



# Coal Industry Nationalisation Act 1946

## 1946 CHAPTER 59

### *Transfer of assets to the Board.*

#### **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 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 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 section twenty-four of the Patents and Designs Act, 1907, 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.