



# Coal Act 1943

## 1943 CHAPTER 38

### PART I

#### AMENDMENTS OF PART I OF THE COAL ACT, 1938

#### **1 Retained interests of persons working minerals other than coal**

Notwithstanding anything in paragraph (b) of subsection (2) of section five of the principal Act (which provides that interests arising under a coal mining lease shall not be retained interests 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), interests arising under a coal mining lease, where at the vesting date the lessee or some person claiming under him had a substantial beneficial interest in the exercise of the said rights but was not carrying, on the business of coal mining, shall be, and be deemed always to have been, retained interests, if—

- (a) a substantial part of the business of the lessee or the said person, as the case may be, consisted at the vesting date of getting (whether by underground or surface working) and carrying away minerals or substances, other than coal, in or under land ; and
- (b) no claim for compensation in respect of the interests so arising has been made under section seven of the principal Act.

#### **2 Rents for underground wayleaves not to be affected by unification of ownership**

- (1) Where in any lease of or comprising a mine of coal and subsisting on the vesting date there is contained a provision to the effect that—
  - (a) rent shall be payable thereunder in respect of coal carried away through the mine after being got from land not comprised in the lease ; or
  - (b) the amount of any rent payable thereunder, whether or not in respect of such coal as aforesaid, shall be ascertained wholly or partly by reference to the amount of such coal as aforesaid;

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but being a provision applying only in relation to coal got from land for the time being in a different ownership from the mine, then, as respects coal got after the vesting date, the lease shall have effect as if the provision applied in relation to coal so carried away which has been got from all such land not comprised in the lease as was in a different ownership from the mine immediately before the vesting date.

- (2) For the purposes of this section, a provision contained in a document varying or supplementing a lease shall be treated as if it were contained in the lease.
- (3) This section shall be deemed to have had effect as from the vesting date.

### **3 Costs in connection with severance of leases**

The proviso to subsection (3) of section eleven of the principal Act (which provides that the arbitrator or the Court may direct that the Commission shall not be liable to pay costs in connection with the severance of a lease incurred by a person who appears to the Court to have been unreasonable or guilty of negligence or default) shall have effect as if for the words " who appears to the Court " there were substituted the words " who appears to the arbitrator or the Court. "

### **4 Leases to former freeholders**

- (1) The following provisions shall have effect in relation to a lease (hereafter in this Act referred to as a " freeholder's lease ") under section thirteen of the principal Act (which entitles persons carrying on the business of coal mining to leases of coal or mines of coal owned by them immediately before the vesting date) :—
  - (a) no freeholder's lease shall be granted except in consideration of the payment to the Commission of an amount equal to the compensation payable under section six of the principal Act for the premises thereby demised ;
  - (b) subsection (2) of the said section thirteen shall cease to have effect, and the lease shall—
    - (i) be a lease at a peppercorn rent ;
    - (ii) be granted for such 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;
    - (iii) be subject to such conditions, not inconsistent with the provisions of this subsection, as will, having regard to those provisions, be not more onerous to the lessee than the conditions to which a person not entitled to the benefit of the said section thirteen might reasonably have been expected to agree if taking a lease of the same premises for the same term at the same rent in consideration of a premium representing the capitalized value of the best rent that could reasonably be obtained by the lessor without any fine or premium ;
  - (c) notwithstanding anything in any enactment—
    - (i) no person having any interest arising under the lease in the premises thereby demised shall be entitled against the Commission to any statutory right of contribution or indemnity in respect of any statutory liability imposed in respect of the said premises ;
    - (ii) the lessee for the time being under the lease shall be bound to indemnify, the Commission against any statutory liability imposed in

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respect of the said premises other than a liability for costs under the principal Act ;

and the conditions to which the lease is to be subject under the last foregoing paragraph shall in all cases include a provision conferring on the Commission power to re-enter on the said premises in the event of the failure of the lessee for the time being to indemnify the Commission as required by this paragraph ;

