

Coal Act, 1938.

[1 & 2 GEO. 6. CH. 52.]



ARRANGEMENT OF SECTIONS.

A.D. 1938.

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Section.

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CHAPTER 52.

An Act to make provision for the acquisition of the property in all unworked coal and mines of coal and in certain associated minerals, and of certain associated property and rights in land, by a Commission with power of management thereover; for amending the enactments relating to facilities for the working of minerals; for empowering the Commission to promote a reduction in the number of coal-mining undertakings; for continuing Part I of the Coal Mines Act, 1930, and for amending the provisions thereof with respect to committees of investigation; for enabling land to be acquired compulsorily for the purposes of the miners welfare committee; and for purposes connected with the matters aforesaid. [29th July 1938.]

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BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

UNIFICATION OF COAL MINING ROYALTIES.

The Coal Commission.

1.—(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.

Constitu-
tion of Coal
Com-
mission.

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(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.

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

2.—(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.

(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.

1 & 2 Geo. 5.
c. 50.

Unification of ownership of coal in the hands of the Commission.

Commission to acquire fee simple in coal.

3.—(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

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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

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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

- (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.

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

4.—(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.

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Retention of certain leasehold and other interests.

5.—(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.

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

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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 coal-mining 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.

Compensation payable in respect of acquisition as a whole.

6.—(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.

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(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 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.—(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”).

Ascertainment and distribution of compensation.

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(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 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.

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PART I.
—cont.

(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 & 10
Geo. 5. c. 59.

(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. 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

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

A.D. 1938. and in accordance with the following provisions, that
is to say:—

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—cont.

- (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.

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

9.—(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. 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 before the vesting date, the Commission shall, on being required so to do by notice in writing served on them by the person entitled

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Acquisition by the Commission of right to arrears of rent.

A.D. 1938. thereto at any time before the expiration of twelve
 — months from the vesting date, take an assignment of
 PART I. any debt due from the lessee in respect thereof at a price to
 —cont. be determined by agreement between that person and the
 Commission or, in default of agreement, by arbitration.

Apportion-
 ment of rent
 and deter-
 mination of
 questions
 on severance
 of subsist-
 ing leases.

11.—(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 :

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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.—(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").

Powers
of the
Commission
for consoli-
dation of
leases before
the vesting
date.

(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.

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—cont.

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

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- (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.—(1) A person carrying on the business of coal-mining 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 coal-mining 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 there-with :

Right of freeholder of coal, who carries on coal-mining business, to lease thereof.

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

A.D. 1938.

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PART I.
—*cont.*

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.—(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

Provisions
as to docu-
ments and
information
for purposes
of Part I.

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.

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PART I.
—cont.

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.

15 & 16
Geo. 5. c. 20.

A.D. 1938.

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PART I.
—cont.

(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 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.*

Powers
of the
Commission
in relation
to under-
ground land
other than
coal.

15. 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 coal-mining 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 : A.D. 1938.

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PART I.
—cont.

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

17.—(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. Coal not to be alienated from the Commission.

(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

A.D. 1938. 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.

PART I.

—cont.

3 & 4 Will. 4.

c. 27.

7 Will. 4.

c. 28.

37 & 38 Vict.

c. 57.

(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.

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

18. 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.

Restriction on certain dispositions by lessees of coal.

19.—(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.

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PART I.
—cont.

(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 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. 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.

Provision
as to
arbitration.

21. 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

Power of
the Court
to appoint
receiver and
manager on
the applica-
tion of the
Commission.

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PART I.
—cont.

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.

Amend-
ments of
working
facilities
enactments.
13 & 14
Geo. 5. c. 20.
16 & 17
Geo. 5. c. 28.

22.—(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.

51 & 52 Vict.
c. 25.

(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—

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PART I.
—cont.

“(f) In a case in which the surface has been used for the erection of any works for a coal-mining 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. 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. Receipts of, and payments by, the Commission.

24.—(1) The Commission shall establish a reserve fund, and shall carry to the credit of that fund, Reserve fund of the Commission.

A.D. 1938.

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PART I.
—cont.

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 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.

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PART I.
—cont.

(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.—(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.

Reduction
by the Com-
mission
of rents.

(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 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 :

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PART I.

—cont.

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.

2 & 3 Geo. 5.
c.2.

(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.

Power of the
Commission
to borrow.

26.—(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.

A.D. 1938.

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PART I.
—cont.

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

27.—(1) Subject to the provisions of this section, the Commission may borrow for all or any of the following purposes:—

Purposes
for which
the Commis-
sion may
borrow.

- (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;

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PART I.
—cont.

(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.

Power of the
Commission
to issue
stock.

28.—(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.

38 & 39 Vict.
c. 83.

Power of the
Treasury to
guarantee
loans raised
by the Com-
mission.

29.—(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.—(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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PART I.
—cont.Com-
mission's
accounts
and audit
thereof.

A.D. 1938.

Miscellaneous.

PART I.

—cont.

Commission
not to be ex-
empt from
taxation, &c.

31. 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.

Competence
of the
Commission
to acquire
certain
interests
and rights.

32.—(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.

Restriction
on working
of coal
vested in
statutory
under-
takers.

33.—(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.

A.D. 1938.

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PART I.
—cont.

(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.

(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.

A.D. 1938.

PART I.
—cont.

(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.

Saving for
certain
statutory
rights.

34.—(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:—

8 & 9 Vict.
c. 20.

(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;

10 & 11 Vict.
c. 17.

(b) any right vested in a local authority by virtue of the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883; and

46 & 47 Vict.
c. 37.

(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;

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.

A.D. 1938.

PART I.
—cont.10 & 11
Geo. 5. c. 50.

Provisions as to registration, valuation, &c.

35.—(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.

Execution
of Registra-
tion Act
and amend-
ment as to
inspection
of the
register.

(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

A.D. 1938.

PART I.
—cont.

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.

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

36.—(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.

Extension
of time
limit on
applications
for registra-

37. 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. 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. 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 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. 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

A.D. 1938.

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PART I.
—cont.
tion in
respect of
which costs
are to be
payable.

General
power to
extend time
limits.

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

8 & 9 Vict.
c. 18.

Persons to
act for
purposes of
valuations,
&c., in
case of

A.D. 1938. 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.

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PART I.
—cont.
death or
incapacity.

Application and interpretation of Part I.

Application
of Part I
to registered
land.
15 & 16
Geo. 5. c. 21.

41. 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.

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

42.—(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.

A.D. 1938.
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PART I.
—cont.
26 & 27 Vict.
c. 49.
25 & 26 Vict.
c. 37.

43.—(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.

Application
of Part I
to Forest of
Dean.

(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.

1 & 2 Vict.
c. 43.

(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.

A.D. 1938.

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PART I.
—cont.

(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 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.

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PART I.
—cont.

44.—(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 :—

Interpreta-
tion
of Part I.

“ 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 ;

A.D. 1938.

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PART I.
—cont.

- “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, 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, under-lease, 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 à prendre) that confers a right to work and carry away coal or a right to use a mine of

A.D. 1938.

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PART I.
—cont.

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,

A.D. 1938.

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PART I.
—cont.

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.

Application
of Part I
to Scotland.

45.—(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 præstandum*; "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 sub-lease 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.

A.D. 1938.

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PART I.
—cont.

(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 præstandum* 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.

14 & 15
Geo. 5. c. 27.

(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.

8 & 9 Vict.
c. 19.8 & 9 Vict.
c. 33.

(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.

A.D. 1938.

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PART I.
—cont.

(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 Commission” 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.

A.D. 1938.

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PART I.
—cont.

17 & 18 Vict.
c. 91.

PART II.

REDUCTION IN NUMBER OF COAL-MINING UNDERTAKINGS.

46.—(1) The functions of the Coal Mines Reorganisation Commission constituted by Part II of the Coal Mines Act, 1930, are hereby transferred to and shall be performed by the Commission and the Coal Mines Reorganisation Commission shall cease to exist, and accordingly the said Part II shall have effect with the substitution, for references therein to the Coal Mines Reorganisation Commission, of references to the Commission.

Transfer
to the
Commission
of functions
of the Coal
Mines Re-
organisation
Commission.
20 & 21
Geo. 5. c. 34.

(2) Such expenses of the Commission in connection with the preparation, submission and carrying out of schemes under Part I of the Mining Industry Act, 1926, as the Board of Trade may, with the approval of the Treasury, determine shall be paid to the Commission by the Board, and any expenses of the Board under this subsection shall be defrayed out of moneys provided by Parliament.

(3) Section eleven of the Coal Mines Act, 1930, is hereby repealed.

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PART II.

—cont.

Duty of the Commission to reduce number of coal-mining undertakings where necessary in interests of efficiency.

47.—(1) Where in the opinion of the Commission the number of separate undertakings consisting of or comprising coal mines (hereinafter referred to as “coal-mining undertakings”) to which the coal in any area is leased is so great as to be detrimental to the economical and efficient working, treating or disposing thereof, it shall be the duty of the Commission, to endeavour to effect a reduction in the number of such undertakings :

Provided that the Commission shall not, under the powers conferred by section thirteen of the Coal Mines Act, 1930, submit to the Board of Trade any scheme under Part I of the Mining Industry Act, 1926, until after the thirty-first day of December nineteen hundred and thirty-nine, nor shall they thereafter exercise the powers of submitting such a scheme except in pursuance of an order made under this section.

