



Coal Act 1938

1938 CHAPTER 52

PART I

UNIFICATION OF COAL MINING ROYALTIES

The Coed Commission

1 Constitution of Coal Commission

- (1) There shall be a Coal Commission (in this Act called " the Commission") to exercise and perform the powers and duties set out in this Act.
- (2) The Commission shall be a body corporate by the name of " the Coal Commission ", with perpetual succession and a common seal, and with power to hold land without licence in mortmain.
- (3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and procedure of the Commission.

2 General provisions as to functions of the Commission under Part I

- (1) It shall be the duty of the Commission to , exercise their functions as owners of the fee simple in coal and mines of coal, and of the property and rights to be acquired by them therewith, in such manner as they may think best for promoting the interests, efficiency, and better organisation of the coal-mining industry.
- (2) The Commission shall not themselves engage in the business of coal-mining or carry on any operations for coal-mining purposes, other than searching and boring for coal, but shall grant leases for those purposes :

Provided that the Commission may carry on any operations for those purposes which may be requisite for preserving in good order premises that are not for the time being subject to a coal-mining lease.

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- (3) The Board of Trade may give to the Commission general directions as to the exercise by the Commission of their functions under this Part of this Act in relation to matters appearing to the Board to affect the national interest, including all matters affecting the safety of the working of coal, and the Commission shall give effect to any such directions:

Provided that nothing in this subsection shall be construed as conferring on the Board any power to give a direction inconsistent with any provisions of the Coal Mines Act, 1911, or of any other enactment relating to the control or management of a mine within the meaning of that Act, or of any regulations made under that Act or any such other enactment.

Unification of ownership of coal in the hands of the Commission

3 Commission to acquire fee simple in coal

- (1) The Commission shall acquire in accordance with the provisions of this Part of this Act the fee simple in all coal and mines of coal, together with such property and rights annexed thereto and such rights to withdraw support as are hereinafter mentioned, subject to such servitudes, restrictive covenants and other matters adversely affecting any of the said coal or mines as are hereinafter mentioned, and subject to the provisions of this Part of this Act with respect to the retention of interests arising under coal-mining leases and of certain other interests.
- (2) During the period between the first day of January nineteen hundred and thirty-nine (in this Act referred to as the " valuation date ") and the first day of July nineteen hundred and forty-two (in this Act referred to as the " vesting date ") all coal and mines of coal shall be held as if all the existing owners thereof had, in respect of all their interests therein other than retained interests and with full capacity so to do, entered into a contract on the valuation date for the sale thereof to the Commission, at a price to be ascertained by valuation, with provision for completion of the contract on the vesting date.
- (3) On the vesting date all coal and mines of coal as existing at that date shall vest in the Commission for a title comprising all interests then subsisting in any such coal or mine other than retained interests.
- (4) In this Part of this Act the expression " coal "—
- (a) means bituminous coal, cannel coal and anthracite; but
 - (b) shall, in a case in which minerals or substances other than bituminous coal, cannel coal or anthracite are comprised in a lease subsisting at the valuation date which confers a right to work and carry away both that coal or anthracite and those other minerals or substances, include those other minerals or substances, so however that the Commission may, by direction given in the prescribed manner before the expiration of six months from the valuation date, exclude any such other minerals or substances from the operation of this paragraph, and, in the case of any such other minerals or substances which in the opinion of the Commission are or would normally be worked by surface workings and not in association with that coal or anthracite, the Commission shall, if any person interested therein makes application to the Commission in that behalf before the expiration of six months from the valuation date, by direction exclude them from the operation of this paragraph; and

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- (c) except in the case of references to the making merchantable or disposing of coal, means coal that is unworked, that is to say, not so severed as to have become a chattel.

4 Property and rights with which, and matters subject to which, coal is to be acquired

- (1) The premises comprised in the contract relating to any coal or mine referred to in subsection (2) of the last preceding section shall be deemed to include all property and rights, other than rights to withdraw support or rights created by working facilities orders, that would pass with that coal or mine under a conveyance thereof such as is specified in Part I of the Second Schedule to this Act taking effect on the valuation date, and all such property and rights (in this Act referred to as "acquired property and rights") shall be held during the interim period accordingly.
- (2) The said contract shall be deemed to have been for a sale subject to all matters subject to which the premises comprised therein would pass on such a conveyance as aforesaid.
- (3) On the vesting date there shall vest in the Commission with any coal or mine of coal—
 - (a) all property and rights, other than rights to withdraw support or rights created by working facilities orders, that would pass with that coal or mine under a conveyance thereof such as is specified in Part I of the Second Schedule to this Act taking effect on the vesting date; and
 - (b) such right, if any, to withdraw support as is under the provisions of Part II of the Second Schedule to this Act to vest therewith.
- (4) The vesting of any coal, mine of coal, property or rights in the Commission shall take effect subject to all matters subject to which those premises would pass on such a conveyance as is mentioned in the last preceding subsection.

5 Retention of certain leasehold and other interests

- (1) Except as provided by subsection (2) of this section, interests in coal or a mine of coal that arise under a coal-mining lease shall be retained interests.
- (2) The following interests, that is to say—
 - (a) interests arising under a coal-mining lease in coal or a mine of coal which is sub-demised by a coal-mining lease derived out of that lease, or which is, by virtue of any other form of disposition taking effect directly or indirectly out of that lease, held in like manner as if it had been so sub-demised; and
 - (b) interests arising under a coal-mining lease where neither the lessee nor any person claiming under him is a person carrying on the business of coal-mining and having a substantial beneficial interest in the exercise of the rights conferred by the lease;

shall not be retained interests unless the Commission so direct.

- (3) Any direction to be given for the purposes of the last preceding subsection shall be given by means of a notice in writing served on the lessee under the lease under which the interests in question arise, and must be given not later than the expiration of six months from the valuation date, or, if later, from the time when the Commission have received notice of the subsistence of that lease and also, in a case to which paragraph (a) of that subsection applies, of the sub-demise or other disposition.

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Where a direction might be given both as respects interests arising under a lease and as respects interests arising under a lease derived out of that lease, a direction shall not be given as respects the former unless a direction has been given, or is to be given, as respects the latter also.

- (4) A right to work granted by a working facilities order shall, in so far as it creates an interest in any coal or mine of coal, be a retained interest.
- (5) Where coal or a mine of coal comprised in a coal-mining lease is subject to a right to work that coal or to use that mine for a coal-mining purpose, as the case may be, granted by a working facilities order to a person other than the person in whom the corresponding right arising under the lease is vested, this section shall have effect in relation to interests in that coal" or mine arising under the lease in like manner as if that coal or mine had been sub-demised by a coalmining lease derived out of that lease.
- (6) Interests in coal or a mine of coal in or under land formerly copyhold which were preserved to the tenant on the enfranchisement thereof shall be retained interests, except in a case in which the tenant has, by custom or otherwise (except by virtue of a coal-mining lease), the right to work coal in or under the land without the licence of the lord.
- (7) In this Part of this Act—
 - (a) references to an interest arising under a lease shall be construed as references to the interest of the lessee thereunder as such lessee and any interest held by a person claiming under him as so claiming, but shall not include any option to acquire, or any right of pre-emption over, an interest in coal or a mine of coal, that may be conferred by the lease;
 - (b) references to retained interests shall be construed, in relation to any coal or mine of coal, as references to interests therein that are retained interests by virtue of this section or of section thirty-four of this Act, and, in relation to any property or rights annexed to that coal or mine, as references to the corresponding interests therein;
 - (c) references to a retained copyhold interest shall be construed as references to an interest that is a retained interest by virtue of subsection (6) of this section.

Compensation of existing owners

6 Compensation payable in respect of acquisition as a whole

- (1) The Commission shall pay, as compensation to existing owners for the acquisition of their interests, sums ascertained in accordance with the provisions of this and the next succeeding section in respect of all coal and mines of coal, of all acquired property and rights, and of all rights to withdraw support that are to vest in the Commission under Part II of the Second Schedule to this Act.
- (2) The compensation shall be ascertained separately in accordance with the next succeeding section in respect of—
 - (a) all the said matters in respect of which compensation is to be payable, with the exception of—
 - (i) minerals or substances other than bituminous coal, cannel coal or anthracite, and property and rights annexed to any such minerals or

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- substances and not to any such coal or anthracite or to a mine thereof,
and
(ii) surface servitudes,
which matters are in this Act referred to as " principal coal hereditaments " ;
(b) the matters within the exception aforesaid, in this Act referred to as "
subsidiary coal hereditaments."
- (3) The aggregate amount of the compensation payable in respect of all principal coal hereditaments shall be the sum of sixty-six million, four hundred and fifty thousand pounds.
- (4) The Central Valuation Board established under the Third Schedule to this Act shall prepare and deposit with the Board of Trade a map showing a division of the whole of Great Britain into regions (in this Act referred to as " valuation regions "), and shall allocate to each valuation region a part (in this Act referred to as a " regional allocation") of the said sum of sixty-six million four hundred and fifty thousand pounds, being a part bearing the same proportion to the whole of that sum as they may estimate the value of all principal coal hereditaments in the region to bear to the value of all principal coal hereditaments in Great Britain.

