



# Coal Industry Nationalisation Act 1946

## 1946 CHAPTER 59

### *Compensation for transfer of assets.*

#### **10 Compensation for transfer, and basis for assessment thereof.**

- (1) Compensation shall be made as hereinafter provided in respect of the transfer to the Board of the transferred interests.
- (2) The compensation to be so made shall be ascertained separately as hereinafter provided in respect of—
  - (a) the value of the transferred interests so far as determined as hereinafter provided to be attributable to their usefulness for activities relevant to district wages ascertainment (in this Act referred to as the "coal" industry value of the transferred interests) ;
  - (b) the value thereof so far as not falling within the preceding paragraph (in this Act referred to as their "value for subsidiary purposes").
- (3) The aggregate amount of the compensation to be made in respect of the coal industry value of all the transferred interests shall be a sum fixed, in accordance with the terms of reference specified in the agreement made in that behalf before the passing of this Act between the Minister and the Mining Association of Great Britain, by a tribunal constituted as therein specified.
- (4) The said sum shall be apportioned as hereinafter provided as between the districts that are to be valuation districts for the purposes of this Act.
- (5) The transferred interests shall be dealt with for the purposes of compensation in units constituted as hereinafter provided (in this Act referred to as "compensation units"), each of which shall be allocated as hereinafter provided to one of the valuation districts, and the amount of the compensation to be made in respect of a compensation unit which is allocated to any valuation district shall be the aggregate of—
  - (a) an amount bearing the same proportion to what is certified as hereinafter provided to be the coal industry value of that unit as the amount apportioned to that district under subsection (4) of this section bears to the aggregate of

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- what is so certified to be the coal industry values of all compensation units allocated to that district in respect of which compensation is to be made ; and
- (b) an amount equal to what is certified as hereinafter provided to be the value for subsidiary purposes of that unit.

## **11 Allocation of transferred interests to compensation units and to districts, and determination of their status as respects coal industry value.**

- (1) The Minister shall prescribe the districts that are to be valuation districts for the purposes of this Act. The said districts shall be districts corresponding in general with those for which district wages ascertainment were made for the purposes of the adjustment of wages payable in the year nineteen hundred and thirty-nine, and shall be shown on a map to be kept available by the Minister for public inspection in accordance with regulations during usual business hours :

Provided that, if it appears to the Minister to be convenient for valuation purposes so to do, he may create a valuation district corresponding with two or more districts for which such ascertainment were so made taken together, or may create two or more valuation districts corresponding with a single district for which such ascertainment were so made.

- (2) The Minister shall constitute compensation units so as to include in some such unit every transferred interest, and shall allocate each such unit to one or other of the valuation districts :

Provided that the regulations to be made for ascertaining, verifying and recording particulars of the transferred interests may render the inclusion of a transferred interest in such a unit conditional on due and punctual compliance with provisions of the regulations.

- (3) In determining how transferred interests are to be dealt with as regards their arrangement in compensation units, and to what valuation district each compensation unit is to be allocated, the Minister shall have regard to the following requirements, that is to say,—

- (a) the expediency on the one hand of bringing together interests whose value would or might be affected by severance, so far as is practicable consistently with the scheme of district valuation established by this Act;
- (b) the expediency on the other hand of separating interests of different owners, and of separating interests which are subject to different incidents as respects the ascertainment or satisfaction of compensation ; and
- (c) convenience and dispatch in valuation ;

and accordingly he shall treat as the normal compensation unit, subject to variation as may be needed for meeting the requirements aforesaid or special circumstances affecting particular interests, a unit consisting of all the transferred interests of a single colliery concern or other owner which are in property situated permanently in, or ordinarily operated from, a single district and which are not subject to different incidents as aforesaid.

- (4) The Minister shall also determine, as to each transferred interest, whether its value is attributable in whole or in part to usefulness for activities relevant to district wages ascertainment, and, if in part, to what extent :

Provided that provision shall be made by regulations for objection to the Minister's determination of any question under this subsection, and, if objection is duly made,

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for the determination of the question by two accountants being members respectively of firms of independent accountants which have acted for colliery owners and mineworkers respectively on district wages ascertainment, or, failing a determination by agreement of the accountants within a limited period, for determination of the question by arbitration under this Act.