(2) The Commission may, at any time, if they are of opinion that adequate progress in the reduction of the number of coal-mining undertakings is not being made, make a report to the Board of Trade recommending that the powers of the Commission under the said section thirteen of submitting amalgamation and absorption schemes should become exercisable in any area specified in the report as an area in which such progress has in the opinion of the Commission been inadequate, and such report shall set forth the proposals of the Commission in regard to that area and the advantages which are expected to follow therefrom.

(3) After receiving any such recommendation from the Commission, the Board of Trade may lay before Parliament the report in which the recommendation was contained and may then make a provisional order declaring that it is expedient in the national interest that the number of coal-mining undertakings should be reduced in the area with respect to which the recommendation was made and directing that the said powers of the Commission shall become exercisable in that area in manner proposed by such report with such modifications (if any) as the said Board may think fit and within such period as may be prescribed by such provisional order :

Provided that any such provisional order shall so define the area in which the said powers are to become exercisable as to show so far as practicable what undertakings are likely to be affected by their exercise, and

the order when made shall be published in the London Gazette (or, in the case of an order relating to an area in Scotland, in the Edinburgh Gazette) and in at least one newspaper circulating in the area to which the order relates.

A.D. 1938.

PART II.
—cont.

(4) A provisional order made under this section shall be of no effect unless it is confirmed by Parliament, but if the order is so confirmed, either without modifications or with modifications as to the area with respect to which the order is to have effect, it shall come into force on the date of the passing of the Act confirming the order or on the first day of January nineteen hundred and forty, whichever is the later date.

(5) The said section thirteen shall have effect subject to the amendments specified in the Sixth Schedule to this Act.

48.—(1) Where information is required by the Commission for the discharge of the functions to be performed by them by virtue of this Part of this Act and the Commission consider it necessary for the purpose of obtaining such information to cause an inspection to be made at any premises used in connection with the carrying on of a coal-mining undertaking, the Commission may, after serving upon the persons carrying on the undertaking a notice showing the general nature of the information required, authorise in writing any member or officer of, or technical or professional agent appointed by, the Commission, to make inquiries on their behalf as to the coal-mining undertaking specified in the authority, and any person so authorised may, so far as is reasonably necessary for the purpose of obtaining such information, enter any premises used in connection with the carrying on of that undertaking, and may inspect any such premises and may measure or weigh any stocks, and may take copies or extracts of any accounts, books, plans, or other documents, and may require copies or extracts of any such accounts, books, plans or other documents to be delivered to the Commission.

Powers of the Commission as to obtaining information for purposes of Part II.

(2) The Commission may require the owner of any coal-mining undertaking in an area in which their powers under section thirteen of the Coal Mines Act, 1930, of submitting schemes are exercisable, to prepare such accounts, plans, or other documents, relating to the

A.D. 1938. undertaking and such valuations of the property and liabilities of the undertaking as are reasonably necessary for the discharge of the functions aforesaid, and may require copies thereof to be delivered to the Commission.

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PART II.
—cont.

(3) Any member or officer of, or technical or professional agent appointed by, the Commission, before exercising his powers under subsection (1) of this section shall, if required to do so, produce his written authority to make inquiries on behalf of the Commission as to the coal-mining undertaking with respect to which the powers are exercised; and any person required under this section to deliver any copies or extracts to the Commission shall be entitled to be paid by the Commission all costs reasonably incurred by him in the preparation and delivery thereof.

(4) Any person who, after having had produced to him the written authority of any such member, officer or agent as aforesaid, obstructs him in the exercise of his powers under this section or refuses or neglects when required to produce any accounts, books, plans or other documents under his control, any person who refuses or neglects when required to deliver to the Commission any copy or extract of such accounts, books, plans or other documents, and any owner of a coal-mining undertaking who makes default in complying with any requirement made under subsection (2) of this section, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a person convicted of a second or subsequent offence under this section, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and fine.

Exemption from stamp duty in respect of amalgamation or absorption schemes and instruments executed thereunder.

49.—(1) No stamp duty shall be payable—

- (a) in respect of any amalgamation or absorption scheme confirmed under Part I of the Mining Industry Act, 1926; or
- (b) in respect of any amalgamation scheme framed in accordance with the provisions of Part I of that Act by the owners of two or more coal-mining undertakings, if the Board of Trade are satisfied, on the recommendation of the Commission, that the scheme is in the national

interest, and, on the recommendation of the owners by whom the scheme was framed, that it is unnecessary for the purpose of giving effect to the scheme that it should be referred to and confirmed by the Railway and Canal Commission under that Act; or

- (c) in respect of any share or loan capital issued, or any conveyance agreement assignment or transfer made, or document executed, or thing done, in pursuance of any scheme exempt from stamp duty under the foregoing provisions of this section, or in pursuance of any arrangements for combining the financial interests in coal-mining undertakings by the formation of holding companies or otherwise, being arrangements approved on the recommendation of the Commission by the Board of Trade as being in the national interest, if in either case the Board certify that the issue, making, execution or the doing thereof is reasonably required for the purposes of such a scheme, or of such arrangements, and of conducting to the more economical and efficient working or disposing of coal.

(2) Subsection (2) of section five of the Mining Industry Act, 1926, and subsection (7) of section thirteen of the Coal Mines Act, 1930, are hereby repealed.

PART III.

AMENDMENT AND CONTINUANCE OF PART I OF THE COAL MINES ACT, 1930.

50. Sections five and eight of the Coal Mines Act, 1930, shall have effect subject to the amendments specified in the Seventh Schedule to this Act, and Part I of that Act (which, as continued by subsequent enactments, is limited to expire on the thirty-first day of August nineteen hundred and thirty-eight) shall, as amended by this Act, continue in force until the thirty-first day of December nineteen hundred and forty-two, and no longer unless Parliament otherwise determines.

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PART II.
—cont.

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PART IV.

MISCELLANEOUS AND GENERAL.

Acquisition
of sites
for pithead
baths. &c.

24 & 25
Geo. 5. c. 9.

51. The powers of the Railway and Canal Commission under the Mines (Working Facilities and Support) Act, 1923, in relation to the grant of ancillary rights shall include power to make orders under that Act with a view to assisting the miners' welfare committee in the performance of their duty under section seventeen of the Mining Industry Act, 1926 or under subsection (1) of section three of the Mining Industry (Welfare Fund) Act, 1934 (which relate respectively to the provision of accommodation and facilities for workmen taking baths and drying clothes and of accommodation and facilities which can be conveniently and properly combined therewith) by conferring rights to use and occupy land for buildings, or any other right in respect of any land, upon trustees for the benefit of workpeople employed in or about coal mines.

Right to
inspection
and copies
of Com-
mission's
plans of
working.

52. Any person who satisfies the Commission that he is interested in land that is supported by coal, or that was before the working thereof supported thereby, or in land situate below, adjoining, or near to coal, shall be entitled, upon making an application to the Commission and payment of such reasonable fee as may be prescribed in that behalf, to inspect at any time during usual office hours all plans of workings of that coal in the possession of the Commission, and to be furnished by them with a copy of, or of any part of, any such plan.

Prevention
of disclosure
of informa-
tion.

53. Any person who discloses any information obtained by him in the exercise of powers conferred upon him by section fourteen or section forty-eight of this Act shall be liable on conviction on indictment to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and fine :

Provided that nothing in this section shall apply to the disclosure of any information in so far as it is required to be published or disclosed for the purposes of the performance of functions to be performed under or by virtue of this Act by the Board of Trade, the Commission, the Central Valuation Board, a referee appointed

under the Third Schedule to this Act, or a Regional Valuation Board, or for the purposes of any legal proceedings (including arbitrations), or in so far as it may be contained in any scheme submitted under section thirteen of the Coal Mines Act, 1930.

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PART IV.

—cont.

54. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Liability of directors, &c. of bodies corporate for offences.

55. Any notice, application in writing or other document required or authorised to be served, made or delivered under this Act may be served, made or delivered either—

Service of notices, &c.

- (a) by delivering it to the person on whom it is to be served, or to whom it is to be made or delivered; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
- (d) in the case of an incorporated company or body, the Central Valuation Board or a Regional Valuation Board, by delivering it to the secretary or clerk of the company, body or Board at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company, body or Board at that office; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person on whom it should be served, or to whom it should be made or delivered, as being a person having any interest in land, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates, and delivering it to some

A.D. 1938.

PART IV.
—cont.

person on the premises or, if there is no person on the premises to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part of the premises.

Powers as
to inquiries,
&c.37 & 38 Vict.
c. 40.

56. The Board of Trade Arbitrations, &c. Act, 1874 (which relates to the powers of the Board of Trade with respect to inquiries, appointments and other matters under special Acts) shall apply as if this Act were a special Act within the meaning of the first mentioned Act.

Reports to
Board of
Trade.

57. The Commission shall—

- (a) after receiving the certified valuations from the respective Regional Valuation Boards under subsection (6) of section seven of this Act forthwith transmit the same to the Board of Trade, and the Board shall as soon as may be lay before Parliament statements showing the total amounts of the certified valuations in each region in respect of principal and subsidiary coal hereditaments respectively; and
- (b) annually, at such date and in such form as the Board of Trade may direct, make to the Board a report as to their proceedings under this Act during the preceding year, and the Board shall lay every such report before Parliament, and the Commission shall also, if at any time they are directed by the Board so to do, make to the Board a report as to any matter relating to their functions specified in the direction.

Short title
and extent.

58.—(1) This Act may be cited as the Coal Act, 1938.