7 Ascertainment and distribution of compensation

- (1) The sums to be paid for compensation as aforesaid shall be ascertained by valuation, in accordance with the provisions of this section, of the interests, other than retained interests, that subsist at the valuation date in coal, mines of coal and acquired property and rights (in this Act referred to as " acquired interests ").
- (2) The subject of each valuation shall be a unit (in this Act referred to as " a holding ") consisting of an acquired interest, or of a group of such interests, that is under the provisions of the Third Schedule to this Act to constitute a unit for compensation purposes.
- (3) In order for compensation to be payable in respect of any holding, the requirements of the Third Schedule to this Act as to—
(a) the registration of particulars under the Coal (Registration of Ownership) Act, 1937 (in this Act referred to as the "Registration Act"); and
(b) the making of claims for compensation;
must be satisfied within the limits of time specified in that Schedule.
- (4) The value of a holding shall be taken to be the amount which the holding might have been expected to realise if this Act had not been passed and the holding had been sold on the valuation date in the open market by the existing owners thereof, selling as willing vendors to a willing purchaser, under a contract providing for completion thereof on the vesting date, so however that, where a right to withdraw support is to vest in the Commission with coal or a mine of coal in which a holding subsisted, it shall be valued as if each of the existing owners thereof, having power to grant that right to the purchaser for an interest corresponding to the existing owner's interest in the coal or mine, had agreed so to grant it in addition to any acquired rights in which the holding subsisted.
- (5) The said amount shall be ascertained, subject to the provisions of the Third Schedule to this Act, by the Regional Valuation Board established under the Third Schedule to this Act, and where the premises in which a holding subsisted include subsidiary

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coal hereditaments, the Regional Valuation Board shall also ascertain the parts of that amount that are attributable to principal and to subsidiary coal hereditaments respectively.

- (6) The Regional Valuation Board shall certify to the Commission the amounts ascertained by them under the preceding subsection in respect of each holding in their region for which compensation is payable, indicating which of those amounts are amounts attributable to principal and to subsidiary coal hereditaments respectively.
- (7) There shall be paid in respect of each holding in any valuation region for which compensation is payable—
 - (a) a sum bearing to the amount certified in respect thereof as attributable to principal coal hereditaments the same proportion as the amount of the regional allocation for that valuation region bears to the aggregate of the amounts so certified in respect of all such holdings in that valuation region; and
 - (b) a sum equal to any amount certified in respect thereof as attributable to subsidiary coal hereditaments.
- (8) The sum or sums to be paid in respect of any holding shall be a debt due from the Commission to the person entitled, in accordance with the provisions of the Third Schedule to this Act, to the compensation for the holding, payable on the vesting date, and the said sum or sums, or, where any payment on account thereof is made, the part thereof for the time being remaining due, shall carry interest from the vesting date to the date of actual payment thereof at the rate per cent. equivalent to the average yield (as ascertained by the Treasury) as on the vesting date of the Government securities prescribed by the Treasury in accordance with the provisions of Part II of the Land Settlement (Facilities) Act, 1919.
- (9) Subject as aforesaid, the compensation payable under section six of this Act shall be ascertained and paid subject to and in accordance with the provisions of the Third Schedule to this Act.

Transitional provisions

8 Rights and obligations arising from contract for sale to have effect in respect of interim period

The rules of law and equity that regulate rights and obligations in relation to land that is the subject of a contract for sale in respect of the period between the date of the contract and the date fixed for completion thereof shall have effect in relation to the premises that are to vest in the Commission by virtue of this Part of this Act in respect of the interim period, subject to and in accordance with the following provisions, that is to say :—

- (a) the said rules shall have effect subject to such modifications as are requisite by virtue of the fact that the said premises are to vest by virtue of this Part of this Act in lieu of being conveyed;
- (b) full regard shall be had to the nature of the said premises in all respects and, in particular, in determining whether any act or omission involves a breach of the obligation imposed on a vendor by the said rules to take due care of land that is the subject of a contract for sale, no person shall be treated as under obligation to exercise any greater measure of care in relation to any of the said premises than is exercised under the ordinary practice of the management of

mineral estates by prudent owners in relation to property that is to continue in their ownership; and

- (c) the contract for sale to be assumed for the purposes of the said rules shall be a contract providing expressly that the vendor should be entitled to the possession and enjoyment of the property until the date fixed for completion and to the benefit of the rents and profits thereof accruing up to that date, and that rents and profits accruing, or coal worked, before that date from a mine of coal that is opened after the date of the contract should be treated in like manner as if the mine had been open at the date thereof.

9 Notice to the Commission, and effect, of dispositions made during interim period

- (1) Where it is proposed to grant during the interim period (otherwise than in accordance with the provisions of section twelve of this Act) a coal-mining lease of or comprising any premises that are to vest in the Commission by virtue of this Part of this Act, or to vary or renew such a lease, a draft of the proposed lease or other instrument must be delivered to the Commission at least two months before the date on which it is to be executed.
- (2) Where it is proposed to make during the interim period any other disposition of or affecting any of the said premises, notice in writing of the proposal may be delivered to the Commission.
- (3) A lease, variation, renewal or other disposition granted or effected pursuant to a proposal notified, to the Commission under either of the preceding subsections shall be deemed to have been granted or effected in conformity in all respects with the rules mentioned in the last preceding section unless, in proceedings commenced by the Commission within two months from the date on which they have been notified of the proposal, the Court makes a declaration that the proposal is not in conformity therewith.
- (4) If—
 - (a) any such lease, variation or renewal as is mentioned in subsection (1) of this section is granted or effected during the interim period otherwise than pursuant to a proposal notified to the Commission as required by that subsection ; or
 - (b) any such lease, variation or renewal as aforesaid, or any other disposition of or affecting any premises that are to vest in the Commission by virtue of this Part of this Act, is granted or effected during the interim period in such manner as to contravene any of the said rules;

then, unless it is so granted or effected with the consent of the Commission or is saved by the provisions of the last preceding subsection, it shall, so far as regards the title for which the premises in question vest in the Commission, be void, and any right accruing to the Commission to sue for damages in respect of any act or omission that contravenes any of the said rules may be enforced as well after as before the vesting date, notwithstanding that the Commission became aware thereof before that date.

10 Acquisition by the Commission of right to arrears of rent

It shall be within the competence of the Commission to take from the person entitled thereto an assignment of any debt due from a lessee in respect of rent payable before the vesting date for premises that are to vest or have vested in the Commission, and, in the case of such rent becoming payable at any time within the twelve months next

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before the vesting date, the Commission shall, on being required so to do by notice in writing served on them by the person entitled thereto at any time before the expiration of twelve months from the vesting date, take an assignment of any debt due from the lessee in respect thereof at a price to be determined by agreement between that person and the Commission or, in default of agreement, by arbitration.

11 Apportionment of rent and determination of questions on severance of subsisting leases

- (1) In the case of every coal-mining lease subsisting on the vesting date in the case of which either—
- (a) a severance of the reversion immediately expectant on the lease is effected, by the vesting in the Commission by virtue of this Part of this Act of that reversion as regards a part only of the premises which are comprised in the lease; or
 - (b) a severance of the interests arising under the lease is effected, by the vesting in the Commission by virtue of this Part of this Act of those interests as regards a part only of the premises which are comprised in the lease and the immediate reversion in which is vested in the Commission;

and the lease does not reserve separate rents for the several parts of the premises, the rent reserved by the lease shall be apportioned, and the parts of that rent to be apportioned to the several parts of the premises shall, in default of agreement between the Commission and any other person entitled in reversion immediately expectant on the lease and the lessee, be determined by an arbitrator selected by agreement between the parties or, in default of agreement, by the Lord Chancellor in the case of England or the Lord President of the Court of Session in the case of Scotland.

