

SCHEDULES

TENTH SCHEDULE

TRANSITIONAL PROVISIONS

PART II

OPENCAST SITES

Authorisations

- 2 Subsection (1) of section one of this Act shall not have effect with respect to the working of coal on land requisitioned for opencast operations ; but, for the purposes of the provisions of this Act, other than section one, any authorisation given by the Minister by virtue of the Defence (General) Regulations, 1939, whether before or after the commencement of this Act, with respect to the use of any such land by the Board shall be treated as if it were an authorisation granted under section one of this Act to work coal on that land by opencast operations, or to cause or permit coal to be so worked thereon.
- 3 (1) Where at the commencement of this Act—
- (a) any land is occupied by the Board for the purpose of working coal on that land, or on land contiguous therewith, by opencast operations, or for the purpose of restoring that land after it has been affected by the working of coal by such operations, and
 - (b) the land is either land owned by the Board, or land in which there is a Crown or Duchy interest, but no private interest other than any interest belonging to the Board, and accordingly possession of that land has not been taken, or is not for the time being retained, in the exercise of emergency powers,
- subsection (1) of section one of this Act shall not have effect in relation to that land ; but the powers conferred on the Minister by section two of this Act shall be exercisable in relation to that land as those powers would be exercisable by the Minister in relation thereto on granting an authorisation under section one of this Act comprising that land.
- (2) The preceding sub-paragraph shall have effect notwithstanding anything in subsection (1) of section forty-four of this Act.
- (3) In this paragraph " Crown or Duchy interest" and " private interest" have the meanings assigned to them by section forty-four of this Act.
- 4 The powers conferred on the Minister by section two of this Act shall be exercisable at any time in relation to any land requisitioned for opencast operations, notwithstanding that the Minister is not then granting an authorisation under section one of this Act in respect of that land, if the Minister has (whether before or after the commencement of this Act) given an authorisation which by virtue of paragraph 2 of this Schedule is to be treated as if it were an authorisation under that section.

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Termination of emergency powers

- 5 Where a compulsory rights order is made in respect of land requisitioned for opencast operations, any power to retain possession of land in the exercise of emergency powers shall cease to apply to that land as from the operative date of the order.

Compulsory rights orders in respect of requisitioned opencast sites

- 6 Subject to the following provisions of this Part of this Schedule, where the land comprised in a compulsory rights order consists of or includes land requisitioned for opencast operations, the period specified in the order, as the period for which the order is to have effect, shall not extend beyond the tenth anniversary of the date of requisition of that land.

- 7 Where the land comprised in a compulsory rights order consists exclusively of land requisitioned for opencast operations, then, notwithstanding anything in subsection (5) of section four of this Act.—

(a) the provisions of Part I of the First Schedule to the Acquisition of Land Act, as modified by Part I of the Second Schedule to this Act, except the provisions of paragraphs 2, 5 and 6 of the said First Schedule, as so modified, and

(b) the provisions of Part III of the said First Schedule, as so modified, shall not apply to that order:

Provided that this paragraph shall have effect subject to the provisions of paragraph 9 of this Schedule in cases falling within that paragraph.

- 8 A compulsory rights order falling within paragraph 6 or paragraph 7 of this Schedule shall not be varied by extending the period for which it has effect in such a way that, in respect of any of the land comprised in the order, that period extends beyond the tenth anniversary of the date of requisition of that land.

- 9 (1) Where the land comprised in a compulsory rights order consists of or includes land requisitioned for opencast operations, and it appears to the Board that, for either or both of the reasons mentioned in the next following sub-paragraph, it is necessary that the period specified in the order, as the period for which the order is to have effect, should extend beyond the tenth anniversary of the date of requisition of that land.—

(a) the period specified in the order may extend beyond that anniversary, and shall (subject to the following provisions of this paragraph) be such period as the Board consider necessary in the circumstances ;

(b) the order shall state the reasons for which the Board consider it necessary that the period specified in the order should so extend ; and

(c) paragraph 7 of this Schedule shall not apply to the order, and the provisions as to the making and confirmation of the order shall be in accordance with subsection (5) of section four of this Act.

