



Coal Industry Nationalisation Act 1946

1946 CHAPTER 59

Savings, and provisions consequential on nationalisation.

36 Savings as to certain coal, etc..

- (1) Paragraph (a) of 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 Board, 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—
 - (a) coal comprised in a mine within the meaning of the Coal Mines Act, 1911, with respect to which the Board are satisfied that the number of persons to be employed therein below ground is at no time likely to exceed, or greatly to exceed, thirty ; or
 - (b) coal present amongst other minerals that appears to the Board 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 ;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.
- (3) A licence under the last preceding subsection may be granted either generally or with effect only as to working and getting 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 and conditions 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.

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 Board'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 Board, 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 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.

- (2) In the case of persons, whether taken into the service of the Board 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, or an expectation of accruer (whether as of right or under customary practice) of, 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.

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

- (1) On the primary vesting date these 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 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 Board as if the Board 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—
- (a) under the Coal (Registration of Ownership) Act, 1937, with respect to the payment of costs incurred in giving effect to the provisions of that Act, and
 - (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 subsection (6) of section one of, and Part II of the Second Schedule to, the said Act of 1937, and in the following provisions of the said Act of 1938, namely, sections six, seven and eleven, subsection (1) of section fourteen, section thirty-nine, Parts III, IV and V of the Third Schedule and paragraph 6 of the Fifth Schedule shall, so far only as may be necessary in consequence of the transfer of those functions, be construed as references to the Board.
- (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) The Minister may by order dissolve the Coal Commission, and any such order may contain such incidental or supplementary provisions as appear to the Minister to be necessary or expedient in connection with or in consequence of the dissolution.

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 Provisions as to the Miners' Welfare Commission.

- (1) The Miners' Welfare Commission (in this section referred to as " the Commission ") shall, instead of consisting of ten persons appointed by the Minister as provided by subsection (1) of section two of the Mining Industry (Welfare Fund) Act, 1939, consist of a chairman and nine other members appointed by the Minister, and all persons who hold office as members of the Commission at the commencement of this Act shall vacate office, without prejudice however to their eligibility, for reappointment under this section.
- (2) If the Minister is satisfied that a member of the Commission is unable or unfit to discharge all or any of the functions of a member, the Minister may declare his office as a member of the Commission to be vacant and shall notify the fact in such manner as the Minister thinks fit, and thereupon his office shall become vacant.
- (3) The power of the Commission, under sub-paragraph (ii) of paragraph (b) of subsection (4) of the said section two, to pay out of the Miners' Welfare Fund to the officers, agents and servants of the Commission salaries and remuneration, and, on the retirement or death of any of them, pensions and gratuities to them or their personal representatives or to their dependants, shall be exercised subject to the approval of the Minister.
- (4) No sum shall be appropriated by the Commission under paragraph (b) of subsection (2) of section three of the Mining Industry (Welfare Fund) Act, 1934, for the purpose of promoting research into methods of improving the health and safety of workers in or about coal mines out of sums paid into the Miners' Welfare Fund under subsection (2) of section twenty of the Mining Industry Act, 1920, as respects the output of coal mines during the year nineteen hundred and forty-six or any subsequent year.
- (5) The Commission shall have power to act as agent Of the Board with respect to any matter relating to the health or welfare of persons in the employment of the Board notwithstanding any limitation or restriction imposed by the Mining Industry Acts, 1920 to 1943 :

Provided that nothing in this subsection shall be construed as empowering the Commission to appropriate sums standing to the credit of the Miners' Welfare Fund otherwise than in accordance with the provisions of those Acts.
- (6) The Minister may give to the Commission directions of a general character with respect to the exercise and performance of their functions, and the Commission shall give effect to any such directions.

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

- (1) Where trusts have been declared on which property representing an application of money standing to the credit of the Miners' Welfare Fund is to be held, and it appears to the Minister that purposes specified in subsection (1) of section twenty of the Mining Industry Act, 1920, would be better secured by a variation of the trusts, either as respects that property or as respects other property held on the same trusts or both, he may, subject to the provisions of this section, make provision for that variation by an order made by him.
- (2) The Minister shall not make an order under this section as respects any property until he is satisfied that the substance of the proposed variation has been put before a meeting open to all persons for whose benefit in particular that property is held under the subsisting trusts and has been approved by a majority of such of those persons as were present at the meeting.
- (3) Trusts as varied by an order under this section may be varied by a subsequent order made thereunder.
- (4) Subsection (4) of section twenty-nine of the Settled Land Act, 1925 (which relates to the sending to the Charity Commissioners, for record, of assurances of land to charitable uses) shall apply to an order under this section that relates to land, or to personal estate to be laid out in the purchase of land, as it applies to the instruments mentioned in that subsection.

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

- (1) It shall be the duty of the Minister to secure the prosecution of research into methods of advancing the safety and promoting the health of persons employed in or about coal mines, either by himself engaging therein or by assisting others to engage therein, or partly in the one way and partly in the other.
- (2) Any expenses incurred by the Minister under the preceding subsection shall be defrayed out of moneys provided by Parliament.
- (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.

43 Amendments of working facilities enactments.

- (1) As from the primary vesting date, no order shall be made under section two of the Mines (Working Facilities and Support) Act, 1923 (which relates to the granting of rights in the case of a failure or refusal of lessors of mines within the meaning of that Act to concur in an adjustment of boundaries) on the ground of any failure or refusal on the part of the Board.
- (2) As from the primary vesting date, no application made with respect to coal under subsection (2) of section thirteen of the Mining Industry Act, 1926 (which enables the Railway and Canal Commission to grant a right to work coal and certain other minerals freed from restrictions contained in a mining lease within the meaning of the Mines (Working Facilities and Support) Act, 1923, or otherwise binding on the person entitled to work them, or to work coal and certain other minerals on other terms and conditions), being an application made otherwise than by the Board, shall be referred by the Minister to the Railway and Canal Commission unless the Board have given notice in writing to the Minister that they have no power to grant the right, or any of the rights, for which the application is made.
- (3) As from the primary vesting date, subsection (2) of section ten of the Mines (Working Facilities and Support) Act, 1923 (which requires the Minister and any other Government Department and the Coal Commission to give to the Railway and Canal Commission such assistance as that Commission may require for the purposes of their duties under Part I of that Act) shall have effect with the substitution, for the words " The Minister of Fuel and Power and any other Government Department and the Coal Commission ", of the words " The Minister of Fuel and Power and any other Government Department and the National Coal Board ".
- (4) A right to search and bore for coal may be conferred on the Board under, and in accordance with the provisions of, Part I of the Mines (Working Facilities and Support) Act, 1923, and accordingly sections four, five, six and nine of that Act shall have effect as if references therein to working minerals (other than such references in subsection (2) of the said section five) included references to searching and boring for coal.

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 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 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.

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 Doncaster Area Drainage Act, 1929, or the 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 Doncaster Area Drainage Act, 1929, or the Doncaster 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.

Status: This is the original version (as it was originally enacted).

- (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.