- (2) Where an apportionment of the rent reserved by a lease has been made for the purposes of a valuation of a part of the premises under the Third Schedule to this Act, an arbitrator shall have regard to that apportionment for the purposes of a determination under the preceding subsection.
- (3) In the case of every coal-mining lease subsisting on the vesting date in the case of which such a severance as aforesaid is effected as aforesaid, the Commission shall pay the costs reasonably incurred by any person in connection with a reference to arbitration under subsection (1) of this section, or with any application to the Court that may be requisite for the purpose of determining any question as to the rights or liabilities of any person under the lease that arises in consequence of the severance :

Provided that the arbitrator or the Court, as the case may be, may direct that the Commission shall not be liable to pay any such costs as aforesaid incurred by a person who appears to the Court to have made a reference or application or prosecuted proceedings thereon unreasonably, or to have been guilty of any such unreasonable failure to agree with the Commission or with any other party, or of any such negligence or default, as to disentitle him to payment of those costs; and, if it appears to the Court that the necessity for the determination of the question raised on an application arose in part only in consequence of such a severance as aforesaid, the Court may direct that the Commission shall be liable to pay a proportionate part only of such costs as aforesaid.

- (4) A Regional Valuation Board shall cause proper records to be kept of apportionments of rent made by them for the purposes of valuations made by them and of any alteration of any such apportionment made by a referee on a review of a valuation made by them,

and any entry in any book or other document kept for the purposes of this subsection, or a copy thereof upon which is endorsed a certificate purporting to be signed by a person authorised in that behalf by the Board stating that the copy is a true copy, shall in all legal proceedings be evidence of the entry and of the apportionment referred to.

12 Powers of the Commission for consolidation of leases before the vesting date

- (1) Where rights to work a number of parcels of coal are subsisting under a number of coal-mining leases in the same working lessee and it appears to the Commission that it is expedient that arrangements should be made during the interim period for the working of that coal as a whole under a single lease, the Commission may make, in agreement with the working lessee, a scheme for the purposes of this section (in this section and in the Fourth Schedule to this Act referred to as a " lease consolidation scheme ").
- (2) A single lease to be granted pursuant to a lease consolidation scheme that relates to any colliery area must comprise all the coal and mines of coal in that colliery area.
- (3) The provisions of the Fourth Schedule to this Act shall have effect as to the procedure for making, and as to the operation of, a lease consolidation scheme.
- (4) In connection with each lease consolidation scheme, provision shall be made in the manner specified in the Fourth Schedule to this Act for ascertaining an amount (in this section and in that Schedule referred to as the " standard amount of rent ") representing the amount of rent which, after deduction of income tax, mineral rights duty and royalties welfare levy, might reasonably have been expected to become receivable, if the scheme had not been made, in right of each reversion (whether immediate or superior) on a subsisting working lease in premises that are to be comprised in the single lease, for each half year (or other period in respect of which rent is to be receivable under the single lease) between the coming into operation of the scheme and the vesting date.
- (5) If the amount of the rent receivable, after such deduction as aforesaid, under the single lease, in respect of the premises comprised therein, being premises that were comprised in any of the subsisting working leases, for any period for which standard amounts of rent are fixed in connection with the scheme, is less than the aggregate of those standard amounts, the Commission shall pay to the person entitled to recover that rent such a sum as after deduction of income tax will yield an amount equal to the deficiency, and any sum so paid for any period shall be deemed to be income for that period of the respective persons entitled beneficially to that rent.
- (6) If the amount of the rent receivable as aforesaid is greater than the aggregate aforesaid, the person entitled to recover that rent shall pay to the Commission an amount equal to the excess.
- (7) In this section and in the Fourth Schedule to this Act—
 - (a) the expression " colliery area " means an area comprising all parcels of coal which are capable of being conveniently and economically worked to the shafts of a single colliery, and in respect of which the same person is working lessee;
 - (b) the expression " working lessee" means, in relation to any parcels of coal, a person carrying on the business of coal-mining who has rights to work those parcels by virtue of a number of coal-mining leases held by him in possession

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(that is to say not subject to any under-lease) or so held by another for his benefit; and

- (c) the expression " subsisting working lease " means a coal-mining lease which comprises any coal in a colliery area to which a lease consolidation scheme relates and which is held as aforesaid by or for the benefit of the working lessee.

13 Right of freeholder of coal, who carries on coalmining business, to lease thereof

- (1) A person carrying on the business of coalmining immediately before the vesting date, who is then beneficially entitled (whether or not subject to a mortgage) to the entire fee simple in coal or a mine of coal that is not subject at that date to any coal-mining lease, shall have the right, if he has made an application in writing in that behalf to the Commission before the vesting date, to a grant from the Commission of a coalmining lease comprising any coal or mine of coal specified in his application to which he is so entitled and any property and rights that vest in the Commission therewith :

Provided that—

- (a) the right under this section to a grant of a lease of any coal or mine shall be conditional upon the applicant's satisfying the requirements of the Third Schedule to this Act as to the registration of particulars thereof under the Registration Act and the making of a claim for compensation for the fee simple therein, and to his complying with the provisions of that Schedule that impose upon him any duty in connection with the valuation of the fee simple therein; and
- (b) a person shall not be entitled under this section to a lease the grant of which would interfere with the exercise of a right granted by a working facilities order, or with the use or exercise under a coal-mining lease of any property or right comprised therein.
- (2) A lease granted under this section shall be granted for such a term, commencing on the vesting date, as the person entitled to the lease may require, not being longer as regards the coal comprised therein than may be reasonably requisite for enabling that coal to be worked out, and subject to conditions with respect to rent and otherwise which shall not in any case be more onerous to the lessee than the conditions customary in the district or, where there are no customary conditions or the customary conditions are not applicable, than the conditions to which a person not entitled to the benefit of this section might reasonably have been expected to agree; and the conditions of the lease shall, where the person entitled thereto acquired the fee simple in the coal before the tenth day of November nineteen hundred and thirty-seven, be so framed as to secure that his financial position in respect of his business of working the coal shall neither be adversely affected nor improved by the fact that, in lieu of his remaining entitled to the fee simple in the coal, compensation of the amount ascertained under section seven of this Act becomes payable in respect thereof, and he becomes liable to a periodical payment of rent of an amount fixed by reference to the time requisite for enabling the coal to be worked out, and ceases to be liable as proprietor thereof for the payment of mineral rights duty and royalties welfare levy.
- (3) The provisions of the Fifth Schedule to this Act shall have effect with respect to the granting of leases under this section, and the substitution or variation of securities in the case of premises that were subject to a mortgage.

- (4) No stamp duty shall be chargeable upon a lease granted, and expressed to be granted under this section, or upon a substituted security, or an instrument making provision for the variation of a subsisting security, made and expressed to be made pursuant to the provisions of the Fifth Schedule to this Act.

14 Provisions as to documents and information for purposes of Part I

- (1) The lessee under every coal-mining lease subsisting at the date of the passing of this Act, or granted between that date and the valuation date, shall within one month from the date of the passing of this Act or of the grant of the lease, as the case may be, deliver to the Commission notice in writing of the subsistence of the lease stating the date thereof and the parties thereto and indicating generally the situation of the premises comprised therein, and, if required by the Commission so to do, shall deliver to the Commission within one month after being so required a copy of the lease or, if the lease is by parole, a statement in writing setting out all the terms of the lease.

A person required by this subsection to deliver a copy of a lease or a statement shall be entitled to be paid by the Commission all costs reasonably incurred by him in the preparation and delivery thereof.

- (2) On the vesting date the property in, and the right to possession of, the following documents relating solely to the management of coal or a mine of coal shall vest in the Commission, that is to say, all plans, sections, records of survey and other similar documents, that belonged immediately before the vesting date to a person interested in coal or a mine of coal, other than—
- (a) documents that belonged to a person having a retained interest and that relate to the premises in which that interest subsists;
 - (b) documents that belonged to a person who has duly made application under section thirteen of this Act for a grant from the Commission of a lease of any premises and that relate to those premises; and
 - (c) documents which, whilst relating solely to the management of coal or a mine of coal, relate to matters of management that touch or concern other land in which the person to whom the documents belonged is interested at the vesting date.
- (3) Where after the vesting date a person retains possession of any document relating to the title to, or to the management of, coal or a mine of coal, he shall be deemed to have given to the Commission an acknowledgment in writing of the right of the Commission to production of that document and to delivery of copies thereof, and section sixty-four of the Law of Property Act, 1925, shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.
- (4) Any person authorised in writing by the Commission, by the Central Valuation Board or by a Regional Valuation Board, a referee appointed under the Third Schedule to this Act and any person authorised in writing by such a referee, shall be entitled, on production in the case of a person authorised as aforesaid of his authority if so required, with or without workmen or other assistants at all reasonable times to enter upon, inspect and examine any premises where operations for coal-mining purposes or purposes connected therewith are carried on and to take plans and measurements of workings therein and to inspect all or any plans, sections, or particulars of such premises or workings, and to use free of charge all machinery and other facilities therein requisite or convenient for the exercise of any of the powers aforesaid, and

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it shall be the duty of all persons competent in that behalf to refrain from any act which might obstruct, and to give all assistance requisite for, the exercise of the powers conferred by this subsection.