- (2) The said reasons are—

(a) that a longer period is required for completing the restoration of land comprised in the order so as to be reasonably fit for use as agricultural land ;

(b) that there is in force an agreement relating to that land made between the Board and another person before the eighteenth day of December, nineteen hundred and fifty-seven, which provides for the working of coal by that

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person by opencast operations, and is not an agreement under which the coal is to become the property of that other person, and a longer period is required for completing the operations provided for by the agreement.

- (3) Where an order is made in the circumstances mentioned in sub-paragraph (1) of this paragraph, the period for which the order has effect shall not extend beyond the tenth anniversary of the commencement of this Act.
- (4) The Minister shall not confirm an order as being an order falling within sub-paragraph (1) of this paragraph unless he is satisfied that the reasons stated in the order in accordance with that sub-paragraph are well-founded and that it is necessary for those reasons that the period for which the order has effect should extend as mentioned in that sub-paragraph.
- 10 Where the land comprised in a compulsory rights order consists exclusively of land which, immediately before the operative date of the order, is land requisitioned for opencast operations, section five of this Act, and the Second Schedule to this Act, shall have effect in relation to the order subject to the following modifications:—
- (a) subsections (2) and (3) of that section, and Part II of that Schedule, shall not apply ;
 - (b) in subsection (4) of that section, for the words " date of entry" there shall be substituted the words " operative date ".
- 11 Subsection (2) of section nine of this Act shall not apply to land which, at the time when the compulsory rights order in question is confirmed, is land requisitioned for opencast operations.
- 12 Section thirty-six of this Act shall not apply to land comprised in an opencast site order which, immediately before the operative date of the order, is land requisitioned for opencast operations.

Certification of payments under existing arrangements

- 13 In respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations, the Minister shall, as soon as may be after the commencement of this Act, issue certificates in accordance with paragraphs 14 and 15 of this Schedule.
- 14 (1) In respect of any such land as is mentioned in the last preceding paragraph the Minister shall issue, and serve on each person who, at the commencement of this Act, is a person to whom in accordance with the existing arrangements any periodical payments are payable, a certificate stating—
- (a) the interest in land in respect of which those payments are payable to him ;
 - (b) the annual amount of the payments which are payable in respect of that interest; and
 - (c) the times at which, in accordance with the existing arrangements, those payments become payable.
- (2) For the purpose of this paragraph the Minister shall determine the annual amount of the periodical payments in respect of an interest in the land by reference to the sums paid or payable in respect of that interest in accordance with the existing arrangements for the year ending with the date of the commencement of this Act:

Provided that if, under the existing arrangements, periodical payments have been payable in respect of that interest for only part of that year, the Minister shall have

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regard to the amount of the sums paid or payable in respect of that interest for that part of that year, and shall adjust that amount proportionately to a full year and determine the annual amount of the periodical payments by reference to that amount as so adjusted.

- 15 In respect of any such land as is mentioned in paragraph 13 of this Schedule the Minister shall also issue a certificate and serve it on the person who, at the time of issue of the certificate, is the owner of that land, stating whether any sum has been paid in respect of that land on account of any prospective right to terminal compensation under the Act of 1939, and, if so, the amount of the sum so paid.
- 16 The Minister shall serve on the Board a copy of any certificate issued under paragraph 14 or paragraph 15 of this Schedule.

Annual and initial compensation

- 17 In respect of any land hereafter requisitioned for opencast operations—
- (a) no compensation shall be payable under any of paragraphs (a), (c) and (d) of subsection (1) of section two of the Compensation (Defence) Act, 1939 ;
 - (b) annual compensation under this Act shall be payable as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land ;
 - (c) compensation under section twenty-six of this Act (or under that section as extended by section twenty-eight of this Act) shall, where applicable, be payable as if the land were comprised in a compulsory rights order and the date of requisition of the land were the date of entry under that order ; and
 - (d) compensation under section twenty-seven of this Act (or under the provisions of that section as applied by section twenty-nine of this Act) shall, where applicable, be payable as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land, and as if anything done in consequence of the taking of possession of the land in the exercise of emergency powers had been done in consequence of the confirmation of that order.
- 18 Subject to the following provisions of this Part of this Schedule, in respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations—
- (a) periodical payments shall continue to be payable in accordance with the existing arrangements, and
 - (b) if the land is subsequently comprised in a compulsory rights order, no annual compensation under this Act shall be payable, but periodical payments shall continue to be payable in accordance with the existing arrangements as if the order had not been made:

Provided that no such periodical payments shall accrue due in respect of any land after the terminal date.