(2) This Act shall not extend to Northern Ireland.

SCHEDULES.

A.D. 1938.

FIRST SCHEDULE.

Sections 1,
24.

CONSTITUTION AND PROCEDURE OF THE COAL COMMISSION.

1. The Commission shall consist of a chairman and four other members appointed by the Board of Trade. The Board of Trade shall nominate one of the members of the Commission other than the chairman to act as deputy chairman.

2. At least two of the members of the Commission shall be persons who have had administrative or other practical experience in the coal-mining industry, and one of those two members shall be a person who has been a wage earner in the coal-mining industry.

3. The appointment of a member of the Commission shall, subject to the provisions of this Schedule, be for such term, not being less than five years or more than ten years, as may be determined by the Board of Trade with the approval of the Treasury before his appointment, and shall be subject to such conditions as may be so determined.

4. A person shall be disqualified for being appointed or being a member of the Commission so long as he is a member of the Commons House of Parliament.

5. A person shall be disqualified for being appointed or being a member of the Commission so long as he is an officer or servant of an organisation of employers or of workpeople in the coal-mining industry, a practising mining engineer, or in any other manner directly connected with that industry. For the purposes of this paragraph, membership of such an organisation as aforesaid shall not of itself be treated as constituting a direct connection with the coal-mining industry.

6. A member of the Commission shall, within three months after his appointment, sell or dispose of any interest or securities which he may hold in his own name or in the name of a nominee for his benefit in any undertaking carrying on the business of coal-mining or supplying or selling coal or the manufacture or sale of by-products of coal.

7. It shall not be lawful for a member of the Commission while he holds office to acquire, directly or indirectly, for his own benefit any interest or securities in any such undertaking as aforesaid, and if a member of the Commission becomes entitled for his own benefit under any will or succession or otherwise to

A.D. 1938. any interest or securities in any such undertaking, he shall sell or dispose of it or them within three months after he has so become entitled thereto.

1ST SCH.
—cont.

8. If a member of the Commission becomes disqualified for holding office, or is absent from meetings of the Commission for more than six months consecutively except for some reason approved by the Board of Trade, or fails to comply with either of the two last preceding paragraphs, the Board shall forthwith declare his office to be vacant and shall notify the fact in such manner as they think fit, and thereupon his office shall become vacant.

9. The Commission shall appoint a secretary and such other officers, agents and servants as the Commission may determine.

10. There shall be paid out of the revenues of the Commission—

(a) to the members of the Commission, or to any of them, such salaries and allowances for expenses as the Board of Trade with the approval of the Treasury may determine; and

(b) to the secretary, officers, agents and servants of the Commission such salaries and remuneration, and, on the retirement or death of any of them, to them or their personal representatives or to their dependants such pensions and gratuities, as the Commission may determine.

11. The Commission may act notwithstanding a vacancy in their number, but a quorum of the Commission shall be not less than three.

12. The seal of the Commission shall be authenticated by the signature of the chairman of the Commission or some other member of the Commission authorised by the Commission to act in that behalf, and of the secretary or some other person authorised by the Commission so to act.

13. Every document purporting to be an order or other instrument issued by the Commission, and to be sealed with the seal of the Commission authenticated in the manner provided by this Schedule, or to be signed by the secretary or any person authorised to act in that behalf, shall be received in evidence and be deemed to be such an order or instrument without further proof unless the contrary is shown.

14. Subject to the provisions of this Schedule, the Commission shall have power to regulate their own procedure.

15. In this Schedule the expression "securities" includes shares, stock, debentures and debenture stock.

SECOND SCHEDULE.

A.D. 1938.

PROVISIONS FOR DEFINING PROPERTY AND RIGHTS WITH WHICH, AND MATTERS SUBJECT TO WHICH, COAL IS TO BE ACQUIRED.

Sections 4, 6, 43.

PART I.

General.

1. The conveyance of any coal or mine of coal to be assumed for the purposes of section four of this Act shall be a conveyance, to which all persons having any interest other than a retained interest in that coal or mine are conveying parties, to a purchaser for money or money's worth with notice of all matters whereof notice is material, containing, in the cases mentioned in paragraph 2 of this Schedule provisions to the effect therein mentioned, but subject as aforesaid not containing any such term or provision as might have limited the application of section sixty-two or sixty-three of the Law of Property Act, 1925, to the conveyance.

2.—(1) In a case in which any of the conveying parties has, besides the interest in respect of which he is a conveying party, a retained interest in the coal or mine, he shall be deemed not to be a conveying party in respect of his retained interest.

(2) In a case in which any of the conveying parties has an interest in land that would be adversely affected by a surface servitude that the conveyance might include, or might operate to grant, for any interest, by virtue either—

(a) of section sixty-two of the Law of Property Act, 1925; or

(b) of any rule of law relating to the grant of servitudes as servitudes of necessity;

the conveyance shall not operate further or otherwise, as regards the inclusion or the grant of that servitude or the interest (if any) for which it is to be included, than it would have operated if none of the conveying parties had had any interest in that land.

(3) In a case in which any of the conveying parties has an interest in land to which a servitude that adversely affects the coal or mine is annexed, or with which the benefit of a restrictive covenant that adversely affects the coal or mine runs, the conveyance shall reserve that servitude for the greatest interest for

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2ND SCH.
—cont.

which it could be reserved by that party, or shall reserve any right to enforce that covenant which would have subsisted in right of that party's interest in land with which the benefit of that covenant runs if he had not been a conveying party, as the case may be.

(4) In a case in which any of the conveying parties might, after the conveyance, be subject to any personal liability in respect of a restrictive covenant that adversely affects the coal or mine, the conveyance shall be deemed to contain a covenant entered into by the Commission with that party with the object and intent of affording to him and his successors in title a full and sufficient indemnity, but not further or otherwise, that the Commission will at all times after the vesting date duly perform and observe that restrictive covenant in relation to the coal or mine and will at all times keep that party and his successors in title effectually indemnified against all actions, proceedings, costs, charges, claims, and demands whatsoever in respect of that restrictive covenant.

3. A person having an interest vested in him without power to convey it, or having power to convey an interest with or on some consent, approval or request or on giving some notice, shall be deemed for the purposes of this Schedule to have had that power or to have received that consent, approval or request or to have given that notice, as the case may be.

PART II.

Vesting of rights to withdraw support.

4. The following provisions of this Part of this Schedule shall have effect with respect to the vesting in the cases therein mentioned in the Commission with any coal or mine of coal of a right to withdraw support.

5. In a case in which the fee simple in the coal or mine, or the term of years under a coal-mining lease thereof, was vested on the valuation date in a person other than the person in whom the fee simple in land supported thereby was then vested, and any right to withdraw support from that land, other than a right granted by a working facilities order, was then annexed to the coal or mine, there shall vest in the Commission therewith a right to withdraw support from that land similar in all respects, whether as regards terms, conditions, extent, duration (save as in this paragraph provided) or otherwise, to the said right that was then annexed to the coal or mine :

Provided that, where the fee simple in the coal or mine and the fee simple in land supported thereby was vested in the same person but the term of years under a coal-mining lease was

subsisting in the coal or mine and a right to withdraw support was annexed thereto, the duration of the right that vests in the Commission shall extend to the whole of the period during which any coal to which the first-mentioned right was annexed remains ungotten.

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2ND SCH.
—cont.

6.—(1) In a case in which the fee simple in the coal or mine and the fee simple in land supported thereby was vested on the valuation date in the same person and no coal-mining lease of that coal or mine was then subsisting, there shall vest in the Commission with the coal or mine such a right as is hereinafter mentioned, to the extent to which the existing owners of the coal or mine were competent on the valuation date to grant such a right by virtue of their interests in that land, that is to say, a right to withdraw support from that land so far as may be reasonably requisite for the working of any coal, subject to an obligation either—

- (a) to pay proper compensation for damage arising from such working to that land; or
- (b) with the consent (which shall not be unreasonably withheld) of the person who would otherwise be entitled to claim compensation for that damage, to make good that damage to the reasonable satisfaction of that person and without expense to him;

which obligation shall extend to buildings and works on that land whether constructed before or after the vesting date.

(2) The Commission shall on the occasion of their first exercising, or granting to a lessee the benefit of, a right vested in them by this paragraph give public notice that they propose so to do by advertisement in the London Gazette and in one or more newspapers circulating in the locality.

(3) When the construction of any buildings or works is to be begun after the first publication of such a notice as aforesaid on land liable to be damaged by the exercise of the right to which the notice relates, the following provisions of this paragraph shall have effect :—

- (a) before the construction thereof is begun, the person at whose expense they are to be constructed (in this subparagraph referred to as “the building owner”) shall notify the Commission of the proposal to construct them, and shall, if so requested by the Commission within fourteen days from the receipt by them of the notice, produce for the inspection of a person duly authorised by them in that behalf plans and specifications of the buildings or works showing the design thereof and the proposed materials for and method of construction of the foundations thereof, and shall,

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2ND SCH.
—cont.