- (5) Any person who makes default in compliance with the provisions of subsection (1) of this section, or who, on being duly required by virtue of the provisions of subsection (3) or (4) of this section to produce any document or to do or refrain from doing any other act, makes default without reasonable cause or excuse in complying with the requirement, shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding fifty pounds, and to a further fine, not exceeding ten pounds, for every day on which he is in default.

Provisions supplemental to, and consequential on, unification

15 Powers of the Commission in relation to underground land other than coal

In respect of any underground land not vested in them by virtue of this Part of this Act, the Commission shall themselves have the right, and shall have power to grant a licence to any person, to do any of the following acts in the course of operations carried on for coalmining purposes on or after the vesting date, that is to say, to enter upon, remove, execute works in, pass through and occupy any such land and to do all such other acts in relation to any such land as are requisite or convenient for the purposes of any such operations :

Provided that neither the Commission nor a person to whom a licence has been granted under this section shall be entitled by virtue of this section or of the licence—

- (a) to interfere with the carrying on of underground operations carried on for a purpose other than a coal-mining purpose;
- (b) to interfere with the surface of any land;
- (c) to withdraw support from any land;
- (d) to do any other act in respect of any land which, if this section had not been enacted, would be actionable by virtue of any servitude, restrictive covenant, or statutory prohibition or restriction adversely affecting that land; or
- (e) to do any other act which, if this section had not been enacted, would be actionable as a trespass or as a nuisance and which, if done, would be likely to cause actual damage other than of a purely nominal amount.

16 Commission to have exclusive right to search and bore for coal

On and after the vesting date it shall not be lawful for any person, other than the Commission or a person authorised by them so to do, or a person having the right so to do by virtue of a retained interest subject to which the coal in question is vested in the Commission, to search or bore for coal.

17 Coal not to be alienated from the Commission

- (1) A power to acquire land compulsorily conferred by or under any enactment (including, unless the contrary intention appears therein, an enactment passed after the date of the passing of this Act) shall not be exercisable on or after the date of the passing of this Act in respect of any coal or mine of coal, other than coal that is necessary to be dug or carried away in the course of operations for the purposes of which the power is conferred or a mine that is necessary to be used in the course of such operations.

- (2) No right adverse to the title to any coal or mine of coal vested in the Commission by virtue of this Part of this Act shall be capable of being acquired under the Real Property Limitation Acts, 1833, 1837, and 1874, or any of them or under any enactment (including, unless the contrary intention appears therein, an enactment passed after the date of the passing of this Act) that amends, or repeals and re-enacts any of those Acts.
- (3) The Commission shall not alienate for any freehold interest any coal or mine of coal, other than coal that is necessary to be dug or carried away in the course of operations for purposes other than coal-mining or a mine that is necessary to be used in the course of such operations, or coal present among other minerals that is of so small value that the working thereof is unlikely to be undertaken except as an operation subsidiary to the working of those other minerals, or a mine used primarily for purposes other than coal-mining.
- (4) In this section references to coal shall not be construed as including references to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act.
- (5) Nothing in the foregoing provisions of this section shall affect the acquisition or granting of a servitude adversely affecting coal or a mine of coal, or the acquisition or granting under any enactment of any liberty, privilege, easement, right or advantage, adversely affecting coal or a mine of coal.

18 Coal not to be dealt with to the prejudice of the Commission after passing of this Act

As from the date of the passing of this Act until the valuation date, all persons interested in coal or a mine of coal shall be treated as holding their respective interests in a fiduciary capacity for giving effect to the provisions of this Part of this Act, and as being subject accordingly to an obligation to refrain from any dealing therewith (not being a disposition or other dealing which might reasonably have been effected in the ordinary course of business if this Act had not been passed) calculated to give a factitious or artificial value to a holding or to prejudice the interests or powers to be acquired by the Commission under this Part of this Act.

19 Restriction on certain dispositions by lessees of coal

- (1) On and after the valuation date no term of years in coal or a mine of coal shall be capable of being created either at law or in equity by way of underlease out of a term of years therein :

Provided that this subsection shall not apply to the creation as aforesaid of a term of years by way of mortgage or pursuant to a lease consolidation scheme made under section twelve of this Act, or to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act or to a mine thereof.
- (2) In every lease granted by the Commission there shall be implied, and every coal-mining lease the immediate reversion whereon is vested in the Commission by virtue of this Part of this Act, either as to the whole or as to part of the premises comprised therein, shall have effect as from the vesting date as if it had contained, a covenant on the part of the lessee or of the lessees jointly and severally, as the case may be, not to assign or to part with the possession of any coal or mine of coal comprised therein without first obtaining the written consent of the Commission (which may be withheld

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without reason given and at the sole discretion of the Commission), and a condition of re-entry in the event of a breach of the said covenant:

Provided that, where such a lease as aforesaid comprises premises the immediate reversion wherein is vested in the Commission and other premises, the condition of re-entry shall extend only to the first-mentioned premises.

- (3) The covenant mentioned in the last preceding subsection shall have effect as a covenant to which section seventy-nine of the Law of Property Act, 1925, applies and which does not contain any such expression of contrary intention as is therein mentioned.

20 Provision as to arbitration

On and after the valuation date, a clause shall be included in all leases of coal or mines granted by the Commission providing for arbitration in the case of any dispute between the Commission and the lessee in respect of any provision of the lease or any matter arising therefrom.

21 Power of the Court to appoint receiver and manager on the application of the Commission

In any proceedings in which the Commission claim to recover possession of premises vested in them from a lessee thereof, or other relief in respect of a breach by the lessee of his obligations under the lease, the Court in which the proceedings are pending may, on the application of the Commission, make such order as it thinks fit for the purpose of enabling operations for coal-mining purposes to be carried on on the premises, or for the preservation thereof, during the continuance of the lease and during any period that may elapse between a determination thereof and the granting of a new lease, and the provision to be made by any such order may include the appointment of a receiver of the rents and profits of the premises, with liberty, subject to such terms and conditions as the Court may think fit to impose, to manage the undertaking, to use for the purposes of the order any fixed or movable plant or machinery of the lessee in or upon the premises, and to do all such other acts and things as may be or become requisite for those purposes.

22 Amendments of working facilities enactments

- (1) Section one of the Mines (Working Facilities and Support) Act, 1923, and subsection (1) of section thirteen of the Mining Industry Act, 1926 (which relate to the granting by the Railway and Canal Commission of rights to search for or work minerals), shall, on the vesting date, cease to have effect as respects coal within the meaning of this Part of this Act:

Provided that—

- (a) this subsection shall not apply to the granting of a right required by reason of the subsistence of a retained copyhold interest; and
- (b) this subsection shall not affect the power conferred on the Railway and Canal Commission by section eighteen of the Railway and Canal Traffic Act, 1888, to review and rescind or vary a working facilities order subsisting on the vesting date.

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- (2) 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 to concur in an adjustment of boundaries) on the ground of any failure or refusal on the part of the Commission.
- (3) To the rights specified in paragraphs (a) to (e) of subsection (2) of section three of the Mines (Working Facilities and Support) Act, 1923 (which specifies certain ancillary rights that may be conferred where required in order that minerals may be properly and conveniently worked) there shall be added the following right, so far as it may be required in order that coal within the meaning of this Part of this Act may be properly and conveniently worked, that is to say—
 - “(f) In a case in which the surface has been used for the erection of any works for a coalmining purpose within the meaning of Part I of the Coal Act, 1938, or of dwellings for persons employed in connection with the working of coal within the meaning of that Part of that Act, or with any such works as aforesaid or as are mentioned in paragraph (c) of this subsection, a right to use and occupy the works or dwellings for the purposes for which they were erected.”
- (4) Where such a right as is specified in the last preceding subsection is to be granted on the termination of a lease, and a right to erect or use the works or dwellings was comprised in that lease, the Railway and Canal Commission, in determining whether any compensation or consideration is to be paid or given in respect of the right to be granted by them and the amount thereof, if any, shall have regard to the fact that the right comprised in the lease was therein comprised and to the amount of any rent reserved by the lease in respect thereof.
- (5) In subsection (2) of section ten of the Mines (Working Facilities and Support) Act, 1923, there shall be inserted, after the words " The Board of Trade and any other Government Department " , the words " and the Coal Commission " .
- (6) Any right which under the Mines (Working Facilities and Support) Act, 1923, or under section thirteen of the Mining Industry Act, 1926, may be granted to a person having the right to work coal may be granted to the Commission where required by them for the purpose of searching and boring for coal.

