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SCHEDULES

FIRST SCHEDULE

Section 5.

PROVISIONS APPLICABLE ON WITHDRAWAL OF APPLICATION FOR FREEHOLDER'S LEASE

PART I

MORTGAGEES

- 1 On the withdrawal of an application for a freeholder's lease, the Commission shall forthwith—
 - (a) give notice in writing to the electing mortgagee of the withdrawal of the application and of any payment previously made by them of or on account of the compensation in respect of the premises to which the application related ; and
 - (b) give notice in writing of the withdrawal of the application to any person to whom any such payment has been made, not being the person by whom the application was withdrawn.
- 2 Part IV of the Third Schedule to the principal Act (which relates to the payment and disposal of compensation) and paragraph 2 of the Fifth Schedule to that Act shall, as from the date of withdrawal have effect, subject to the next following paragraph, as if the following notices had not been given, namely—
 - (a) the electing mortgagee's notice to the Commission under the said paragraph 2 ; and
 - (b) any notice given to the electing mortgagee by the Commission before the date of withdrawal under sub-paragraph (b) of paragraph 18 of the said Third Schedule (which requires the Commission in certain cases to give notice to a mortgagee of an interest comprised in a holding before paying compensation for that holding to some other person).
- 3 Nothing in the last foregoing paragraph shall affect the validity of—
 - (a) any payment of or on account of compensation made by the Commission before the date of withdrawal; or
 - (b) any disposal by any person to whom any such payment was made of the sums paid to him, being a disposal effected before the date on which he receives notice of the withdrawal of the application under paragraph 1 of this Part of this Schedule;

nor shall the electing mortgagee be entitled, by virtue of the last foregoing paragraph, to recover from any person to whom any such payment was made any sums properly retained thereout by him under paragraph 21 of the said Third Schedule.
- 4 In the application of this Part of this Schedule to Scotland, for any reference to sub-paragraph (b) of paragraph 18 of the Third Schedule to the principal Act there shall be substituted a reference to sub-paragraph (c) of the paragraph directed to be substituted for the said paragraph 18 by paragraph 23 of the said Schedule.

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PART II

LICENSEES

- 1 The working licence shall remain in force until the expiration of six months from the date of withdrawal and no longer.
- 2 Where any rent payable under the working licence (or any sum to be allowed in account in lieu of rent thereunder) is to be calculated or adjusted by reference to the rent to be reserved by the freeholder's lease the application for Which is withdrawn, the rent so reserved shall for that purpose be taken to be the aggregate of the following—
 - (a) a rent payable on the amount of coal worked under the licence—
 - (i) in a case where the coal was being worked by the proprietor in the financial year ending the thirty-first day of March, nineteen hundred and forty-two, at the same rate as was assumed for the purpose of assessing mineral rights duty on him in that year; or
 - (ii) in any other case, at such rate as may be determined by arbitration to be the rate which would have been so assumed if the coal had been so worked; and
 - (b) a rent payable on the amount of any minerals carried away through any mine to which the licence relates (other than coal worked under the licence) at such rate as may be determined by arbitration to be just.
- 3 Any provision in the working licence that a rent or sum to be calculated or adjusted as aforesaid shall not be paid or allowed in account until the granting of a freeholder's lease shall not have effect.
- 4 The working licence shall be deemed to have been granted subject to the condition that the licensee shall—
 - (a) exercise in relation to the premises to which the licence relates such care as 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
 - (b) deliver up those premises to the Commission in the same state (except for things properly done under the licence) as they were in on the vesting date.