



Coal Act 1943

1943 CHAPTER 38

PART I

AMENDMENTS OF PART I OF THE COAL ACT, 1938

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

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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 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

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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 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.