- (5) Determinations under the last preceding subsection as to transferred interests included in compensation units which the Minister has allocated, or proposes to allocate, to any valuation district shall be made by reference to the practice observed in making the district wages ascertainment, for the district corresponding with that valuation district, of results for the period of ascertainment which included the month of June, nineteen hundred and thirty-nine (or, if the said month of June was included in two or more successive periods of ascertainment, for the first of those periods), and, in the case, of a determination as to an interest of a colliery concern dealt with in making those ascertainment, to the practice observed as respects activities of that concern, and in this section—
- (a) the said practice by reference to which such a determination is to be made as to any transferred interest is referred to as "the wages ascertainment practice";
  - (b) the expression "activities relevant to district wages ascertainment" means activities treated as comprised in the coal industry under the wages ascertainment practice.
- (6) Notwithstanding that, in general, determinations under subsection (4) of this section are to be made as aforesaid by reference to the wages ascertainment practice, the subsequent provisions of this section shall apply in the cases therein mentioned.
- (7) The fact that figures relating to a particular activity have been brought into computation under the wages ascertainment practice shall not render it an activity relevant to district wages ascertainment under this section where the figures in question constituted an item known under the wages ascertainment practice as a fair transfer price or similar charge and the activity in question was one treated under that practice as excluded from the coal industry.
- (8) Whatever the wages ascertainment practice has been in any case, the value of the following transferred interests shall be treated as not to any extent attributable to usefulness for activities relevant to district wages ascertainment, that is to say—
- (a) interests in stocks of products of colliery production activities and interests in consumable or spare stores within the meaning of the First Schedule to this Act;
  - (b) freehold interests in minerals other than coal; and
  - (c) interests arising under a lease granted in accordance with the provisions of section four of the Coal Act, 1943, or by virtue of a right to such a lease (in this Act referred to as interests under a "former freeholder's lease");
- and, to the extent to which the value of any transferred interest is attributable to a provision relating to undergettings, short workings or similar matters, it shall be treated as not attributable to usefulness for such activities as aforesaid.

## 12 Central Valuation Board, District Valuation Boards and referees.

- (1) The apportionment of the aggregate amount of the compensation to be made in respect of the coal industry value of all the transferred interests as between valuation districts shall be made by the Central Valuation Board to be constituted under this section.

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- (2) The said apportionment shall be made by the Central Valuation Board in accordance with such procedure and by reference to such considerations as may be prescribed.
- (3) The Central Valuation Board shall certify the amount apportioned by them to each valuation district, and section three of the Rules Publication Act, 1893, shall apply to the certificate as it applies to statutory rules.
- (4) Compensation units allocated to the several districts shall be valued by District Valuation Boards, subject to provision to be made by regulations for review of the determinations of those Boards by referees in such cases and in accordance with such provisions as may be prescribed.
- (5) A Central Valuation Board, and such number of District Valuation Boards as appear to the Minister to be required, and a panel of persons to act as referees for the purpose of the review of determinations of District Valuation Boards, shall be constituted in accordance with regulations, and the said Boards and panel shall be furnished with clerks, officers and staff in accordance therewith.

The regulations may make provision for or in connection with any such matters in relation to the said Boards and panel as are mentioned in subsection (7) of section two of this Act in relation to the National Coal Board, for the appointment of a chairman of the said Boards and panel respectively, with or without provision for another to act in his place, and also for or in connection with the dissolution of the said Boards and panel on the completion of their duties.