- if so requested within that period or within seven days after the plans and specifications have been produced as aforesaid, furnish the Commission with copies of any such plans or specifications;
- (b) at any time within twenty-eight days from the time when any request made by the Commission with respect to the production or furnishing of copies of the plans and specifications has been complied with, or within such further period as the building owner may allow, the Commission may make such proposals as to the materials for and method of construction of the foundations as appear to them to be desirable for minimising damage in the event of subsidence, and, if they do so and the foundations are constructed otherwise than in accordance with the Commission's proposals, the obligation to pay compensation or to make good referred to in sub-paragraph (1) of this paragraph shall not extend to any damage that would have been avoided if they had been so constructed;
- (c) the Commission shall have the right to have the foundations inspected by a person duly authorised by them in that behalf from time to time during the construction thereof as that person may reasonably require, and if it is alleged by the Commission that the foundations are being constructed otherwise than in accordance with any plans or specifications produced or furnished to them, or otherwise than in accordance with any such plans or specifications as modified in accordance with proposals made by the Commission, as the case may be, the Commission shall notify the building owner of the matter alleged to constitute a departure therefrom, and any question arising in relation thereto shall be determined by arbitration;
- (d) the Commission shall pay all costs reasonably incurred by the building owner in the production or furnishing of copies of plans and specifications pursuant to a request made by the Commission under this sub-paragraph, and the amount of any addition to the expense incurred by him in constructing the buildings or works which is attributable to giving effect to the Commission's proposals or to any postponement or interruption of the construction thereof consequent upon an allegation on the part of the Commission of a departure from plans and specifications which is determined not to have been well founded, and any question as to the subsistence of a liability of the Commission by virtue of this provision, or as to the amount payable by them in respect of any such liability, shall be determined by arbitration;

(e) if the building owner fails to give notice to the Commission in accordance with this sub-paragraph of the proposal to construct the buildings or works or fails to comply with a request made by the Commission thereunder, the obligation to pay compensation or to make good referred to in sub-paragraph (1) of this paragraph shall be limited to damage which could not have been avoided by reasonable and proper precautions taken in the design and construction of the foundations to minimise damage in the event of subsidence.

(4) On an application under section eight of the Mines (Working Facilities and Support) Act, 1923 (which provides for the imposition by the Railway and Canal Commission of restrictions on the working of minerals where a person having an interest in land is not entitled to support or to sufficient support for buildings or works), the applicant shall not be required to pay or give any compensation or consideration in respect of the imposition of restrictions appearing to the Railway and Canal Commission to be justified by circumstances due to the subsistence of a right to withdraw support vested in the Commission by this paragraph :

Provided that this sub-paragraph shall not have effect in the case of an application sent to the Board of Trade after the expiration of six months from the date of the first publication in relation to the right in question of the notice required by sub-paragraph (2) of this paragraph.

(5) Notwithstanding anything in section thirteen of the Mines (Working Facilities and Support) Act, 1923, restrictions, the imposition of which appears to the Railway and Canal Commission to be justified as aforesaid, may be imposed under section eight of that Act on the application of, and so as to vest the right to enforce the restrictions in, any such company, authority or body as is mentioned in the said section thirteen, and such restrictions may be so imposed on the application of, and so as to vest the right to enforce the restrictions in, any company or other body or person carrying on an undertaking primarily for the supply of gas, electricity, water or hydraulic power for public purposes or to members of the public.

7.—(1) Any person interested in land damaged by the working of coal in exercise of a right to withdraw support therefrom which vests in the Commission under either of the two preceding paragraphs subject to an obligation to pay proper compensation for or to make good damage arising from such working, and which has been granted by the Commission to a lessee, shall be entitled to enforce against the Commission any liability to pay proper compensation for or to make good that damage pursuant to that obligation which the lessee fails to discharge :

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2ND SCH.
—cont.

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2ND SCH.
—cont.

Provided that nothing in this sub-paragraph shall be construed as rendering invalid any provision contained in a lease granted by the Commission requiring the lessee to indemnify the Commission against liability in respect of any such obligation as aforesaid, and the Commission may require the inclusion of such a provision in a lease which they are under obligation by virtue of section thirteen of this Act to grant.

(2) Any question as to the subsistence by virtue of either of the two preceding paragraphs of an obligation to pay proper compensation for or to make good damage to any land, or as to the rights or liabilities of any person in respect of the enforcement of such an obligation so subsisting, shall be determined by arbitration.

PART III.

Application to Scotland.

8. This Schedule shall apply to Scotland, subject to the following modifications:—

(a) For paragraph 1 the following paragraph shall be substituted—

“ 1. The conveyance of any coal or mine of coal to be assumed for the purposes of section four of this Act shall be a conveyance in common form (including a clause of assignation of writs) duly recorded in the appropriate Register of Sasines and granted by all persons having any interest other than a retained interest in that coal or mine (each of such persons being assumed to be of full age and capacity) and conveying all their rights, titles and interests in and to the said coal or mine of coal, to the effect and intent of vesting the said coal or mine of coal absolutely in the Commission freed from all feudal prestations, and rights in security, if any, and subject only to the inherent right of superiority of the Crown :

Provided that, in the case of any coal or mine of coal which is held on a title comprising other subjects also, the conveyance to be assumed as aforesaid shall be deemed to contain a clause of assignation of writs to the effect only of enabling the Commission to maintain and defend their right to the coal or mine and, for that purpose, an obligation to make the writs forthcoming on a proper receipt and undertaking to redeliver.”

(b) For sub-paragraph (2) of paragraph 2 the following sub-paragraph shall be substituted:—

“ (2) In a case in which any of the conveying parties has an interest in land that would be adversely affected by a surface servitude that the conveyance might include

or might operate to grant for any interest by virtue of any rule of law relating to the grant of implied servitudes or of servitudes of necessity, the conveyance shall not operate as regards the inclusion or the grant of that servitude further or otherwise than it would have operated if none of the conveying parties had had any interest in that land."

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2ND SCH.
—cont.

(c) For any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette.

THIRD SCHEDULE.

PROVISIONS AS TO COMPENSATION PAYABLE UNDER SECTION SIX OF THIS ACT.

Sections 6,
7, 11, 13, 14,
24, 27, 35,
37, 40, 42,
43, 53.

PART I.

PRELIMINARY.

Units for Compensation Purposes.

1. Subject to the provisions of paragraph 2 of this Schedule, each of the following acquired interests, or groups of such interests, in coal, mines of coal, and acquired property and rights, shall constitute a unit for compensation purposes,—

- (a) each freehold reversion (that is to say, in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease derived immediately out of the fee simple and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the fee simple in the coal and mines together with the interests therein of all persons claiming under him);
- (b) each acquired leasehold reversion (that is to say, in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease being an under-lease and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the term created by the lease out of which that under-lease was immediately derived together with the interests therein of all persons claiming under him, with the exception of any such interest that is a retained interest by virtue

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3RD SCH.
—cont.

of a direction under subsection (2) of section five of this Act);

- (c) each freehold in possession in any valuation region (that is to say, in the case of all the coal and mines of coal in any valuation region that are not on the valuation date comprised in any coal-mining lease, and are in the legal ownership as respects the fee simple of the same estate owner, and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the fee simple in the coal and mines together with the interests therein of all persons claiming under him).

2.—(1) If the estate owner in respect of a unit for compensation purposes as ascertained under paragraph 1 of this Schedule, or a person claiming under him, makes application in writing in that behalf to the Commission not later than the expiration of six months from the valuation date and satisfies them that, by reason of the subsistence of different interests in different parcels of coal or different mines in the ownership of the estate owner, the interests in those parcels or mines respectively and in acquired property and rights annexed thereto ought to be treated as constituting separate units for compensation purposes, they shall be so treated.

(2) Provision may be made by rules made by the Board of Trade for the consolidation of two or more units for compensation purposes as ascertained under the preceding provisions of this Schedule, or for the division of a unit as so ascertained into two or more units, or for treating as included in any unit as so ascertained, or as constituting a separate unit for compensation purposes, any acquired interest or interests, and for the manner in which the compensation for units to which the rules relate is to be ascertained and paid having regard to the special circumstances of such units.

Constitution of Valuation Boards.

3.—(1) There shall be a Central Valuation Board consisting of the following members, that is to say—

- (a) an independent person, being a member of the legal profession or a person who has had experience in the management of land or with business experience, appointed to act as chairman of the Board;
- (b) two other independent persons; and
- (c) in respect of each valuation region, one person who is at the date of his appointment engaged in the management of mineral estates in that region and who has a knowledge of coal-mining and experience in the valuation of minerals :

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3RD SCH.
—cont.

Provided that, for the purpose of the exercise by the Board of their duty under subsection (4) of section six of this Act to divide Great Britain into valuation regions, the Board shall consist of the chairman, the two other independent members, and such number of other members, being persons engaged in the management of mineral estates and having such knowledge and experience as aforesaid, as the Board of Trade may determine.

(2) The appointments aforesaid shall be made by the Board of Trade after consultation, in the case of the chairman of the Board, with the Lord Chancellor, and, in the case of the other members thereof, with the chairman of the Mineral Owners' Joint Committee and the president of the Chartered Surveyors Institution.

(3) The Board of Trade may, after such consultation as aforesaid, make a temporary appointment of a person to act as chairman or other member of the Board at any time when the chairman or another member is temporarily absent or unable to act.

(4) The quorum of the Board shall be such number of the members of the Board as may be prescribed.

(5) A determination of the Board shall be taken by the votes of the members of the Board present and voting, or, in case of difference between them, of the majority, and in the case of an equality of votes the chairman shall be entitled to a second or casting vote.

(6) In this and the next succeeding paragraph the expression "independent person" means a person who is not at the date of his appointment, and has not recently been, engaged in or connected with the management of mineral estates and is not a member, or an officer or servant, of an organisation of employers or of workpeople in the coal-mining industry, a practising mining engineer, or in any other manner directly connected with that industry.

