



Coal Industry Nationalisation Act 1946

1946 CHAPTER 59

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) Regulations shall be made for enabling the Board to obtain information as to the assets described in Parts II to IV respectively of the First Schedule to this Act requisite for their deciding as to the exercise by them of such options as aforesaid or the giving by them of counter-notices of objection, and for prescribing periods within which notices exercising such options as aforesaid, and counter-notices of objection, must be given, and different periods may be prescribed as to the giving thereof in different circumstances or as to assets of different kinds.
- (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.
- (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.