- 19 Any periodical payments which continue to be payable as mentioned in the last preceding paragraph, in so far as they accrue due after the commencement of this Act, shall be payable by the Board and not by the Minister or by any other person.
- 20 The annual amount of any such periodical payments which are payable in respect of an interest in land shall be taken to be the annual amount specified in the certificate issued in respect of that interest under paragraph 14 of this Schedule.

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- 21 (1) In respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations, any person who claims that, if annual compensation under this Act were payable in respect of that land, he would be entitled to such compensation in respect of an interest in that land, may, at any time before the first anniversary of the commencement of this Act, serve notice on the Board requiring that annual compensation under this Act shall be payable in respect of that interest.
- (2) The right to serve a notice under this paragraph shall apply whether the land in question is for the time being comprised in a compulsory rights order or not.
- (3) Any notice served under this paragraph shall be in such form, and shall contain such information, as may be prescribed.
- 22 (1) The effect of a notice under the last preceding paragraph in respect of an interest in land shall be as follows:—
- (a) any annual compensation under this Act which, in the circumstances specified in the next following sub-paragraph, would have accrued due in respect of that interest for the period beginning with the commencement of this Act and ending with the terminal date, or for any part of that period, shall be payable, or shall be treated as having become payable, as the case may require, as if those circumstances had existed ;
- (b) if apart from the notice periodical payments would have become payable in respect of that interest in accordance with the existing arrangements, and would have accrued due after the date of service of the notice, those payments shall not be payable ;
- (c) any periodical payments already paid in respect of that interest in accordance with the existing arrangements, in so far as they accrued due after the commencement of this Act, shall be set off against annual compensation under this Act payable in respect of that interest.
- (2) The said circumstances are those which would have existed if—
- (a) this Act had been in operation before the date of requisition of the land in question, and had contained no restriction as to the duration of the period for which a compulsory rights order could have effect;
- (b) a compulsory rights order comprising that land had come into operation on the date of requisition, and the requirements of subsection (2) of section five of this Act in relation to that order had been duly complied with ;
- (c) the period of occupation under that order had been a period ending on the date which, in relation to that land, is the terminal date ; and
- (d) anything done in relation to that land in the exercise of emergency powers had been done in the exercise of rights conferred by that order.
- (3) In the preceding sub-paragraphs any reference to the commencement of this Act, or to the terminal date, in relation to any land, shall (notwithstanding anything in the last preceding sub-paragraph) be construed as a reference to the actual date on which this Act comes into operation, or to the actual terminal date in relation to that land, as the case may be.
- 23 (1) At any time after the first anniversary of the commencement of this Act, any person who is entitled to an interest in land in respect of which a notice could have been, but has not been, served under paragraph 21 of this Schedule, may serve notice on the Board requiring that annual compensation under this Act shall be payable in respect of that interest.

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- (2) Sub-paragraphs (2) and (3) of paragraph 21 of this Schedule, and the provisions of the last preceding paragraph, shall apply to a notice under this paragraph as they apply to a notice under the said paragraph 21, so however that in the application of the provisions of the last preceding paragraph to a notice under this paragraph any reference to the commencement of this Act, or to the date of service of the notice, shall be construed as a reference to the anniversary of the commencement of this Act which next occurs after the service of the notice.