4.—(1) There shall be a Regional Valuation Board for each valuation region, consisting of the following members, that is to say—

- (a) an independent person, being a member of the legal profession, appointed to act as chairman of the Board; and
- (b) such number of other members, being persons engaged in the management of mineral estates in the region and having a knowledge of coal-mining and experience in the valuation of minerals, as the Board of Trade may determine.

(2) The appointments aforesaid shall be made by the Board of Trade after consultation, in the case of the chairman of the Board, with the Lord Chancellor, and, in the case of the other members thereof, with the chairman of the Mineral Owners' Joint Committee and the president of the Chartered Surveyors Institution.

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3RD SCH.
—cont.

(3) The Board of Trade may, after such consultation as aforesaid, make a temporary appointment of a person to act as chairman of the Board at any time when he is temporarily absent or unable to act.

(4) The quorum of the Board shall be such number of the members of the Board as may be prescribed, and the rules may prescribe different numbers as respects different Regional Valuation Boards.

(5) A determination of the Board shall be taken by the votes of the members of the Board present and voting, or, in case of difference between them, of the majority, and in the case of an equality of votes the chairman shall be entitled to a second or casting vote.

(6) In this Act references to the Regional Valuation Board mean in relation to any holding the Regional Valuation Board for the valuation region in which the holding is. A holding shall be deemed to be in the valuation region that comprises the premises in which the holding subsisted or the greater part thereof, and if any question arises as to which of two or more valuation regions a holding is in, the question shall be referred to the Central Valuation Board whose decision shall be conclusive.

5.—(1) The Board of Trade shall, after consultation with the Central Valuation Board or the Regional Valuation Board, as the case may be, appoint a person to act as clerk to each of the said Boards, and such number of persons as the Board of Trade think fit to act as officers and servants of each of the said Boards.

(2) The Commission shall pay to the chairman and to the members of each of the said Boards and to the officers and servants of each of the said Boards and to a referee appointed under this Schedule, such remuneration, and such allowances for expenses properly incurred by any of them as the Board of Trade may determine, and the Commission shall pay such other expenses of the Central Valuation Board and of a Regional Valuation Board and of a referee appointed under this Schedule as the Board of Trade may determine.

(3) No person who has an acquired interest, or who has acted in any capacity in connection with the valuation under this Schedule of a holding on behalf of a person having an acquired interest, shall be appointed to be the chairman or an independent member of the Central Valuation Board or of a Regional Valuation Board, and neither the chairman nor an independent member of any such Board shall act as aforesaid. None of the other members of any such Board shall vote on the taking of any determination of the Board as to the value of a holding in respect of which he has acted as aforesaid or, if he has any acquired interest, of a holding that comprises that interest.

Any person who contravenes the provisions of this paragraph shall be liable on summary conviction to a fine not exceeding ten pounds in respect of every day on which he acts in contravention thereof.

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(4) The Central Valuation Board and a Regional Valuation Board may cause any inquiry or inspection required to be made by them to be made on their behalf by one or more of the members or officers or servants of the Board.

(5) It shall be the duty of each person having an acquired interest that is comprised in a holding to furnish to the Central Valuation Board, or a referee appointed under this Schedule, or the Regional Valuation Board, on being requested so to do by the Board or the referee, all such information with respect to any matter relevant to the valuation of the holding as the Board or the referee may reasonably require, and the Board or the referee may require any such person to verify any information given by him in such manner by statutory declaration or otherwise as may be reasonably requisite.

(6) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—

- (a) the administration of oaths and the taking of affirmations;
- (b) the correction of mistakes and errors in awards; and
- (c) the summoning, attendance and examination of witnesses and the production of documents;

shall apply in respect of proceedings before the Central Valuation Board, or a referee appointed under this Schedule, or a Regional Valuation Board, but save as aforesaid the said Acts shall not apply to or at any such proceedings.

(7) Subject to the provisions of this Schedule and of rules made thereunder, the Central Valuation Board, a referee appointed under this Schedule, and a Regional Valuation Board shall have power to regulate their own procedure.

PART II.

PROVISIONS AS TO REGISTRATION UNDER THE REGISTRATION ACT.

6. In order for compensation to be payable under section six of this Act in respect of a holding, an application for the registration under the Registration Act of particulars in respect thereof must have been made before the valuation date, or, if not so made, must be made within the period of six months beginning on that date.

7. For the purposes of proceedings for registration taken under the Registration Act on or after the valuation date, and

A.D. 1938. for the purposes of the operation on or after that date of the provisions of that Act relating to the rectification of the register—

3RD SCH.
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- (a) references in that Act to property and rights held in association with coal or a mine of coal shall be construed as references to acquired property and rights, references in that Act to matters subject to which coal hereditaments are held shall be construed as references to the matters specified in subsection (2) of section four of this Act, and references in that Act to a proprietary interest shall be construed as references to an acquired interest;
- (b) the information to be furnished in relation to an application for registration shall extend to the circumstances of the holding relevant to the ascertainment of the right, if any, to withdraw support that is to vest in the Commission under Part II of the Second Schedule to this Act with any coal or mine in which the holding subsisted, and those circumstances shall be included in the matters particulars whereof may be registered;
- (c) information given to the Commission which is by that Act required to be related to the circumstances as existing at the date when the information is given shall be related to the circumstances as existing on the valuation date; and
- (d) references in that Act to particulars being incorrect shall include references to the omission of any relevant particulars.

8.—(1) In the case of a holding in respect of which an application for the registration of particulars has been duly made under the Registration Act before the valuation date, the person by whom the application for registration was made, or any person having an acquired interest that is comprised in the holding, may, at any time during the period of six months beginning on the valuation date, give notice in the prescribed form to the Commission of any matter in respect of which—

- (a) if registration has been effected before the notice is given, the registered particulars; or
- (b) if registration has not then been effected but a draft of the particulars to be registered has been settled and any copy thereof sent, the draft particulars; or
- (c) if no copy of the draft particulars has then been sent, the particulars contained in the statement and other information furnished;

appear to him to be incorrect or incomplete having regard to the circumstances of the holding subsisting on the valuation date and to the provisions of this Act.

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3RD SCH.
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(2) Where a notice is given to the Commission under this paragraph in a case in which registration has been effected, the provisions of the Registration Act with respect to rectification of the register shall have effect, so, however, that, if it appears to the Commission that no alteration of the particulars registered is required, they shall notify the person by whom the notice was given of their decision not to make any such alteration, and he shall be entitled to make an application to the Court for a direction to the Commission to make therein the alterations appearing to him to be requisite at any time within one month from the service of the Commission's notice on him.

(3) Where a notice is given to the Commission under this paragraph in a case in which registration has not been effected but a draft of the particulars has been settled and any copy thereof sent, the Commission may settle a substituted draft thereof and—

(a) if they do so, the provisions of the Registration Act with respect to draft particulars shall have effect in relation to the substituted draft to the exclusion of the original draft, without prejudice, however, to any right in respect of costs incurred in relation to the original draft;

(b) if they do not do so, they shall notify the person by whom the notice was given of their decision not to do so, and he shall be entitled to make an application to the Court for the variation of the original draft at any time within one month from the service of the Commission's notice on him.

(4) An application to the Court made under this paragraph shall be deemed for the purposes of the Registration Act to be made under Part I of the Second Schedule thereto.

(5) Where a notice is given to the Commission under this paragraph by a person other than the person by whom the application for registration of particulars in respect of the holding to which the notice relates was made or a person to whom the application has been notified under sub-paragraph (2) (a) of paragraph 2 of the Second Schedule to the Registration Act, the person by whom the notice was given shall have the like rights under the Registration Act in connection with the settling of the particulars to be registered, the payment of costs and all other matters, and the like duties thereunder, as a person entitled under that sub-paragraph to be notified of the application.

PART III.

VALUATION.

Claims and Valuation Proceedings.

9.—(1) In order for compensation to be payable under section six of this Act in respect of a holding, a notice of claim

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3RD SCH.
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for compensation to be paid in respect thereof must be served on the Commission within the period of six months beginning on the valuation date.

(2) A notice of claim for compensation must be in the prescribed form and must be served by a person who has an acquired interest that constitutes or is comprised in the holding :

Provided that, in the case of a holding belonging to an ecclesiastical corporation to which the Ecclesiastical Leasing Acts apply, a notice must be served by the Ecclesiastical Commissioners, and in any other case the Commission may receive a notice served by a person who has not such an interest as aforesaid if they are satisfied that, by reason of that person being concerned in the administration of the holding or on other grounds appearing to the Commission to be sufficient, it is convenient that the notice should be served by him.

(3) A notice of claim for compensation for a holding in respect of which an application for the registration of particulars has been made before the valuation date must, if the person by whom the notice is served (in this Schedule referred to as "the claimant ") is aware of any error or omission in such particulars relating to the registration as are mentioned in paragraph 8 of this Schedule, be accompanied by such a notice as is therein mentioned given by him, and must in any event include a statement, verified in such manner by statutory declaration or otherwise as the Commission may reasonably require, to the effect that the claimant has examined the said particulars and has made such investigation of the circumstances of the holding as is reasonably requisite for discovering any error or omission therein and is not aware of any matter, or of any other matter, as the case may be, in respect of which such a notice may be given :

Provided that, in the application of this sub-paragraph to a matter with respect to which the Commission or the Board of Trade have given such an indication as to the information material in their opinion for valuation purposes as is mentioned in section thirty-six of this Act, the omission from the particulars of matter outside the scope of the indication given may be disregarded.