- (6) The Minister shall by regulations assign to the jurisdiction of each District Valuation Board one or more valuation districts, and the valuation of all compensation, units allocated to any such district shall be done by the Board to whose jurisdiction that district is assigned.
- (7) The Minister shall pay—
  - (a) to the members, and to the clerks, officers and other members of the staff, of the Central Valuation Board, of a District Valuation Board, and of the said panel, and to accountants employed for the purpose of determinations under subsection (4) of section eleven of this Act, such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Minister with the approval of the Treasury may determine ; and
  - (b) such expenses incurred by the Central Valuation Board, a District Valuation Board or a referee appointed for the purposes of this section, as the Minister with the approval of the Treasury may determine, and so much of any costs of proceedings falling to be borne by them as he may so determine.

### **13 Determination of values for compensation purposes.**

- (1) As soon as may be after a compensation unit has been allocated to a valuation district, and it has been determined under section eleven of this Act whether and to what extent the value of each transferred interest included therein is attributable to usefulness for activities relevant to district wages ascertainment, the District Valuation Board for the district shall determine the value of the unit and determine how much of that value is coal industry value and how much of it is value for subsidiary purposes.
- (2) For the purposes of the District Valuation Board's determinations and of any review thereof by a referee, particulars of the transferred interests included in the compensation unit as ascertained under the regulations to be made in that behalf shall

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be transmitted by the Minister to the District Valuation Board, and particulars so transmitted shall be presumed conclusively to be correct, subject only to any provision for rectification thereof which may be made by regulations.

- (3) For the purposes aforesaid the separation of the value of a compensation unit as between its coal industry value and its value for subsidiary purposes shall be made by reference to the determinations of the Minister or of the accountants or arbitrator under subsection (4) of section eleven of this Act, and, if the unit includes two or more transferred interests, to the extent to which the value of the unit appears to the District Valuation Board to be attributable to those interests respectively.
- (4) For the purposes aforesaid the value of a compensation unit shall be taken to be the amount which it might have been expected to realise if this Act had not been passed and it had been sold on the primary vesting date in the open market by a willing seller to a willing buyer, no allowance being made on account of the vesting of the transferred interests comprised in the unit being compulsory :

Provided that provision may be made by regulations requiring the said amount to be estimated on the basis that the purchaser on the assumed sale of the unit would be in a position to use the property in which the transferred interests subsisted with other assets used in association therewith before the transfer, or to be estimated in accordance with other rules prescribed for securing that the said amount shall not be diminished by disregard of any factor appearing to the Minister to be relevant.

- (5) For the purposes of the last preceding subsection, the sale of a compensation unit to be assumed shall be a sale thereof (with all property and rights which are to vest in the Board, by virtue of regulations made under or by virtue of section five or six of this Act, with the transferred interests included in the unit) subject to all matters subject to which those interests are to vest in them, but free from any charge or lien for securing money or money's worth or other matters free from which those interests are to vest in them ; and regard shall be had to all relevant circumstances, and, amongst those circumstances,—
- (a) to the state of the things in which the transferred interests subsisted at the date of their vesting in the Board ;
  - (b) to all relevant facts known at the time of the determination or review which were in existence on the primary vesting date, notwithstanding that any of them would not have been known at that date ;
  - (c) as respects prospects of utilisation of things in which the transferred interests subsisted, to competition from utilisation of other things ;
  - (d) as respects undergettings, short workings and similar matters, to the prospects of making them up that would have existed if this Act had not been passed ; and
  - (e) to such other matters as may be prescribed.

#### **14 Regulations as to compensation proceedings.**

- (1) Provision may be made by regulations generally for giving effect to the provisions of this Act as to dealing with transferred interests for the purpose of compensation and the determination of the amounts of compensation to be made, and the regulations may in particular make provision—
- (a) for regulating any matters relating to the practice and procedure to be followed in connection with the making of determinations by District Valuation Boards and reviews thereof by referees ;

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- (b) for the use, for the purposes of any proceedings to which they are parties, of the official name of a District Valuation Board, and for enabling any such proceedings to be begun or carried on notwithstanding any change or vacancy in their membership ;
  - (c) for rendering the right to compensation in respect of any compensation unit conditional on due and punctual compliance with provisions of the regulations ;
  - (d) for the mode of selection of a referee from the panel for the purposes of any particular review, and for giving effect to decisions of referees.
- (2) Before making regulations as to the practice and procedure of District Valuation Boards, the Minister shall consult the Central Valuation Board.
- (3) Determinations of the values of compensation units shall be certified to the Minister, and notified to persons concerned, in accordance with regulations made under this section, and provision shall be made thereby for the certification—
- (a) of any coal industry value of a compensation unit separately from any value thereof for subsidiary purposes ; and
  - (b) of any value thereof for subsidiary purposes so far as attributable to stocks of products of colliery production activities or to consumable or spare stores within the meaning of the First Schedule to this Act separately from any such value thereof attributable to other matters.