Financial provisions

23 Receipts of, and payments by, the Commission

All sums received by the Commission shall be paid into a separate fund, to be called " the Coal Fund ", and all payments by the Commission shall be made out of that fund.

24 Reserve fund of the Commission

- (1) The Commission shall establish a reserve fund, and shall carry to the credit of that fund, immediately after their accounts for each financial year have been made up, an amount equal to any excess of their revenues for that year over their liabilities for that year properly chargeable to revenue account, whether in respect of salaries, allowances, remuneration, pensions, gratuities or expenses payable under the First or Third Schedule to this Act or of other administrative expenses, of interest on any loan raised or stock issued by them, of any sums which by the terms of the raising or issue

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of any such loan or stock they are bound to set aside towards the repayment of the principal thereof, or of any other matter involving a liability properly so chargeable (which excess is in this and the next succeeding section referred to as the Commission's "annual surplus").

- (2) The reserve fund shall be applicable primarily for the purposes of meeting any deficiency at any time arising on the revenue account of the Commission and of meeting any extraordinary claim or demand at any time arising against the Commissions, and the Board of Trade shall from time to time, with the approval of the Treasury, by regulation prescribe—
 - (a) an amount, in this and the next succeeding section referred to as "the prescribed minimum reserve", being such an amount as may be required by the Board with the approval of the Treasury to be held for the time being to the credit of the reserve fund for answering those purposes; and
 - (b) an amount, in this and the next succeeding section referred to as "the prescribed appropriation to reserve", being such an amount as may be required by the Board with the approval of the Treasury to be made available for carrying to the credit of the reserve fund at the end of each financial year of the Commission whilst the regulation remains in force.
- (3) At any time at which the value of the reserve fund is greater than the prescribed minimum reserve, the Commission may apply a part thereof, not exceeding in value the amount of the excess, in purchasing for cancellation stock issued by them under this Part of this Act or otherwise for the redemption of debt.
- (4) Sums credited to the reserve fund shall be invested from time to time in such securities of the Government of the United Kingdom as the Commission may, with the approval of the Board of Trade, think fit, and references in this and the next succeeding section to the value of the reserve fund or of any part thereof shall be construed as references to the value of the investments and cash of which the reserve fund or that part thereof consists, as determined by the Treasury.
- (5) If any question arises as to whether any liability of the Commission ought to be treated as properly chargeable to revenue account, or any claim or demand arising against the Commission ought to be treated as of an extraordinary character, it shall be referred to the Board of Trade whose decision shall be conclusive.

25 Reduction by the Commission of rents

- (1) If at any time, on an estimate made by the Commission, it appears to them that their annual surplus for future financial years is likely on the average to exceed the amount which is at that time the prescribed appropriation to reserve, they may reduce any such rents within their control as are specified in the next succeeding subsection by amounts not exceeding in the aggregate one-half, or if the value of the reserve fund is then greater than the prescribed minimum reserve the whole, of the estimated excess of their annual surplus over the prescribed appropriation to reserve.
- (2) The rents which may be reduced under the preceding subsection shall be any of the following at the discretion of the Commission, that is to say,—
 - (a) rents payable in respect of underground way-leaves, whether expressly reserved in respect thereof or not;
 - (b) rents payable by particular lessees working coal in any district or part of a district which are, having regard to all the circumstances, more onerous

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than the average of the rents payable by lessees working coal under similar conditions in that district or part of a district; and

- (c) rents payable by lessees generally working coal in any district or part of a district which are, having regard to all the circumstances, more onerous than the average of the rents payable by lessees generally working coal under similar conditions in other districts or in another part of that district:

Provided that, if at any time the Commission report to the Board of Trade that such reduction of rents as they have power to effect under the foregoing provisions of this subsection has been substantially completed, the Board of Trade may make and lay before Parliament an order making provision to the effect that the preceding subsection shall apply to rents within the control of the Commission generally or to any class of such rents, and, if each House of Parliament resolves that the order be approved, the order shall have effect from such date as the Board, of Trade may appoint.

- (3) Subject as aforesaid the Commission shall not reduce any rent during the currency of the lease by which it is reserved, and in granting leases the Commission shall reserve the best rent which in their opinion can reasonably be obtained, regard being had to any power to reduce rents for the time being exercisable by them in accordance with the preceding provisions of this section, to any money laid out or to be laid out by the lessee and generally to the circumstances of the case :

Provided that—

- (a) this subsection shall have effect without prejudice to the right of the Commission, in a case in which it appears to them requisite for the proper discharge of their duty under section two of this Act so to do, to grant relief to a lessee from payment of particular instalments of rent reserved by a lease; and
 - (b) the Commission may reduce the rent reserved by a lease, or may grant a lease reserving a rent less than the best rent, if they are satisfied that other provision made by the lease in consideration of their so doing affords a financial advantage substantially equivalent in value to the amount of the reduction or to the amount by which the rent is less than the best rent, as the case may be.
- (4) In this section the expression " district " means the area for the time being treated under the Coal Mines (Minimum Wage) Act, 1912, as a district for the purposes of the minimum rate.

26 Power of the Commission to borrow

- (1) For the purposes hereinafter mentioned the Commission may, in accordance with regulations made by the Board of Trade with the approval of the Treasury, borrow money in such manner and subject to such provisions as to the repayment thereof and as to re-borrowing for the purpose of paying off a loan previously raised as may be prescribed by the regulations.
- (2) The regulations may empower the Commission to borrow temporarily from bankers or otherwise, and may apply with or without modifications any enactment relating to borrowing by any local authority.
- (3) Except in the case of a temporary borrowing from bankers or otherwise for the purpose of defraying, pending the raising of a loan, expenses intended to be defrayed by means of the loan, the consent of the Board of Trade shall be requisite as respects the times

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at which the Commission are to exercise the powers of borrowing conferred on them by this Part of this Act.

27 Purposes for which the Commission may borrow

- (1) Subject to the provisions of this section, the Commission may borrow for all or any of the following purposes:—
 - (a) the payment of the principal sums payable by way of compensation under section six of this Act and of the interest on those sums;
 - (b) the payment of the sums payable by the Commission under the Registration Act, or this Part of, or the Third, Fourth or Fifth Schedule to, this Act, in respect of costs;
 - (c) the payment of the sum payable by the Commission under this Act to the Board of Trade in respect of the expenses incurred by the Board under the Registration Act;
 - (d) the payment of the sums payable by the Commission under paragraph 5 of the Third Schedule to this Act in respect of remuneration and expenses;
 - (e) the payment of interest accrued up to the first anniversary of the vesting date on money borrowed by the Commission, of the administrative expenses of the Commission incurred before the said first anniversary, and of any other expenditure properly incurred by the Commission before the said first anniversary on revenue account;
 - (f) the payment of any sums payable by the Commission in respect of assignments to them of debts due in respect of rent payable before the vesting date;
 - (g) any purpose within the powers of the Commission the cost of which ought in the opinion of the Board of Trade to be spread over a term of years.
- (2) Any money borrowed under this section and the interest thereon shall be charged on all the property and revenues of the Commission.
- (3) The Commission shall not have power to borrow under subsection (1) of this section more than the aggregate of amounts sufficient to raise seventy-six million, four hundred and fifty thousand pounds.
- (4) The Commission may borrow for the purpose of paying off moneys previously borrowed by them under subsection (1) of this section or under this subsection which are intended to be repaid, so far as provision has not been made for the repayment of those moneys under the regulations in accordance with which they were borrowed.

28 Power of the Commission to issue stock

- (1) The Commission may, for the purpose of raising money which they are authorised to borrow under this Part of this Act, create and issue stock to be called Coal Commission Stock.
- (2) Any stock issued by the Commission and the interest thereon shall be charged on all the property and revenues of the Commission.
- (3) Subject to the provisions of this Act, any stock created by the Commission shall be issued, transferred, dealt with and redeemed in accordance with regulations made by the Board of Trade with the approval of the Treasury.

- (4) Any such regulations may apply for the purposes of this section, with or without modifications, any provisions of the Local Loans Act, 1875, or of any enactment relating to stock issued by any local authority.