(4) A notice of claim for compensation must be accompanied by a statement in the prescribed form, and verified as aforesaid, of all the circumstances of the holding relevant to the ascertainment of the person entitled to the compensation for the holding and known to the claimant at the time when the notice is served, and the claimant shall, on being requested by the Commission so to do, give to them such further information as to the circumstances relevant to the ascertainment of that person as the Commission may reasonably require.

10.—(1) In the case of each holding in respect of which an application for the registration of particulars has been duly made

under the Registration Act and a notice of claim for compensation has been duly served, the Commission shall, as soon as may be after the registration of particulars in respect thereof has been effected, give notice thereof to the Regional Valuation Board:

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3RD SCH.
—cont.

Provided that—

- (a) in a case in which registration in respect of a holding has been effected before the expiration of the period during which notice may be given under paragraph 8 of this Schedule, the Commission shall not give notice of the registration under this paragraph until that period has expired or, where any notice is given under that paragraph, until the proceedings consequent thereon have been completed; and
- (b) the Commission shall not in the case of any holding give notice of registration under this paragraph if it appears to the Commission that there is any error or omission that renders the particulars registered in respect thereof open to objection, or that any such error or omission is likely to appear from proceedings still to be taken in connection with the registration of particulars in respect of another holding.

(2) When the Commission give notice of registration under this paragraph in relation to any holding, they shall serve a copy of the notice on the claimant, and also on the following persons, that is to say, the person, if other than the claimant, by whom the application for registration was made, any person entitled under sub-paragraph (2) (a) of paragraph 2 of the Second Schedule to the Registration Act to be notified of the application, and any other person by whom a notice has been given to the Commission under paragraph 8 of this Schedule (who are hereinafter in this Schedule referred to as “persons intervening”).

(3) The valuation of a holding shall be made on the basis of the particulars registered in respect thereof on the date on which notice of registration is given to the Regional Valuation Board in relation thereto under this paragraph, and as from that date the provisions of the Registration Act with respect to the rectification of the register shall cease to have effect in relation to the holding:

Provided that, if from any information in the possession of the Regional Valuation Board it appears to them that there is in the particulars so registered as aforesaid an error or omission of material importance for valuation purposes, they may, at any time before they have settled their draft valuation of the holding, notify the Commission that they are of that opinion and thereupon the said provisions shall again come into effect, and, if any alteration is made thereunder in the particulars so registered as aforesaid, the valuation shall be made on the basis of the particulars as altered.

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3RD SCH.
—cont.

(4) The particulars registered in respect of a holding on the date on which notice of registration is given to the Regional Valuation Board in relation thereto under this paragraph, or, in the case of particulars that are altered after that date under the proviso to the last preceding sub-paragraph, those particulars as so altered, shall be assumed conclusively to be correct and complete for the purposes of the valuation of the holding, and shall also, as against the estate owner in respect of the holding and all persons claiming under him and their successors in title respectively be assumed prima facie to be correct and complete for the purpose of ascertaining the premises that vest in the Commission on the vesting date and the title for which they so vest, but the inclusion therein, or the omission therefrom, of any matter shall not be treated as affecting any right or liability, or as binding on any person, for any other purpose.

(5) The estate owner in respect of a holding, in respect of which the payment of compensation under this Act is claimed, and all persons claiming under him and their successors in title respectively shall be estopped from asserting after the vesting date any matter adversely affecting the premises in which the holding subsisted, unless it is shown that there was furnished for the purposes of the Registration Act information of all the circumstances of the holding relevant to that matter, or, if it was a matter with respect to which the Commission or the Board of Trade gave such an indication as to the information material in their opinion for valuation purposes as is mentioned in section thirty-six of this Act, such information with respect to that matter as was thereby indicated.

11.—(1) The claimant in respect of a holding must deliver to the Regional Valuation Board an estimate of the value of the holding in such form, and accompanied by such plans and other documents, as may be prescribed, together with a certificate signed by the person by whom the estimate was made to the effect that it was made on the basis on which holdings are, under the provisions of subsection (4) of section seven of this Act and of this Schedule, required to be valued.

(2) The said estimate may be delivered at any time after the date on which the notice of claim was served, and, if it has not been delivered at the date on which notice of the registration of particulars in respect of the holding is given to the Regional Valuation Board, it must be delivered within such period as the Board may specify by notice requiring delivery thereof served on the claimant after that date, so however that the period specified shall not be less than one month from the service of the notice requiring delivery thereof.

(3) As soon as may be after notice of the registration of particulars in respect of a holding has been given to the Regional Valuation Board and an estimate of the value thereof has been delivered to them, they shall, after making such inquiries and

inspections and taking such other steps as they think requisite, review the estimate and settle a draft of their valuation of the holding :

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3RD SCH.—*cont.*

Provided that, if default is made in the delivery of an estimate, the Regional Valuation Board shall settle a draft of their valuation in such manner as they think fit as soon as may be after the notice of registration has been given and the time for the delivery of the estimate has expired.

(4) When the Regional Valuation Board have settled a draft of their valuation of a holding, they shall give notice thereof in the prescribed form to the claimant, and, if the valuation relates to subsidiary coal hereditaments within the meaning of section six of this Act or to coal or a mine of which a person is entitled to require a lease to be granted to him under section thirteen of this Act, to the Commission, and, if the claimant, or, in either of the cases aforesaid, the Commission, so require in the prescribed manner and within the prescribed period, the Board shall give him or them an opportunity of being heard by a person experienced in the valuation of minerals or in the management of mineral estates, or in the case of a claimant, in person, and where in either of the cases aforesaid a hearing is required either by the Commission or the claimant, the Board shall give to the other of them also an opportunity of being heard as aforesaid. The said notice to the claimant shall contain an intimation of his right to be so heard.

(5) As soon as may be after giving effect to the preceding provisions of this paragraph in the case of any holding, the Board shall settle their valuation thereof and shall give notice of their valuation in the prescribed form to the claimant and to each of the persons intervening if any, and in either of the cases aforesaid, to the Commission. The said notice to the claimant or any person intervening shall contain an intimation of the right of the person to whom it is given to have the valuation reviewed under the provisions of paragraph 12 of this Schedule.

12.—(1) Within the prescribed period after service upon him by the Regional Valuation Board of notice of their valuation of a holding, the claimant or any person intervening may give notice in the prescribed manner to the Board of Trade that he claims to have the valuation reviewed under this paragraph.

(2) Where a claim for review is made to the Board of Trade under the preceding sub-paragraph, they shall cause the valuation to be reviewed by a referee selected from a panel of referees to be appointed by them. The panel may include all or any of the members, other than the independent members, of the Central Valuation Board or of any Regional Valuation Board, but shall include at least two persons who are not members of

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3RD SCH
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any of those Boards, and the referee selected in any particular case shall not be a member of the Regional Valuation Board whose valuation is to be reviewed.

(3) The proceedings on a reference under this paragraph shall be held in public, and the Regional Valuation Board and the person by whom the reference was claimed shall be entitled, if the Board or that person, as the case may be, so desire, to appear thereat and to be heard by such representative as the Board or that person, as the case may be, may appoint, or, in the case of the person claiming the reference, to be heard in person, and the Board and that person shall each of them be entitled to call one (and, unless the referee otherwise directs, not more than one) expert witness to give evidence as to the value of the holding.

Where a claim for review of the valuation of a holding is made by the claimant and also by a person intervening, or by two or more persons intervening, one person only shall be entitled to be heard on behalf of all of them and the single expert witness shall be called on behalf of all of them. In the event of difference between the persons aforesaid as to the person to be heard, or to be called as an expert witness, the difference shall be determined by the referee.

(4) A referee shall have power to direct the Regional Valuation Board to alter their valuation in any case in which an alteration therein appears to him to be requisite, and the Board shall give effect to any such direction.

(5) In any case in which it appears to a referee that a claim for a reference was frivolous or was not justified by a substantial error or omission in the valuation of the Regional Valuation Board, he shall direct that the person claiming the reference shall not be entitled to payment of any costs incurred by that person in connection with the reference, or of such part of those costs as the referee may think fit, and may, if he thinks fit, direct that that person shall pay the whole, or such part as the referee may think fit, of the costs incurred by the Regional Valuation Board in connection with the reference.

(6) In the case of a valuation that relates to subsidiary coal hereditaments within the meaning of section six of this Act or to coal or a mine of which a person is entitled to require a lease to be granted to him under section thirteen of this Act, the foregoing provisions of this paragraph shall have effect subject to the following modifications, that is to say,—

- (a) the Commission may give notice as specified in subparagraph (1) of this paragraph of a claim for review thereof;
- (b) on a reference made at the instance of the Commission, the claimant in respect of the holding, and, on a reference made at the instance of the claimant or of a person

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3RD SCH.
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intervening, the Commission, shall be entitled to the like rights as are conferred by sub-paragraph (3) of this paragraph on the person by whom a reference is claimed; and

- (c) the costs that the person claiming the reference, whether the Commission or another, may be directed under sub-paragraph (5) of this paragraph to pay shall include the costs incurred by the claimant in respect of the holding or of the Commission, as the case may be, in the exercise of the rights conferred on him or them by head (b) of this sub-paragraph.