- (d) for the purpose-of mineral rights duty and royalties welfare levy, the lessee for the time being under the lease shall be deemed to be the proprietor of the premises thereby demised and not to be a lessee of those premises, and the said duty and levy shall be assessed, charged, paid and recovered accordingly ;
  - (e) the last two foregoing paragraphs shall be deemed to have had effect as from the date of the commencement of the term granted by the lease, and, as respects any period between that date and the date of the granting of the lease, those paragraphs shall apply as if any person working under a licence granted by the Commission coal comprised in the lease, or using under such a licence a mine of coal so comprised, were the lessee for the time being under the lease and accordingly had an interest arising thereunder in the premises thereby demised.
- (2) The reference in paragraph (a) of the foregoing subsection to the compensation payable under section six of the principal Act for the premises demised shall be construed—
- (a) in a case where the fee simple in the coal or mine demised by the lease formed part only of a holding which included the fee simple in other coal or in another mine, as a reference to such part of the compensation in respect of the holding as may be agreed, or in default of agreement may be determined by arbitration, to be attributable to interests in the demised coal or mine and in the acquired property and rights annexed thereto ;
  - (b) in any other case, as a reference to the compensation in respect of the holding constituted by or comprising the fee simple in the demised coal or mine.
- (3) Where a freeholder's lease is granted, the amount payable as consideration therefor under paragraph (a) of subsection (1) of this section shall be deemed to have been payable at the date "of the commencement of the term granted by the lease, and shall carry interest from that date to the date of payment at the same rate as compensation under section six of the principal Act.
- (4) Any application for a freeholder's lease may be withdrawn by the person entitled to the lease by giving to the Commission notice in writing of the withdrawal at any time before the expiration of one month from the date on which the certificate of value relating to the premises to be demised becomes conclusive under paragraph 17 of the Third Schedule to the principal Act.
- (5) On the withdrawal of an application for a freeholder's lease as aforesaid—
- (a) the provisions of Part I of the First Schedule to this Act shall have effect in a case where a mortgagee of the premises to which the application related (in the said Part I referred to as an " electing mortgagee ") has given notice to the Commission under paragraph 2 of the Fifth Schedule to the principal Act that he elects to have, in lieu of any interest in the compensation in respect of those premises, a charge upon the interest of the lessee under the lease ; and
  - (b) the provisions of Part II of the First Schedule to this Act shall, save as otherwise agreed after the commencement of this Act, have effect in a case where, pending the grant of the lease, a licence (in the said Part II referred to

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as a " working licence") has been granted by the Commission to work coal to be comprised in the lease or to use for a coal mining purpose a mine of coal to be so comprised ;

and in the said Schedule the expression " date of withdrawal " means the date on which notice of withdrawal of the application for the lease is given to the Commission under the last foregoing subsection.

- (6) The references to section thirteen of the principal Act contained in paragraphs 3 and 5 of the said Fifth Schedule shall be construed as including references to this section, and section forty of the principal Act (which relates to the persons, to act in case of death or incapacity) shall apply in relation to notices under this section and the First Schedule to this Act as it applies in relation to notices under the said Fifth Schedule.

## **5 Stamp duty on substitutional leases granted by Commission**

(1) Where—

- (a) any person is entitled as working lessee under two or more leases to any coal or mines of coal; and
- (b) the Coal Commission grant to him or to another person for his benefit, in substitution for the existing leases, a single lease of coal or mines of coal comprised therein (whether or not the single lease comprises also property not comprised in the existing leases, or does not, comprise all the property comprised in some of those leases) ;

the stamp duty on the single lease shall be reduced by such amount as appears to the Commissioners of Inland Revenue to be just, having regard to the duty paid on the existing leases and to the length of the terms thereunder unexpired, and the rights of the working lessee thereunder, at the date when the term under the single lease takes effect :

Provided that no lease which is unstamped or which would, apart from this section, be insufficiently stamped, shall be deemed by virtue of this section to be duly stamped unless it has in accordance with the provisions of section twelve of the Stamp Act, 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped, as the case may be.

- (2) In this section the expression "working lessee" means a person carrying on the business of coal mining who is entitled to work coal, or to use for coal mining purposes a mine of coal, under a coal mining lease held by him or by another for his benefit.