29 Power of the Treasury to guarantee loans raised by the Commission

- (1) The Treasury may guarantee in such manner and on such conditions as they think fit the payment of the principal and interest on any loan proposed to be raised by the Commission.
- (2) Any sums required by the Treasury for fulfilling any guarantee given under this section shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof, and any sums received by way of repayment of any sums so issued or of interest thereon shall be paid into the Exchequer.
- (3) All the property and revenues of the Commission shall be charged with the repayment of any sums so issued out of the Consolidated Fund, including interest thereon at such rates as the Treasury may determine, next after the principal and interest of any loan guaranteed by them under this section and any sums which by the terms of the raising or issue of any such loan the Commission are bound to set aside towards the repayment of the principal thereof, and in priority to any other charge not existing at the date on which the loan in respect of which such issue has been made from the Consolidated Fund was raised.
- (4) The Treasury shall, so long as any such guarantee is in force, lay before both Houses of Parliament within one month after each thirty-first day of March a statement of the guarantees, if any, given during the last preceding year ending on that date, and an account of the total sums, if any, which have up to that date been either issued out of the Consolidated Fund under this section or received by way of repayment of any sums so issued.

30 Commission's accounts and audit thereof

- (1) The Commission shall prepare accounts of their transactions in respect of the period between the date of the passing of this Act and the thirty-first day of March next following and of each subsequent period of twelve months (each of which periods shall be deemed to be a financial year of the Commission) in such form and manner as the Board of Trade, with the approval of the Treasury, may direct, and shall transmit the accounts to the Board of Trade at such time as the Board, with the approval of the Treasury, may direct.
- (2) The Board shall, on or before the thirtieth day of November in each year transmit to the Comptroller and Auditor General the accounts prepared by the Commission under the preceding subsection for their financial year last ended, and the Comptroller and Auditor General shall examine and certify them and lay copies thereof, together with his report thereon, before both Houses of Parliament.

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Miscellaneous

31 Commission not to be exempt from taxation, and c

Nothing in this Act shall be deemed to exempt the Commission from liability for any tax, duty, rate, royalties welfare levy, or other charge whatsoever, whether general or local.

32 Competence of the Commission to acquire certain interests and rights

- (1) It shall be within the competence of the Commission to acquire—
 - (a) a retained copyhold interest in coal or a mine of coal;
 - (b) the fee simple or a term of years or other interest in any minerals or substances other than coal that are capable of being economically gotten in association with the working of coal that is being, or is proposed to be, worked; and
 - (c) the benefit of any right to be exercised in respect of any land for a coal-mining purpose.
- (2) The provisions of section fifteen of this Act shall have effect in relation to minerals acquired by the Commission under this section as if the references therein to operations for coal-mining purposes included references to operations for the like purposes as regards those minerals.

33 Restriction on working of coal vested in statutory undertakers

- (1) Subject to the provisions of this section, coal the fee simple in which is at the date of the passing of this Act vested in statutory undertakers (that is to say, a local authority, company or other body or person authorised by or under an Act of Parliament, or an order having the force of an Act of Parliament, to construct, work, or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, sewage disposal, or other public undertaking), having been acquired, under powers in that behalf conferred by any such Act or order as aforesaid, for the purposes of their undertaking, shall vest in the Commission subject, in addition to the matters mentioned in subsection (4) of section four of this Act, to the restriction that the coal shall not be worked without the previous consent in writing of the persons in whom the undertaking is for the time being vested.
- (2) The foregoing subsection shall not apply to any such coal as aforesaid in a case in which the undertakers are not at the date of the passing of this Act interested in any land supported thereby, and, where any such coal as aforesaid vests in the Commission subject to the restriction aforesaid, the restriction shall have effect so long only as the persons in whom the undertaking is for the time being vested are interested in land supported thereby.
- (3) Subsection (1) of this section shall not apply to any such coal as aforesaid which is subject at the date of the passing of this Act to a coal-mining lease.
- (4) A restriction imposed by this section shall not have effect in relation to working carried on in exercise of a right subject to which the coal in question vests in the Commission by virtue of this Part of this Act.

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- (5) A consent in relation to a restriction imposed by this section shall not be unreasonably withheld, but this provision does not preclude the right of undertakers whose consent is sought—
- (a) to give consent subject, as far as may be reasonably requisite, to a condition that working shall not be such as to let down any land in which the undertakers are interested, or shall be limited to working in particular places or in a particular manner, or to other conditions or limitations as regards the working consented to or the payment of proper compensation for, or the making good of, damage arising therefrom; or
 - (b) to require, as a condition of consent, payment of a reasonable sum in respect of any legal or other expenses incurred in connection with the consent.

Any question arising under this subsection shall be referred to and determined by the Railway and Canal Commission, who shall have power to dispense with consent either without conditions or limitations or subject to any such conditions or limitations as aforesaid. In determining any such question the Railway and Canal Commission shall have regard primarily to the safety and efficient working of the undertaking in question.

- (6) A restriction imposed by this section shall be enforceable by the persons in whom the undertaking is for the time being vested in the like manner, and against the like persons, as if it had been imposed by a covenant entered into by the Commission on the vesting date.
- (7) A holding subsisting in coal that is to vest in the Commission subject to a restriction imposed by this section shall (notwithstanding the provisions of section seven of this Act which require the value of a holding to be ascertained by reference to the amount which it might have been expected to realise if this Act had not been passed) be valued as if provision had been made before the valuation date for that restriction to take effect on the vesting date.

34 Saving for certain statutory rights

- (1) The matters subject to which by virtue of section four of this Act the vesting in the Commission of any coal, mine of coal, property or rights is to take effect, and the contract referred to in that section for the sale of any coal, mine of coal, property or rights is to be deemed to have been made, shall include the following rights, that is to say :—
- (a) any right vested in a railway company by virtue of the provisions substituted by Part II of the Mines (Working Facilities and Support) Act, 1923, for sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, or by virtue of those sections as originally enacted, any right vested in undertakers by virtue of sections twenty-two to twenty-six of the Waterworks Clauses Act, 1847, and any right vested by virtue of those provisions or of those sections respectively in any other person in a capacity corresponding to that of the company or undertakers thereunder;
 - (b) any right vested in a local authority by virtue of the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883; and
 - (c) any right to prevent or restrict the working of coal vested in the Crown or in any local authority, highway authority or statutory undertakers by virtue of any enactment or of any order having effect, with or without confirmation by Parliament, under any enactment;

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and those rights shall not be treated for the purposes of this Part of this Act as constituting or conferring any interest in the coal or mine in respect of which they are exercisable.

- (2) An interest in coal or a mine of coal that arises under a coal-mining lease, the lessee whereunder is a Committee appointed for the purposes of a drainage scheme made under section eighteen of the Mining Industry Act, 1920, shall be a retained interest, and any such Committee that is immediately before the vesting date entitled to the fee simple in any coal or mine of coal held by them for the purposes of such a scheme as aforesaid shall have the right, on making application in writing in that behalf to the Commission, to a grant from the Commission of a coal-mining lease thereof at a peppercorn rent for such term and on such conditions as they may reasonably require.

Provisions as to registration, valuation, &c

35 Execution of Registration Act and amendment as to inspection of the register

- (1) The functions of the Board of Trade under the Registration Act, other than any power thereby conferred on the Board to make rules, are hereby transferred to, and shall be performed by, the Commission, and the Registration Act shall accordingly have effect with the substitution for references to the Board of references to the Commission.

- (2) The Commission shall pay to the Board a sum equal to the expenses incurred by the Board under the Registration Act, and section two of that Act shall cease to have effect.

Any difference arising between the Commission and the Board as to the amount payable under this section by the Commission shall be determined by the Treasury, and any sum so payable shall be recoverable as a debt due from the Commission to the Crown and, when received by the Board, shall be paid into the Exchequer.

- (3) As from the vesting date the particulars registered in respect of a holding in the case of which notice of the registration has been duly given to the Regional Valuation Board under the Third Schedule to this Act shall be open to the inspection of the public at all convenient times, subject to such regulations as may be prescribed, and subsection (7) of section one of the Registration Act shall have effect subject to this provision.
- (4) The obligation of the Commission under subsection (2) of section one of the Registration Act to receive an application made under that Act in respect of any holding shall cease at the expiration of the period within which such an application is required by the Third Schedule to this Act to be made in order for compensation to be payable in respect of the holding.

36 Limitation as to information required to be given under the Registration Act

- (1) Where it appears to a person who is required to give information for the purposes of the Registration Act of the circumstances of a holding relevant to any matter particulars whereof may be registered under that Act, that complete information thereof would include information of no material importance for valuation purposes as to rights annexed to coal or a mine that affect adversely numerous small parcels of land, or would include any other information of no material importance for valuation purposes, he shall be deemed to have complied with the requirements of that Act as to the information to be given with respect to that matter if he gives with respect thereto such information as the Commission indicate to be in their opinion of material importance

for valuation purposes, notwithstanding that the information does not extend to all the circumstances of the holding relevant to that matter.