Terminal compensation

- 24 Where after the commencement of this Act possession of any land ceases to be retained in the exercise of emergency powers by reason of the coming into operation of a compulsory rights order comprising that land, no terminal compensation under the Act of 1939 shall be payable in respect of that land.
- 25 In respect of any land hereafter requisitioned for opencast operations of which possession ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land.—
- (a) no terminal compensation under the Act of 1939 shall be payable, but
 - (b) terminal compensation under this Act shall be payable as if the land had been comprised in a compulsory rights order which became operative on the date of requisition of the land, and the period of occupation under that order came to an end on the terminal date, and as if anything done in relation to that land in the exercise of emergency powers had been done in the exercise of rights conferred by that order.
- 26 In respect of any land already requisitioned for opencast operations of which, after the commencement of this Act, possession ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land,—
- (a) no terminal compensation under the Act of 1939 shall be payable, but
 - (b) there shall be payable all such terminal compensation under this Act as would have been payable in the circumstances specified in sub-paragraph (2) of paragraph 22 of this Schedule.
- 27 For the purposes of the application of any of the provisions of this Act, other than this Schedule, to any land falling within paragraph 24, paragraph 25 or paragraph 26 of this Schedule, any reference in those provisions to the date of entry shall be construed as a reference to the date of requisition of the land.
- 28 Where compensation under section twenty-three of this Act, or under the provisions of that section as applied by section twenty-nine of this Act, would, apart from this paragraph, be payable in respect of any land falling within paragraph 24 or paragraph 26 of this Schedule, and in a certificate issued in respect of that land under paragraph 15 of this Schedule it is stated that a sum was paid in respect of that land as therein mentioned, the amount of that sum (as stated in the certificate) shall be deducted from the amount of that compensation.

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Tenant's improvements

- 29 In relation to any land falling within paragraph 24 of this Schedule, the provisions of section twenty-four or section thirty of this Act, where applicable, shall have effect subject to the modification specified in paragraph 27 of this Schedule.
- 30 In relation to any land falling within paragraph 25 of this Schedule, the provisions of section twenty-four or section thirty of this Act, where applicable, shall have effect (subject to the modification specified in paragraph 27 of this Schedule) as if the land had been comprised in a compulsory rights order which became operative on the date of requisition of the land, and the period of occupation under that order came to an end on the terminal date.
- 31 In relation to any land falling within paragraph 26 of this Schedule, the provisions of section twenty-four or section thirty of this Act, where applicable, shall have effect (subject to the modification specified in paragraph 27 of this Schedule) as those provisions would have had effect in the circumstances specified in sub-paragraph (2) of paragraph 22 of this Schedule.

Depreciation of other land in same ownership

- 32 (1) The Minister may by regulations make provision for the payment of compensation in respect of land which, at such time as may be prescribed by the regulations, is land wherein the interest of the owner is held by a person who is also the owner of land requisitioned for opencast operations.
- (2) Any such provision made by regulations under this paragraph shall be such as the Minister may consider appropriate for securing that compensation is payable thereunder, in respect of land to which the regulations apply, in cases, and according to principles, corresponding as nearly as may be with the cases in which, and the principles according to which, compensation is payable under section thirty-two of this Act in respect of land to which that section applies.

Provisions as to minerals

- 33 (1) The powers conferred by Regulation fifty-one A of the Defence (General) Regulations, 1939, shall not be exercisable for the purpose of the working of minerals on any land which is for the time being comprised in a compulsory rights order which has become operative.
- (2) The preceding sub-paragraph shall have effect without prejudice to the provisions of Part IV of this Schedule as to the temporary stopping up of highways.
- 34 In respect of any land requisitioned for opencast operations—
- (a) the provisions (where applicable) of the Fifth Schedule to this Act, other than paragraphs 7 to 10, paragraph 13 and sub-paragraphs (3) to (5) of paragraph 14 of that Schedule, and the provisions (where applicable) of Part IV of the Seventh Schedule to this Act, shall apply in relation to any time after the commencement of this Act and before the terminal date as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land, and
- (b) the provisions of paragraphs (3) to (5) of the said Regulation fifty-one A shall not apply in relation to any such time.