## **6 Stamp duty on alienation of coal to former owner for purposes other than coal mining**

- (1) Where, under subsection (3) of section seventeen of the principal Act (which permits the Commission to alienate coal or a mine of coal for purposes other than coal mining or coal of small value), the Commission alienate any coal or mine of coal for a freehold interest, then if the Commission certify that the person to whom the coal or mine is alienated would in their opinion have been entitled, but for the passing of the principal Act, to any interest therein acquired by the Commission under that Act, stamp duty in respect of the alienation shall be chargeable only on the amount, if any, by which the value of the interest for which the coal or mine is alienated appears to the Commissioners of Inland Revenue to exceed the value of the interest specified in the certificate :

Provided that no instrument which is unstamped or which would, apart from this section, be insufficiently stamped, shall be deemed by virtue of this section to be duly stamped unless it has in accordance with the provisions of section twelve of the Stamp Act, 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped, as the case may be.

- (2) For the purpose of the foregoing subsection, the value of the interest specified in the certificate shall be taken to be the value which that interest would have had at the date of the alienation, having regard to any dispositions or purported dispositions actually made thereof and of any interests to which it was subject immediately before the vesting date, if none of the said interests had been affected by the principal Act.
- (3) This section applies to any such alienation whether made before or after the passing of this Act, and any duty overpaid in respect of any alienation made before the passing of this Act as respects which the Commission give a certificate under this section shall be repaid.

## **7 Mines working facilities**

- (1) Subsection (1) of section twenty-two of the principal Act (which restricts the power of the Railway and Canal Commission to grant rights to search for or work coal) shall not apply, and shall be deemed never to have applied, to the granting of a right required by reason of the subsistence either of a retained interest or of any interest arising under a freeholder's lease :

Provided that no application made by virtue of this subsection otherwise than by the Coal Commission shall be referred by the Minister to the Railway and Canal Commission unless the Coal Commission have given notice in writing to the Minister that they approve the application.

- (2) The provisions of the foregoing subsection shall have effect in lieu of the provisions of proviso (a) to subsection (1) of the said" section twenty-two (which provides that the said subsection (1) shall not apply to the granting of a right required by reason of the subsistence of a retained copyhold interest).
- (3) No application under subsection (2) of section thirteen of the Mining Industry Act, 1926 (which enables the Railway and Canal Commission to grant a right to work coal freed from restrictions or conditions contained in a mining lease or otherwise binding on the person entitled to work it, or to work coal on other terms and conditions), made otherwise than by the Coal Commission shall be referred by the Minister to the Railway and Canal Commission unless the Coal Commission have given notice in writing to the Minister that they have no power to grant the right or any of the rights for which the application is made.

## **8 Extension of borrowing powers of the Commission**

- (1) The Commission may borrow for the purpose of meeting any deficiency at any time arising on the revenue account of the Commission or meeting any extraordinary claim or demand at any time arising against the Commission (being the purposes for which the reserve fund is primarily applicable under subsection (2) of section twenty-four of the principal Act), subject to and in accordance with the following provisions—
  - (a) all money so borrowed shall be repaid within one year ;

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- (b) no money shall be so borrowed if at the time of borrowing the aggregate of the sums so borrowed and not repaid exceeds, or will with the sum to be borrowed exceed, half the value of the reserve fund as shown in the accounts of the Commission last laid before Parliament under subsection (2) of section thirty of the principal Act;
  - (c) all money so borrowed and the interest thereon shall be charged on the investments and cash of which the reserve fund from time to time consists ;
  - (d) so long as the issue of capital in the United Kingdom without the consent of the Treasury is prohibited by Regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940, it shall not be lawful to exercise the powers of borrowing conferred by this subsection without such consent;
  - (e) section twenty-eight of the principal Act (which empower the Commission to issue stock for the purpose of raising money which they are authorised to borrow) and section twenty-nine of that Act (which empowers the Treasury to guarantee a loan proposed to be raised by the Commission) shall not apply to money borrowed or loans proposed to be raised under this subsection.
- (2) The investments and cash of which the reserve fund from time to time consists and the interest thereon shall cease to be included in the property and revenues of the Commission on which money borrowed under section twenty-seven of the principal Act is charged by virtue of subsection (2) thereof or on which stock issued under section twenty-eight of that Act and interest thereon is charged by virtue of subsection (2) of the last mentioned section.

