applies shall have effect in favour of and against the Board so far as the performance thereof is due under the contract on or after the primary vesting date (or, where the application of this Schedule depends upon the vesting of an interest in the Board by virtue of the exercise of an option, on or after the date of its vesting), as if the Board had been a party to the contract instead of the concern, subsidiary or owner mentioned in sub-paragraph (1) or (2) of paragraph 1 of this Schedule:

Provided that—

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- (a) rights and liabilities in respect of payments due on or after the date aforesaid for goods or utilities delivered or supplied before that date, or for work done or services rendered before that date, shall be excepted from the operation of this paragraph; and
  - (b) the operation of this paragraph may be excluded, as respects all or any rights or liabilities as respects which it would otherwise have effect, by agreement made between the Board and the concern, subsidiary or owner mentioned in sub-paragraph (1) or (2) of paragraph 1 of this Schedule and notified to the other party to the contract, but subject to the following provisions, namely, that if the other party to the contract (or any of them if more than one) objects to the exclusion he may within the prescribed period from the date of the notification to him refer the matter to arbitration under this Act, and in that event the arbitrator shall determine whether and to what extent the exclusion is to be effective, and, except in accordance with the determination of an arbitrator on such a reference, the exclusion shall not extend to performance of the contract due thereunder before the notification.
- 3 Where the application of this Schedule to provisions of a contract depends upon the vesting of an interest in the Board by virtue of the exercise of an option, the provisions of subsection (5) of section five of this Act as to treating the owner of an asset that vests in the Board by virtue of the exercise of an option as agent of the Board shall apply, with the substitution, for the references therein to such an asset and to the owner thereof, of references respectively to the provisions in question of the contract and to the concern, subsidiary or owner mentioned in sub-paragraph (1) or (2) of paragraph 1 of this Schedule.
- 4 The Minister may by regulations make such provisions supplementary to or consequential on the provisions of this Schedule as appears to him to be necessary or expedient, and in particular, but without prejudice to the generality of this paragraph, provision may be made by regulations made thereunder—
- (a) as to cases in which a contract comprises provisions being partly such as this Schedule applies to and partly not, for the substitution, where reasonably requisite, for that contract of separate contracts, and for determining whether such substitution is reasonably requisite, and, where it is, for the settlement of the terms of the separate contracts;
  - (b) for apportionments consequent on the transfer by virtue of this Schedule of rights or liabilities under contracts under which periodical payments are accruing at the date of the transfer;
  - (c) for adapting the terms of contracts to changes consequent on the passing of this Act in the circumstances in which the contracts will fall to be performed after the date aforesaid.
- 5 In this Schedule the expression “class A subsidiary” has the meaning assigned to it by paragraph 25 of the First Schedule to this Act.

*Status: Point in time view as at 01/02/1991.*

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## [<sup>F95</sup>SCHEDULE 2A]

### ELIGIBILITY FOR SUPERANNUATION RIGHTS

#### Textual Amendments

**F95** Sch. 2A inserted by [Coal Industry Act 1977 \(c. 39\)](#), [Sch. 3](#)

The table below sets out classes of persons for whom rights may be provided under section 37(1A) of this Act.

#### TABLE

1 Any person who has been in the employment of a subsidiary of the [<sup>F96</sup>Corporation].

#### Textual Amendments

**F96** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

2 Any person who has been in the employment of a body corporate in which the [<sup>F97</sup>Corporation] then had an interest of a kind defined by regulations under section 37 of this Act and which was then, or at any earlier time, a subsidiary of the [<sup>F97</sup>Corporation].

#### Textual Amendments

**F97** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

3 (1) Any person who has been in the employment of a body corporate to which this head then applied.

(2) This head applies to a body corporate in which the [<sup>F98</sup>Corporation], or a subsidiary of the [<sup>F98</sup>Corporation], has an interest of a prescribed kind where—

- (a) more than one-half in nominal value of the equity share capital of the body corporate is held by nationalised bodies, or
- (b) its members consist of or include nationalised bodies, and those nationalised bodies can together control the composition of the [<sup>F98</sup>Corporation] of directors of the body corporate, or
- (c) the body corporate is a subsidiary of another body corporate to which this head applies.