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- 35 Where after the commencement of this Act possession of any land ceases to be retained in the exercise of emergency powers by reason of the coming into operation of a compulsory rights order comprising that land—
- (a) no sum shall be payable in respect of that land by virtue of paragraph (b) of the said Regulation fifty-one A, but
 - (b) the provisions (where applicable) of the Fifth Schedule to this Act, other than paragraphs 3 to 6, paragraph 12 and sub-paragraph (2) of paragraph 14 of that Schedule, shall apply in relation to that land as if any reference in those provisions to the operative date or to the date of entry were a reference to the date of requisition of the land.
- 36 Where after the commencement of this Act—
- (a) possession of any land ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land, and
 - (b) immediately before the time when possession of that land ceases to be so retained, the land was land requisitioned for opencast operations,
- no sum shall be payable in respect of that land by virtue of paragraph (b) of the said Regulation fifty-one A, but the provisions (where applicable) of the Fifth Schedule to this Act (with the exceptions specified in the last preceding paragraph) shall apply as if the land had been comprised in a compulsory rights order under which the period of occupation came to an end on the terminal date.
- 37 (1) Where at the commencement of this Act—
- (a) any land already requisitioned for opencast operations is land which, if it were comprised in a compulsory rights order which became operative immediately after the commencement of this Act, would (within the meaning of the Fifth Schedule to this Act) be land to which that Schedule applies, and
 - (b) in respect of that land any sum has been paid (whether by the Minister or by the Board) on account of any prospective right to compensation under the said Regulation fifty-one A,
- the Minister shall, as soon as may be after the commencement of this Act, issue a certificate specifying the amount and date of payment of that sum and the person to whom it was paid.
- (2) Any certificate required to be issued in respect of any land in accordance with the preceding sub-paragraph shall be served on any person who, at the date of issue of the certificate, would (within the meaning of the Fifth Schedule to this Act) be the mineral operator in relation to that land if the land were comprised in such a compulsory rights order as is mentioned in the preceding sub-paragraph.
 - (3) The Minister shall serve on the Board a copy of any certificate issued under this paragraph.
- 38 (1) The provisions of this paragraph shall have effect with respect to any sum specified in a certificate issued under the last preceding paragraph.
- (2) So much (if any) of that sum as was paid in respect of compensation which (apart from paragraph 34 of this Schedule) would have accrued due after the commencement of this Act under paragraph (4) or paragraph (5) of the said Regulation fifty-one A shall be set off against any compensation becoming payable, in respect of any of the land to which the certificate relates, under paragraph 4 or paragraph 5 of the Fifth Schedule to this Act.

- (3) So much (if any) of that sum as was paid in respect of a prospective right to compensation under paragraph (b) or paragraph (7) of the said Regulation fifty-one A shall be set off against any compensation which may become payable by virtue of the operation, in relation to any of the land to which the certificate relates, of any provisions of the Fifth Schedule to this Act in accordance with paragraph 35 or paragraph 36 of this Schedule.
- (4) For the avoidance of doubt it is hereby declared that subsection (3) of section forty of this Act applies to any dispute about what proportion of any sum specified in such a certificate was paid as mentioned in sub-paragraph (2) or sub-paragraph (3) of this paragraph.

Provisions as to allotment gardens and other allotments

- 39 The provisions of the Eighth Schedule to this Act shall have effect in relation to any land hereafter requisitioned for opencast operations as if—
- (a) the land were comprised in a compulsory rights order which had become operative, and
 - (b) anything done in consequence of the taking of possession of the land in the exercise of emergency powers had been done in consequence of the confirmation of that order:

Provided that for the purposes of the application of those provisions in accordance with this paragraph any reference in those provisions to the operative date of the order or to the date of entry shall be construed as a reference to the date of requisition of the land.

- 40 The provisions of the Eighth Schedule to this Act shall not have effect in relation to any land which, at the commencement of this Act, is land already requisitioned for opencast operations, whether that land is subsequently comprised in a compulsory rights order or not.

Concurrent requisitions

- 41 The Minister may by regulations make provision for modifying or adapting any of the provisions of this Act relating to compensation (including any such provisions contained in this Schedule) in their application to any land in circumstances corresponding (by reason that two or more parcels of land are at the same time land requisitioned for opencast operations) to the circumstances for which, in relation to compulsory rights orders, provision can be made by regulations under paragraph 29 of the Sixth Schedule to this Act.