13. In the valuation of a holding regard shall be had to the following rules, that is to say—

- (a) no allowance shall be made on account of the compulsory acquisition by the Commission of the premises in which the holding subsisted; and
- (b) the state in which the said premises were at the valuation date shall be taken into consideration;

and also to such rules as may be prescribed for securing uniformity of valuation.

14. The Central Valuation Board shall have power to make, with the approval of the Board of Trade, rules as to the procedure to be followed in giving effect to the three last preceding paragraphs and for prescribing anything that is therein directed to be prescribed, and in those paragraphs the expression “prescribed” means prescribed by rules made under this paragraph:

Provided that rules under this paragraph shall not be made until a draft thereof has been approved by a resolution passed by each House of Parliament.

Costs of Valuation Proceedings.

15.—(1) Subject to the provisions of this paragraph and of sub-paragraph (5) of paragraph 12 of this Schedule, the Commission shall pay the costs reasonably incurred by the claimant, or a person intervening, in respect of any holding in giving effect in relation to that holding to the preceding provisions of this Part of this Schedule, or of the rules made thereunder, relating to his rights and duties in relation to the valuation of the holding.

(2) If two or more notices of claim are served in relation to the same holding, the liability of the Commission under this paragraph shall be limited to such a sum as would have been payable by them if a single notice only had been served, so however, that the Commission may pay costs in excess of that sum in any case in which it appears to them that the service of more than one notice was justified having regard to any special circumstances.

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3RD SCH.
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(3) The Commission shall not be liable under this paragraph to pay any costs in a case in which the holding in question is ultimately certified to have no value.

(4) The Commission shall not be liable to pay any costs under this paragraph incurred by a person who has neglected to comply at the due time with any of the preceding provisions of this Schedule that impose upon him a duty in connection with the valuation of the holding in question, whether with respect to the delivery of an estimate of the value of the holding, to the furnishing of information with relation thereto or to any other matter.

(5) The Commission shall not be liable to pay any costs under this paragraph incurred by a person intervening in respect of any intervention on his part which was not reasonably requisite for the proper valuation of the holding in question.

(6) The High Court shall have power, on the application of a person aggrieved by a denial on the part of the Commission by virtue of any of the four preceding sub-paragraphs of liability to pay any such costs as aforesaid, to give such directions as to the matter in question as appear to the Court to be just.

(7) The Commission shall have power to enter into undertakings to pay, and to pay, any costs other than those aforesaid reasonably incurred by any person in connection with the valuation of a holding.

(8) The amount of any costs that the Commission are liable under or by virtue of this paragraph to pay shall be determined by reference to a scale to be prescribed by the Treasury.

(9) In case of difference as to the amount of any costs that the Commission are liable under or by virtue of this paragraph to pay, or as to an apportionment required to be made for the purposes of sub-paragraph (2) of this paragraph, the Board of Trade may direct in what manner those costs are to be taxed, or the apportionment is to be settled, as the case may be.

Certification of values for purposes of payment of compensation.

16.—(1) When a Regional Valuation Board have settled the valuations of all the holdings in their region for which compensation is payable, and the proceedings on all claims for reference under paragraph 12 of this Schedule relating to any such holdings have been completed, and the time within which any other claim for such reference may be made has expired, the Board shall certify the amounts ascertained by those valuations respectively to the Commission in accordance with subsection (6) of section seven of this Act, and the Commission shall send to the

claimant in respect of each such holding a copy of the certificate that relates to that holding, together with a statement of the aggregate of the amounts certified in respect of all such holdings as attributable to principal coal hereditaments.

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3RD SCH.
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(2) The provisions of this paragraph and of the preceding paragraphs of this Schedule, that relate to the notification of an amount ascertained by a valuation, whether in draft, settled, revised, or certified, shall extend to the notification of a nil valuation.

17.—(1) So soon as may be after the Commission have received from a Regional Valuation Board certificates sent by them under the last preceding paragraph, the Commission shall publish in one or more newspapers circulating in the valuation region a notice to the effect that certificates relating to that region have been sent to them under that paragraph, and naming a place where the certificates may be seen at all reasonable hours by any person having an acquired interest comprised in a holding in that region or a successor in title of any such person.

(2) If any person aggrieved desires to question the validity of any certificate relating to a valuation region in respect of which a notice has been published by the Commission under the preceding sub-paragraph, or the propriety of the omission from the certificates sent in relation to that region of a certificate relating to any holding, on the ground that any requirement of this Act or of the Registration Act or of any rules made under either of them has not been complied with, he may, within six weeks after the first publication of the notice, make an application for the purpose to the High Court, and, where any such application is duly made, the Court—

- (a) may by interim order direct the Commission to suspend the payment of compensation on the basis of the certificates sent; and
- (b) if satisfied upon the hearing of the application that the interests of the applicant have been substantially prejudiced by any such requirement as aforesaid not having been complied with, may quash a certificate relating to any holding that appears to the Court to be affected, and give such directions as appear to the Court to be requisite for remedying the default and enabling the giving of valid certificates as respects all holdings in the valuation region for which compensation is payable to be completed.

(3) Subject as aforesaid the amounts specified in certificates relating to a valuation region in respect of which such a notice as aforesaid has been published shall be deemed to have been properly certified for the purposes of subsection (7) of section seven of this

A.D. 1938. Act, and the holdings to which the certificates relate shall be deemed for those purposes to be the holdings in that region for which compensation is payable, and the right of the Commission to make payments on the basis of such certificates shall not, after the expiration of the said period of six weeks, be questioned by prohibition or certiorari or in any other legal proceedings whatsoever.

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PART IV.

PAYMENT AND DISPOSAL OF COMPENSATION.

Ascertainment of person entitled.

18. For the purposes of any provision of this Act under which a payment is to be made at any date to the person entitled to the compensation for a holding, that person shall be ascertained as follows :—

(a) if the holding could at the valuation date have been sold and conveyed to a purchaser in such manner as to bind or over-reach all acquired interests comprised in the holding (either in the actual circumstances or if any requisite consent, approval, request or notice had been received or given) either—

(i) by, or by the direction of, a single person in whom the whole beneficial interest comprised in the holding was vested,

(ii) under the powers conferred by the Settled Land Act, 1925, or under any additional powers conferred by a settlement, or

(iii) by trustees for sale, or

(iv) by a personal representative in the exercise of his paramount powers, or

(v) under powers conferred by any other enactment,

the person who could have given a valid discharge for the purchase money arising on such a sale if paid on the date in question shall be the person entitled;

(b) in a case in which the preceding sub-paragraph would have applied but for the subsistence at the valuation date of a mortgage not capable of being over-reached as therein mentioned, then, if the mortgage has been discharged before the date in question, the person who would have been entitled if the preceding sub-paragraph had applied shall be the person entitled, and, if the mortgage is still subsisting at that date, then—

(i) except in a case in which at the valuation date the mortgagee or a receiver appointed by him was in

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possession, or in receipt of the income, of the mortgaged premises, the Commission may serve notice in writing on the mortgagee that they propose to act under this provision, and, if within one month after service of the notice, the mortgagee does not give notice in writing to the Commission that he objects to their so acting, the person who would have been entitled if the preceding sub-paragraph had applied shall be the person entitled;

(ii) in the excepted case aforesaid, and in a case in which the Commission do not think fit to serve notice as aforesaid or a mortgagee served with such a notice gives notice of objection as aforesaid, the mortgagee shall be the person entitled;

- (c) in any other case, and also in any such case as aforesaid, if the Commission consider it expedient in order to avoid expense or delay or for any special reason, the Commission may make payment to the proper officer of the Supreme Court or, in a case where the sum to be paid does not exceed five hundred pounds, of the county court, in accordance with rules of court, or to trustees appointed by the Commission, and that officer or the trustees, as the case may be, shall be the person entitled.

Payments on account.

19.—(1) At any time before the vesting date, or after that date but before the relevant certificates have become conclusive under paragraph 17 of this Schedule, the Commission, if they are satisfied that the compensation for any holding, or the aggregate of the compensation for a number of holdings to which the same person is entitled, will be not less than a particular amount, may make payment of such sum not exceeding that amount as they may think fit on account of the compensation for the holding or holdings:

Provided that no payment on account shall be made under this paragraph, except with the consent of the person entitled, either—

- (a) before the first day of January nineteen hundred and forty; or
- (b) unless the Commission have given to the person entitled not less than three months' notice in writing of their intention to make the payment.

(2) A payment on account made under this paragraph to the person entitled to the compensation for more than one holding shall be deemed to have been paid on account of the compensation for such of those holdings as the Commission may direct when making

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the payment, or, if no such direction is given, on account of the compensation for each of them rateably in proportion to the amount thereof.

(3) A payment on account made under this paragraph before the vesting date, together with interest thereon for the period between the date on which the payment is made and the vesting date at the rate of three pounds per cent. per annum less income tax at the standard rate, shall be treated in account as a payment on account of the capital of the compensation made on the vesting date, and the said interest shall be deemed for the purposes of the Income Tax Acts to be paid on each anniversary of the date of the payment on account that occurs before the vesting date and on the vesting date and accordingly shall be treated as a proper deduction from income.

(4) A payment on account made under this paragraph after the vesting date shall be treated in account as a payment made primarily in or towards discharge of any interest on the compensation that is due at the date of the payment, and the residue thereof, if any, shall be treated in account as a payment on account of the capital of the compensation.