(3) In this head “prescribed” means prescribed by regulations under section 37 of this Act, and those regulations may prescribe different kinds of interests for cases within paragraphs (a), (b) and (c) above respectively.

#### Textual Amendments

**F98** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

4 Any person who has been in the employment of a partnership where—

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- (a) the [<sup>F99</sup>Corporation] or a subsidiary of the [<sup>F99</sup>Corporation] was one of the partners, and
- (b) that partner, together with any other partners who were nationalised bodies, had an interest, or interests, in the partnership satisfying conditions prescribed by regulations under section 37 of this Act.

**Textual Amendments**

**F99** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1)(2), [Sch. 1 para. 1\(3\)](#)

- 5 Other persons, so far as benefits in their favour are by reference to the employment of persons within heads 1, 2, 3 or 4 above.

In this Table—

“nationalised body” means—

- (a) a body corporate established by or under any enactment for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control, or
  - (b) a subsidiary of such a body corporate,
- “subsidiary” has the meaning given by [<sup>F100</sup>section 736 of the Companies Act 1985].

**Textual Amendments**

**F100** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. XIII](#)

THIRD SCHEDULE

Section 44.

PROVISIONS AS TO SELLING SCHEMES UNDER PART I OF THE COAL MINES  
 ACT 1930, AND AS TO THE SOUTH YORKSHIRE MINES DRAINAGE COMMITTEE

**PART I**

COAL-SELLING SCHEMES

*Vesting of Interests and Compensation*

- 1 On the primary vesting date there shall vest in the Board, by virtue of this paragraph and without further assurance, the interests of the bodies administering schemes under Part I of the Coal Mines Act 1930 (in this Part of this Schedule referred to as “selling schemes”), in property of whatsoever kind, other than interests of bodies administering central selling schemes in investments, cash or other liquid assets, or the benefit of contracts.

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- 2 Compensation shall not be made in respect of interests vested as aforesaid, other than interests of bodies administering central selling schemes in stocks of products of colliery production activities owned by those bodies immediately before the primary vesting date.
- 3 The compensation to be made in respect of the interests vested as aforesaid of a body administering a central selling scheme in such stocks as aforesaid shall be of an amount equal to the value thereof as determined, in default of agreement between the Minister and the trustees for that body, by arbitration under this Act, shall be satisfied by a money payment made to those trustees, and, when paid, shall be dealt with as if it had been money received by that body in respect of sales of coal.

### *Contracts*

- 4 (1) Subject to the provisions of sub-paragraph (3) of this paragraph, as from the primary vesting date a contract to which the body administering a selling scheme, other than a central selling scheme, is a party shall have effect in favour of and against the Board as if the Board had been a party of the contract instead of that body.
- (2) Subject to the provisions of sub-paragraph (3) of this paragraph, as from the primary vesting date—
- (a) a contract to which the body administering a central selling scheme is a party; and
  - (b) a contract for the rendering, for the purposes of colliery sales activities, of personal services to a selling agent appointed under a group selling scheme;
- shall have effect in favour of and against the Board, so far as the performance thereof is due on or after the primary vesting date, as if the Board had been a party thereto instead of the body or agent aforesaid.
- (3) The provisions of subsections (2) to (5) of section seven of this Act and of subsection (3) of section nine thereof shall apply to the contracts mentioned in sub-paragraph (1) and sub-paragraph (2) of this paragraph respectively as they apply to the contracts mentioned in the Second Schedule to this Act with the substitution—
- (a) for the reference in subsection (2) of the said section seven to the purposes mentioned in paragraph 1 of that Schedule, of a reference to the purposes of the selling scheme in question; and
  - (b) for references generally in those provisions to that Schedule, of references to this paragraph.

