

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Coal Industry Nationalisation Act 1946, SECOND SCHEDULE. (See end of Document for details)*

## SCHEDULES

### 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—
- (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

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- (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.

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