#### **15 Payment by the Minister of costs of compensation proceedings.**

- (1) Provision shall be made by regulations for the payment by the Minister, subject to such conditions and limitations as may be prescribed, of costs incurred in, or in connection with, the ascertaining, verifying and recording of particulars of transferred interests, their arrangement in compensation units, the allocation of such units to valuation districts, and the valuation of such units.
- (2) The provision to be made under this section shall include provision for settling the amounts of the costs to be paid, and for determining questions arising in giving effect to the regulations.
- (3) Notwithstanding anything in this section, regulations made for the purposes of subsection (1) of the last preceding section may contain provision imposing liability for payment of costs on persons other than the Minister.
- (4) Provision may be made by regulations as to costs remaining payable to or by a District Valuation Board at its dissolution.

#### **16 Time limit for questioning regularity of compensation proceedings affecting coal industry value.**

- (1) When the District Valuation Board for any valuation district have sent to the Minister certificates stated by them to cover all compensation units allocated to that district in respect of which compensation is to be made and which have any coal industry value, the Minister shall publish in one or more newspapers circulating in the district a notice to the effect that the certification for that district has been completed as to such units, and the notice shall specify a place where the certificates may be seen at all reasonable hours by any person claiming to be concerned.

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(2) Subject to the subsequent provisions of this section, as from the expiration of six weeks from the date of publication as mentioned in the preceding subsection of the notice therein mentioned as to any valuation district,—

- (a) the compensation units covered by the certificates relating to that district sent to the Minister before that date shall be deemed for the purposes of subsection (5) of section ten of this Act to be all the compensation units allocated to that district in respect of which compensation is to be made and which have any coal industry value ; and
- (b) the amounts specified in those certificates respectively shall be deemed for those purposes to have been properly determined, certified and notified ;

and the propriety of satisfaction on the basis of those certificates of the compensation required by virtue of paragraph (a) of the said subsection (5) to be made in respect of compensation units allocated to that district shall not be questioned by prohibition or certiorari or in any other legal proceedings whatsoever.

(3) If, within six weeks from the date of publication as mentioned in subsection (1) of this section of the notice therein mentioned as to any valuation district, any person makes an application to the High Court complaining, on the ground that any requirement of this Act or of regulations made thereunder has not been complied with, either—

- (a) of there being, in the case of some compensation unit allocated to that district, no certificate covering it amongst the certificates sent to the Minister before the said date ; or
- (b) of any irregularity as to matters affecting the determination, certification or notification of an amount specified in a certificate covering a compensation unit allocated to that district which has been sent to the Minister before the said date ;

the Court may make any such interim order as appears to the Court to be requisite, and, if satisfied upon the hearing of the application that the interests of the applicant have been substantially prejudiced by reason of any requirement of this Act or of regulations made thereunder not having been complied with, may give any such directions as appear to the Court to be requisite for remedying the matter complained of and enabling the giving of a valid certificate as to any compensation unit allocated to the district in question in respect of which compensation ought to be made.

(4) No legal proceedings shall be taken to remedy any alleged non-compliance with any requirement of this Act, or of regulations made thereunder—

- (a) as to the inclusion of a transferred interest in some compensation unit, or
- (b) as to allocating a compensation unit to some valuation district,

unless the proceedings are commenced before such date as may be prescribed in that behalf for the purpose of enabling the determination of all the compensation units having a coal industry value which ought to be allocated to any valuation district to be completed in time to prevent any delay in completing the certification of the values of such units for that district.