### *Winding up, etc.*

- 5 On the primary vesting date—
- (a) the bodies administering selling schemes, other than central selling schemes, shall be dissolved and those schemes shall cease to have effect; and
  - (b) so much of any central selling scheme as prohibits the supply of coal by the owner of a mine otherwise than to, or to the order of, the body administering the scheme shall cease to have effect.

*Status: Point in time view as at 01/02/1991.*

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- 6 On the primary vesting date Part I of the <sup>M37</sup>Coal Mines Act 1930, shall cease to have effect, but, subject to the provisions of the next succeeding paragraph, the central selling schemes shall, for the purpose of winding up the affairs of the bodies administering them, have effect by virtue of this paragraph.

**Marginal Citations**  
**M37** 1930 c. 34.

.....  
**F101**<sup>7</sup>

**Textual Amendments**  
**F101** Sch. 3 Pt. I para. 7, Part III para. 13 repealed by Statute Law (Repeals) Act 1973 (c. 39), **Sch. 1 Pt. X.**

*Interpretation*

- 8 In this Part of this Schedule—
  - (a) the expression “central selling scheme” means a selling scheme which, immediately before the passing of this Act, prohibits (subject to exceptions specified in the scheme) the supply of coal by the owner of a mine otherwise than to, or to the order of, the body administering the scheme; and
  - (b) the expression “group selling scheme” means a selling scheme which, immediately before the passing of this Act, prohibits (subject to exceptions specified in the scheme) the sale or supply of coal by a coalowner otherwise than through the agency of the body administering the scheme.

**PART II**

THE SOUTH YORKSHIRE MINES DRAINAGE COMMITTEE

*Vesting of Interests and Dissolution of Committee*

- 9 On the primary vesting date—
  - (a) there shall vest in the Board, by virtue of this sub-paragraph and without further assurance, the interests of the South Yorkshire Mines Drainage Committee (in this Part of this Schedule referred to as “the Committee”) in property of whatsoever kind; and
  - (b) the Committee shall be dissolved and the South Yorkshire Mines Drainage Scheme, 1929 (in this Part of this Schedule referred to as “the scheme”) shall cease to have effect.



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- 10 Compensation shall not be made in respect of the transfer to the Board of interests of the Committee.

*Rights and Liabilities*

- 11 (1) As from the primary vesting date, a contract to which the Committee is a party shall have effect in favour of and against the Board as if the Board had been a party thereto instead of the Committee.
- (2) Any liability for damages or the payment of compensation which, if the scheme had not ceased to have effect, might have been enforced after the primary vesting date against the Committee in respect of a tort or of an act which, apart from the scheme, would have been tortious, shall be enforceable against the Board as if the tort or act in question had been that of the Board.

*Transitional Provisions*

- 12 (1) All such proceedings with respect to the assessment of mines for the purposes of the rate required to be levied in respect of the year within which the primary vesting date falls, the service upon the owners of mines of notice of, and the making by them of objections to, such assessments, the consideration of such objections, hearings in connection therewith and arbitrations consequential thereon, as might have been had, taken or continued under the scheme after that date if this Act had not been passed, may be had, taken or continued in all respects as if this Act had not been passed and as if persons who, immediately before that date were owners of mines had continued to be such owners, but with the substitution of the Board for the Committee.
- (2) All such proceedings for the recovery by the Committee, otherwise than by distress, of a sum due from any person in respect of an amount assessed in respect of a mine for the purposes of a rate required to be levied in respect of the year within which the primary vesting date falls or any preceding year as might have been had, taken or continued under the scheme after that date if this Act had not been passed, may be had, taken or continued in all respects as if this Act had not been passed, but with the substitution of the Board for the Committee.

**PART III**

PROVISIONS SUPPLEMENTARY TO PARTS I AND II

F102 .....

13

**Textual Amendments**

F102 Sch. 3 Pt. 1 para. 7, Part III para. 13 repealed by Statute Law (Repeals) Act 1973 (c. 39), Sch. 1 Pt. X

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FOURTH  
SCHEDULE. ....  
F103

**Textual Amendments**

**F103** [Sch. 4](#) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

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