## **9 Extension of power to extend time**

The power of the Minister and of the Commission under section thirty-eight of the principal Act to extend the period, or postpone the date, specified in or prescribed under Part I of that Act as the period within which, or the date on or before which, any act or thing is to be done shall be exercisable, and be deemed always to have been exercisable—

- (a) in relation to any period, notwithstanding that the period has expired;
- (b) in relation to any date, notwithstanding that the date has passed.

## **10 Tenure of office of member of Commission**

So much of paragraph 3 of the First Schedule to the principal Act as provides that the term of appointment of a member of the Commission shall not be less than five years shall not apply to the re-appointment of a retiring or former member for a further term.

## **11 Withdrawal of support where notice of approach required by retained lease**

- (1) Where on the valuation date—
- (a) the fee simple in coal comprised in a coal mining lease then subsisting and the fee simple in land supported thereby were vested in the same person ; and
  - (b) there was contained in the lease a provision, intended to protect from subsidence the land or part thereof or buildings or works thereon, to the effect that—
    - (i) the lessee should not work the coal or part thereof without the consent of some other person ; or

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- (ii) some other person might prohibit the lessee from working the coal or part thereof ;

then, if the power of consenting to or prohibiting the working was on that date vested in some person other than the estate owner in respect of the fee simple in the coal (whether or not jointly with that, estate owner), or would have become so vested on a severance of the fee simple in the coal from the fee simple in the land, the provisions of the Second Schedule to this Act shall have effect in relation to the restricted coal.

- (2) In this section and the said Second Schedule—

- (a) the expression " restricted coal" means, in relation to coal comprised in any such lease as aforesaid—

- (i) any coal to which, during the subsistence of the lease, any such provision as aforesaid therein contained relates or has at any time related; and

- (ii) where the buildings or works which the provision is or was intended to protect are or include future buildings or works, any other coal to which the provision would, by reason of the construction of buildings or works after the end of the lease, have related if the lease had been still subsisting;

but does not include any coal which, under the foregoing provisions of this paragraph, would be restricted coal by reason only of the existence at any time (whether before or after the commencement of this Act) of buildings or works which have since ceased to exist; and

- (b) the expression " protected land " means, in relation to any restricted coal, the land, buildings or works protected by the provision by virtue of which the coal is restricted coal, or which would be so protected if the lease containing that provision were still subsisting.

- (3) For the purposes of this section and the said Second Schedule, a. provision contained in a document varying or supplementing a lease shall be treated as if it were contained in the lease, and in that Schedule this section is referred to as " the principal section ".

## **12 Valuation Boards and review of valuations**

- (1) Sub-paragraph (1) (b) of paragraph 4 of the Third Schedule to the principal Act (which provides that a member of a Regional Valuation Board, other than the chairman, must be a person engaged in the management of mineral estates in the region) shall have effect as if the words " in the region " were omitted.

- (2) When it appears to the Minister that the Central Valuation Board or a Regional Valuation Board has no further duties to discharge under the principal Act, he may by order dissolve the Board, and thereupon all records and other documents in the possession of the Board shall be transferred to the Commission.

- (3) The provisions of paragraph 12 of the Third Schedule to the principal Act (which relates to reviews by referees of valuations of Regional Valuation Boards) shall have effect subject to the provisions of the Third Schedule to this Act; and any reference in the principal Act to the said paragraph 12 or to any provision thereof shall, unless the context otherwise requires, be construed as a reference to that paragraph or provision as amended by this Act.

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### **13 Extension of Commission's liability or costs**

Paragraph 22 of the Third Schedule to the principal Act (which requires the Commission to pay costs reasonably incurred in connection with certain matters by persons having acquired interests or their successors in title) shall extend, and be deemed always to have extended, to costs so incurred by any person, whether he is such a person as aforesaid or not; and accordingly that paragraph shall have effect, and be deemed always to have had effect, as if, in sub-paragraph (1) thereof—

- (a) the words " having an acquired interest that is comprised in a holding or a successor in title of his " were omitted ; and
- (b) for the words " the holding ", in both places where they occur, there were substituted the words " a holding ".