- (2) The preceding subsection shall have effect in a case in which a person gives or has given with respect to any such matter as aforesaid such information as the Board of Trade have, before the date of the passing of this Act, indicated to be in their opinion of material importance.
- (3) Registered particulars, or draft particulars settled by the Commission, shall not be open to objection as being incomplete, or as omitting relevant particulars, by reason of their not recording any circumstances of a holding being circumstances information whereof is of no material importance for valuation purposes.
- (4) Regard shall be had to the foregoing provisions of this section in determining whether any costs the payment whereof is claimed under the Registration Act were reasonably incurred.

37 Extension of time limit on applications for registration in respect of which costs are to be payable

The period specified in sub-paragraph (3) of paragraph 5 of the Second Schedule to the Registration Act as the period within which applications for registration of particulars in respect of a holding must be made in order for such costs as are therein mentioned to be payable shall be extended so as to terminate (without prejudice to the provisions of that sub-paragraph as to cases in which sufficient cause is shown for no application having been made within the specified period) on the valuation date, or, in the case of a holding coming into existence within six months before that date, at the expiration of six months from its coming into existence, or, in the case of a holding constituted by virtue of rules made under paragraph 2 of the Third Schedule to this Act, on such later date as may be prescribed :

Provided that this section shall not have effect in relation to a holding that is ultimately certified to have no value.

38 General power to extend time limits

Where any period or date is specified in this Part of this Act or prescribed thereunder as the period within which or the date on or before which any act or thing is to be done by any person other than the Commission, the Commission shall have power, on application being made to them in that behalf, to extend that period or to fix a later date for the doing of that act or thing:

Provided that this section shall have effect, in relation to an act or thing to be done to or before the Board of Trade, with the substitution for the reference to the Commission of a reference to the Board.

39 Limitation of costs payable in case of disputes between adverse claimants

The provisions of this Part of this Act and the provisions of the Registration Act with respect to the payment of costs by the Commission (other than the provisions of section eleven of this Act) shall have effect subject to the following limitation, namely, that their liability shall not extend to costs incurred, after the date of the passing of this Act that are occasioned by any proceedings for the determination of disputes between adverse claimants, and in giving effect to the provisions of this section regard shall be

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had so far as practicable to the principles observed in giving effect to the corresponding provisions of section eighty of the Lands Clauses Consolidation Act, 1845.

40 Persons to act for purposes of valuations, and c, in case of death or incapacity

In the application of the provisions of this Part of this Act and of the Third, Fourth and Fifth Schedules to this Act that relate to the valuation of holdings, to registration or rectification of the register under the Registration Act, or to the preparation of leases or other instruments or of lease consolidation schemes, to a case in which a person, by or to whom any notice is required or authorised to be given, information furnished, or other act or thing done for the purposes of proceedings under those provisions, dies or is or becomes otherwise unable to act, references in those provisions to that person shall be construed as including references to a person substituted for that person in accordance with rules made by the Board of Trade.

Application and interpretation of Part I

41 Application of Part I to registered land

This Part of this Act shall have effect in relation to premises that are registered land within the meaning of the Land Registration Act, 1925, as if they had not been registered land, and all rights and title conferred on the Commission by this Part of this Act shall be overriding interests within the meaning of that Act.

42 Application of Part I to the Crown and the Duchy of Cornwall

- (1) This Part of this Act binds the Crown and shall accordingly apply to land belonging to His Majesty or forming- part of the possessions of the Duchy of Cornwall, or belonging to a Government department or held in trust for His Majesty for the purposes of a Government department:

Provided that paragraph (b) of subsection (4) of section three of this Act shall not bind the Crown as regards gold, gold ore, silver or silver ore, and accordingly the expression " coal" in this Part of this Act shall not in any case include those minerals or substances.

- (2) In the application of the provisions of the Third Schedule to this Act that relate to the payment and disposal of compensation payable under section six of this Act to holdings that consist of or comprise interests in land specified in the preceding subsection, those provisions shall have effect subject to the following modifications, that is to say, that the persons entitled to the compensation for such holdings shall be the persons specified in the second column of the Table set out at the end of that Schedule in the case of holdings consisting of or comprising interests in the lands respectively specified in the first column of that Table, and those persons shall, notwithstanding anything in any other enactment, dispose of the principal sums and interest attributable to such interests in the manner specified in the third column of that Table.
- (3) In this section and in the said Table, " possessions of the Duchy of Cornwall " has the meaning assigned to it by section thirty-seven of the Duchy of Cornwall Management Act, 1863, and " private estates of His Majesty " has the meaning assigned to it by section one of the Crown Private Estates Act, 1862.

43 Application of Part I to Forest of Dean

- (1) This Part of this Act shall have effect in its application to land in the Forest of Dean or in any other part of the Hundred of Saint Briavels in the county of Gloucester, being land in respect of which the privileges of free miners are exercisable, subject to the following modifications.
- (2) The provisions of subsections (1) to (3) of section three, and sections four and five, of this Act, and the Second Schedule to this Act, shall not have effect, but this Part of this Act shall have effect as if for the said provisions there had been substituted the following provision, that is to say, on the vesting date the interest of the Forestry Commissioners in the coal and mines of coal comprised in the said land shall vest in the Commission, subject to and in accordance with the provisions of the Dean Forest (Mines) Act, 1838, and of any other enactment relating to the said land (in this section referred to as " the Dean Forest enactments ") and to all interests subsisting or to be created under or by virtue thereof.
- (3) In the application of sections six and seven of this Act, and of the Third Schedule to this Act, to the coal and mines of coal comprised in the said land, the interest therein subsisting in the Forestry Commissioners at the valuation date, and no other interest, shall be treated as an acquired interest, and provision shall be made by rules made by the Board of Trade under the power in that behalf conferred upon them by the Third Schedule to this Act for treating the said interest as constituting a unit for compensation purposes and (in substitution for the provisions of that Schedule relating to registration under the Registration Act and the notification to the Regional Valuation Board of such registration) for the notification to that Board by the Forestry Commissioners of particulars thereof, and the Forestry Commissioners shall be the persons entitled to the compensation therefor.
- (4) Sections eight to thirteen, subsections (1) to (3) of section fourteen and section nineteen of this Act, and the Fourth and Fifth Schedules to this Act, shall not have effect.
- (5) References to coal shall not be construed as including references to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act.
- (6) All powers conferred by the Dean Forest enactments that were vested in the Forestry Commissioners immediately before the vesting date shall continue to be exercisable by them notwithstanding the vesting in the Commission of the said interest, and accordingly—
 - (a) rent attributable to the said interest shall continue to be recoverable by the Forestry Commissioners until other provision in that behalf is made under the next succeeding subsection, but they shall pay to the Commission all such rent recovered by them that accrues after the vesting date; and
 - (b) the Commission shall pay to the Forestry Commissioners sums equal to such part of the expenses incurred by them in exercising the said powers after the vesting date as are attributable to the management of the said interest.

Any difference arising between the Commission and the Forestry Commissioners as to the amount of the rent, or of the expenses, to be paid under this subsection shall be determined by the Treasury.

- (7) His Majesty may by Order in Council make provision for vesting in the Commission any of the powers conferred by the Dean Forest enactments that were vested in the

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Forestry Commissioners immediately before the vesting date in so far as they relate to coal or mines of coal, and any such order may make provision for any requisite modification of the Dean Forest enactments.

The Board of Trade shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty in Council to make under this subsection, and no further proceedings shall be taken in relation thereto except in pursuance of an Address presented to His Majesty by both Houses of Parliament praying that the Order may be made in the terms of the draft.

44 Interpretation of Part I

(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

" Acquired interest " has the meaning assigned to it by subsection (1) of section seven of this Act;

" Acquired property and rights " has the meaning assigned to it by subsection (1) of section four of this Act;

" Claiming under " shall be construed, in relation to a person referred to as claiming under the estate owner in respect of the fee simple, or under the estate owner in respect of a term of years, in any land, as referring to any person interested in that land in respect of—

- (a) any equitable interest enforceable against that estate owner (other than an equitable term of years under a coal-mining lease or an interest created out of such a term of years),
- (b) a legal mortgage, or charge by way of legal mortgage, of that fee simple or of that term of years, as the case may be,
- (c) a rentcharge in possession which confers a right to take the income incident to that fee simple or to that term of years, as the case may be, or
- (d) a term of years under a lease, other than a coal-mining lease, which is derived out of that fee simple or of that term of years, as the case may be (either immediately or by way of under-lease derived out of a lease other than a coal-mining lease), or an interest created out of such a term of years;

" Coal " has the meaning assigned to it by subsection (4) of section three of this Act;

" Coal-mining lease " means in relation to any coal a lease that confers a right to work and carry away that coal, and means in relation to any mine of coal a lease that confers a right to use it for a coal-mining purpose;

" Coal-mining purpose " means searching and boring for, winning, working, getting, carrying away, making merchantable or disposing of, coal;

" Existing owners " means, in relation to any coal or mine of coal, all persons who have at the valuation date an acquired interest therein;

" Interested " shall be construed, in relation to a person referred to as interested in any coal or mine of coal, or in any other land, as referring to any person entitled to, or to exercise, or interested in, or in the exercise of, any estate, interest, charge or power (including an option or right of pre-emption, and including a contingent executory or future interest or a possibility coupled with an interest whether or not the object of the gift or limitation of such interest or possibility be ascertained) in, on or over that coal or mine or that other land, as the case may be, or in, on or over the rents and profits thereof,

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otherwise than in respect only of the benefit of a servitude or restrictive covenant adversely affecting that coal or mine or that other land, as the case may be, and " interest " has a corresponding meaning;

" Interim period " means the period between the valuation date and the vesting date;

" Lease " includes an under-lease, a tenancy and an agreement for a lease, under-lease, or tenancy (but not an option to take a lease, underlease, or tenancy), and in relation to such an agreement the expressions " term of years " and " estate owner " mean respectively the term agreed to be created and the person entitled to have that term vested in him; " lease " and " under-lease " each include a licence (whether personal or by way of profit a prendre) that confers a right to work and carry away coal or a right to use a mine of coal for a coal-mining purpose, and in relation to a licence the expressions " rent," " reversion," " term of years " and other expressions importing a reference to a lease shall be construed accordingly with the requisite adaptations; neither " lease " nor " under-lease " includes a mortgage;

" Mine of coal " means a space which is occupied by coal or which has been excavated underground for a coal-mining purpose, and includes a shaft and an adit made for a coal-mining purpose;

" Mortgage " includes any charge or lien on any property for securing money or money's worth;

" Prescribed " means prescribed by rules made by the Board of Trade;

" Registration Act " means the Coal (Registration of Ownership) Act, 1937;

" Rent " includes yearly or other rent, and any toll, duty, royalty, or other annual or periodical payment in the nature of rent, whether payable in money or money's worth or otherwise, but does not include mortgage interest;

" Retained interest " has the meaning assigned to it by section five of this Act;

" Servitude " means any liberty, privilege, easement, right or advantage annexed to any land and adversely affecting other land; " surface servitude " means any servitude annexed to coal or a mine of coal in so far as it adversely affects the surface of any land (with the exception of a right to withdraw support); and "annexed to" means, in relation to any coal or mine of coal, or to any other land, appertaining or reputed to appertain thereto or to any part thereof, or demised, occupied, or enjoyed therewith or with any part thereof, or reputed or known as part or parcel thereof or appurtenant thereto or to any part thereof;

" Working facilities order " means an order of the Railway and Canal Commission under the Mines (Working Facilities and Support) Act, 1923, either as originally enacted or as extended by section thirteen of the Mining Industry Act, 1926.

- (2) For the purposes of this Part of this Act, a person shall not be deemed to be carrying on the business of coal mining unless a substantial part of his business consists of working, getting, and carrying away coal.
- (3) Unless the context otherwise requires, references in this Part of this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

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45 Application of Part I to Scotland

- (1) The provisions of this section shall have effect for the purpose of the application of this Part of this Act to Scotland.
- (2) " Covenant " means agreement or stipulation and " restrictive covenant " shall be construed accordingly and shall include a real burden *ad factum prrmstandum* ; " fee simple " and " freehold interest " mean the estate or interest of the proprietor of the dominium utile; "demised" means let; " sub-demised" means sub-let; " under-lease " and " sub-demise " mean sub-lease; any reference to a lease or an under-lease derived out of another lease shall be construed as a reference to a sublease granted by a superior lessee; " mortgage " means a heritable security and " mortgagee " and " mortgagor " respectively mean the creditor and the debtor in a heritable security; "chattel" means corporeal moveable; "condition of re-entry" means power to bring a lease to an end or to resume possession; " leasehold interest" means the interest of the lessee in premises subject to a lease; any reference to a term of years shall be construed as a reference to the lessee's interest under a lease; references to a reversion or a reversionary interest or an immediate reversion or a reversion expectant on a lease shall be construed as references to the interest of the landlord in property subject to a lease, and the expression " reversioner " shall be construed accordingly; " freehold reversion " means the interest of the proprietor of the dominium utile in property subject to a lease, and " leasehold reversion " means the interest of a lessee of property who is the landlord under a sub-lease thereof; any reference to rent reserved under a lease shall be construed as a reference to rent payable under or stipulated for in a lease; any reference to a charge or power in, on or over any subjects shall include a reference to a heritable security affecting such subjects and any reference to a lease by parole shall be construed as a reference to a verbal lease.
- (3) The definition in section forty-four of this Act of the expression " claiming under" shall not apply and the expression " person claiming under " shall have the meaning assigned thereto by paragraph 3 of the First Schedule to the Registration Act.
- (4) " Heritable creditor " means the creditor in a heritable security, and " heritable security" means a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a real burden *ad factum prcestdum* but inclusive of a security constituted by *ex facie* absolute disposition; "superior" includes the Crown (without prejudice to the Crown's inherent right of superiority over all land in Scotland) and a subject superior or mid-superior.
- (5) In this Act and in the Registration Act, any reference to the proprietor of the dominium utile shall as regards any coal or mine of coal in the undivided ownership of the Crown, be construed as a reference to the Crown.
- (6) For references to the Lands Clauses Consolidation Act, 1845, and to section eighty thereof there shall be substituted respectively references to the Lands Clauses Consolidation (Scotland) Act, 1845, and to section seventy-nine thereof; for references to the Railways Clauses Consolidation Act, 1845, and to sections seventy-eight to eighty-five thereof there shall be substituted respectively references to the Railways Clauses Consolidation (Scotland) Act, 1845, and to sections seventy-one to seventy-eight thereof; for any reference to the High Court there shall be substituted a reference to the Court of Session and for any reference to a receiver of the rents and profits of premises there shall be substituted a reference to a judicial factor.

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- (7) Any question which is required in pursuance of this Act to be referred to arbitration shall be referred to a single arbiter agreed on by the parties or appointed in default of agreement by the Lord President of the Court of Session.
- (8) In any arbitration in pursuance of this Act, the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the arbitration.
- (9) Subsection (1) of section three of this Act shall have effect as if the words " the fee simple in " were omitted, and subsection (2) of that section shall have effect as if after the words " completion of the contract on " the words " and entry at " were inserted.
- (10) For subsection (3) of section three of this Act the following subsection shall be substituted:—
 - “(3) On the vesting date all interests then subsisting in any coal or mine of coal other than retained interests shall vest in the Commission subject only to the inherent right of superiority of the Crown.”
- (11) Subsection (4) of section nine of this Act shall have effect as if for the words " so far as regards the title " for which the premises in question vest in the Com-" mission " there were substituted the words " so far as conflicting with the title of the Commission ".
- (12) Subsection (3) of section fourteen of this Act shall have effect as if all the words occurring after the words " copies thereof " were omitted.
- (13) Subsection (2) of section seventeen of this Act shall not apply, but no right adverse to the title to any coal or mine of coal given to the Commission by the vesting thereof in them by this Act shall be capable of being acquired by prescriptive possession.
- (14) For subsection (1) of section nineteen of this Act the following subsection shall be substituted :—
 - “(1) On and after the valuation date it shall not be competent to grant a sub-lease of coal or a mine of coal:

Provided that this subsection shall not apply to the grant of a sub-lease pursuant to a lease consolidation scheme made under section twelve of this Act or to minerals or substances that are subsidiary coal hereditaments within the meaning of section six of this Act.”
- (15) Subsection (3) of section nineteen of this Act shall not apply.
- (16) The aggregate of the values of (a) any coal or mine of coal and any property and rights vested in the Commission by virtue of this Act, and (b) any erections or structural improvements used exclusively for the purpose of working or cleaning such coal, entered in any Valuation Roll or Supplementary Valuation Roll for any period ending after the vesting date, shall not exceed the value or values at which such coal, mine of coal, property and rights and such erections or improvements would have been so entered if this Act had not passed, and, notwithstanding anything contained in section six of the Lands Valuation (Scotland) Act, 1854, as amended by any subsequent enactment, no entry shall be made in any such roll in respect of erections or structural improvements used exclusively for the purpose of working or cleaning coal by reason only of the fact, that in consequence of the vesting of the coal in the Commission under this Act, the land on which the said erections or structural improvements are situated is not included in the lease of the coal.