20.—(1) If in the case of any valuation region the relevant certificates have not become conclusive under paragraph 17 of this Schedule at the vesting date, the claimant or any person intervening in respect of a holding in the region for which compensation is to be payable may require the Commission to make, at the expiration of each quarter thereafter until the certificates become conclusive, a payment on account under the last preceding paragraph of an amount not less than that specified in this paragraph, and, as from the date of any such requirement, the Commission shall be liable to make payments to the person entitled to the compensation for the holding accordingly.

(2) The amount of a quarterly payment that may be required as aforesaid shall be an amount equal to interest for three months at the rate mentioned in subsection (8) of section seven of this Act on three-quarters of either—

- (a) the draft valuation of the holding settled under subparagraph (3) of paragraph 11 of this Schedule, if at the date of the payment that draft has been settled but the certificate relating to the holding has not been sent to the Commission; or
- (b) the amount certified, if the certificate has been so sent at that date:

Provided that, if before the beginning of any quarter at the expiration of which a quarterly payment becomes due any payment on account has been made in respect of the holding

under the last preceding paragraph otherwise than by way of quarterly payment required as aforesaid, the amount of the quarterly payment shall be reduced by an amount equal to interest for three months at the rate aforesaid on the amount of the said payment on account.

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3RD SCH.
—cont.

(3) In the case of a holding consisting of a reversion, if at a date on which a quarterly payment becomes due the draft valuation of the holding has not been settled, the amount of that payment shall be an amount equal to one-eighth of—

- (a) the rent which became payable to the person entitled to the reversion immediately expectant on the lease, in respect of coal, mines of coal and acquired property and rights comprised therein, during the year ending on the vesting date (or, in the case of a lease that has expired before the vesting date, during the last year of its subsistence), less
- (b) the mineral rights duty and royalties welfare levy payable or allowable by that person in respect of that rent;

so however that that amount shall be subject to the reduction mentioned in the proviso to the last preceding sub-paragraph in the case therein mentioned :

Provided that, in a case in which there is reasonable ground for apprehending that, if a payment of the amount so ascertained were made, the aggregate of that payment and of any other payment on account theretofore made might exceed the aggregate of the compensation for the holding and the interest thereon, the Commission may withhold that payment.

(4) In a case in which the proviso to the last preceding sub-paragraph has effect and in a case of a holding other than a reversion, if at a date on which a quarterly payment becomes due the draft valuation of the holding has not been settled, that payment shall be deferred until the draft has been settled and the amount thereof shall be ascertained under sub-paragraph (2) of this paragraph.

(5) In this paragraph—

- (a) the expression “quarter” means a period of three months beginning on the first day of July, October, January or April;
- (b) the references to rent payable to the person entitled to a reversion and to mineral rights duty and royalties welfare levy payable or allowable by that person shall, in their application to a leasehold reversion, be construed as references respectively to the rent which that person was entitled to receive from his

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3RD SCH.
—cont.

lessee less the rent which he was liable to pay to his lessor, and to the duty and levy which he was liable to pay or allow less so much thereof as he was entitled to deduct from the rent payable to his lessor.

Disposal of compensation as between beneficial interests.

21.—(1) The compensation for a holding when paid by the Commission to the person entitled to receive it from them, including any sum paid on account thereof under paragraph 19 or 20 of this Schedule, and the income thereof, shall, in order to its being applied as compensation to the persons whose interests are comprised in the holding, be held and disposed of for the benefit of those persons, or their personal representatives or assigns, in accordance with the succeeding provisions of this paragraph.

(2) In the case of a holding that consists of or comprises an estate or other interest subject to a settlement within the meaning of the Settled Land Act, 1925, or to a trust for sale the proceeds whereof are subject to a settlement by way of succession, the trustees of the settlement or any Court having jurisdiction in relation to the execution of the trusts of the settlement, and in the case of the Court on the application of any beneficiary under the settlement, may require and cause the compensation, or the part thereof attributable to that estate or other interest, as the case may be, to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the Court, as the case may be, will give to the beneficiaries under the settlement the like benefit therefrom as they might lawfully have had from that estate or other interest, or as near thereto as may be, regard being had to the terms of the settlement and to all relevant circumstances affecting the premises in which the holding subsisted, including—

- (a) the terms of any subsisting coal-mining lease and the operation of any provision therein contained as to undergettings, short workings, and other like matters;
- (b) the period within which coal being worked might have been expected to be worked out or coal not being worked might have been expected to come into working and to be worked out; and
- (c) the extent to which, having regard to those circumstances, the premises ought to be regarded as property of a wasting character :

Provided that—

- (i) where a payment on account of the compensation for the holding has been made under paragraph 19 of this Schedule before the vesting date, the net income

accruing to the trustees before the vesting date from the investment of the sum paid, up to an amount sufficient to make good to the capital of the settlement the interest on that sum brought into account under paragraph 19 of this Schedule against the capital of the compensation, shall be set aside as capital of the settlement;

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3RD SCH.
—cont.

- (ii) subject as aforesaid no part of the income of the compensation shall be required or caused by virtue of this sub-paragraph to be set aside as capital of the settlement.

(3) In the case of a holding that comprises an estate or other interest subject to a mortgage, the compensation (other than any part thereof that is attributable to an estate or other interest not subject to the mortgage) shall be held and disposed of in like manner as if it had been money arising under a power of sale conferred by the mortgage.

(4) In the case of a holding that could have been sold as mentioned in sub-paragraph (a) of paragraph eighteen of this Schedule under powers conferred by the Ecclesiastical Leasing Acts, the compensation paid in respect thereof and the income thereof shall be held and disposed of, and the said Acts shall have effect, in like manner as if the compensation had been money paid to the Ecclesiastical Commissioners upon a sale under the said Acts of the premises in which the holding subsisted :

Provided that—

- (a) if the holding was a reversion and the rent reserved by the lease was subject, by virtue of a scheme in force under the said Acts, to a direction for the payment thereof to the Ecclesiastical Commissioners for the benefit of their common fund, the direction shall have effect in relation to the income of the compensation as it had effect in relation to the rent; and
- (b) where a payment on account of the compensation for the holding has been made under paragraph 19 of this Schedule before the vesting date, the net income accruing before the vesting date from the investment of the sum paid shall be set aside as capital of the compensation.

(5) Money representing compensation attributable to an estate or other interest subject to such a settlement or trust for sale as is mentioned in sub-paragraph (2) of this paragraph, or

A D. 1938. vested in trustees on or for charitable, ecclesiastical or public trusts or purposes, may, notwithstanding anything in the relevant trust instrument, be invested not only as authorised by law or by the trust instrument but also in or on—

- (a) the stock or other securities of any local authority in the United Kingdom, or
- (b) the stock, shares or other securities of any statutory undertakers within the meaning of section thirty-three of this Act, or
- (c) the debentures or debenture stock or the preference or wholly or partially guaranteed stock or shares of any company incorporated by a special Act of, or provisional order confirmed by, or by or under a public general Act of, the Parliament of the United Kingdom, or incorporated by Royal Charter, being a company which has paid dividends upon its ordinary capital at the rate of at least three per cent. per annum for at least the five years next before the time of investment (of which fact a letter purporting to be signed by the secretary of the company or by a banker or member of a firm of bankers or by the secretary or manager of a joint stock bank or of any branch thereof shall be sufficient evidence), or
- (d) the ordinary or other stock or shares of any company incorporated as aforesaid, being a company which has paid dividends upon its ordinary capital at the rate of at least four per cent. per annum for at least the ten years next before the time of investment (of which fact such a letter as aforesaid shall be sufficient evidence) :

Provided that the power conferred by this sub-paragraph—

- (i) shall not extend to any stocks shares or securities to bearer or subject to any liability for calls or other payments; and
- (ii) shall be exercisable subject to any consent that would have been requisite if the money had been proposed to be invested as authorised by law or by the trust instrument.

(6) Subject as aforesaid the compensation for a holding and the income thereof shall be held and disposed of in such manner as to confer on the existing owners whose interests are comprised in the holding, their personal representatives or assigns, the like benefits so far as may be, as they would have had from their respective interests in the premises in which the holding subsisted if those premises had not been acquired by the Commission.

Costs of payment and disposal.

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3RD SER.
—cont.

22.—(1) Subject to the provisions of this paragraph and of section thirty-nine of this Act, the Commission shall pay the costs reasonably incurred by any person having an acquired interest that is comprised in a holding or a successor in title of his—

- (a) in connection with the ascertainment of the person entitled to the compensation for the holding; and
- (b) in a case in which the compensation for the holding is paid into court under sub-paragraph (c) of paragraph 18 of this Schedule, in connection with the investment and re-investment of the sums paid and of obtaining orders for that purpose, of obtaining orders for the payment of the interest on the investments made, and of obtaining orders for the payment out of court of the sums paid or of the investments thereof; or
- (c) in a case in which the compensation is paid otherwise than as aforesaid, in connection with any application to the Court that may be requisite for the purpose of determining the manner in which the compensation ought to be held and disposed of.

(2) The Commission shall not be liable to pay under this paragraph any costs incurred by a person who or whose predecessor in title has neglected to furnish to the Commission information, relevant to the ascertainment of the person entitled to the compensation for the holding, that he is required by this Schedule, or has been reasonably required by the Commission, to furnish to them. The High Court shall have power, on the application of a person aggrieved by a denial on the part of the Commission by virtue of this sub-paragraph of liability to pay any such costs as aforesaid, to give such directions as to the matter in question as appear to the Court to be just.

(3) In case of difference as to the amount of any costs, other than costs of Court proceedings, that the Commission are liable under this paragraph to pay, the Board of Trade may direct in what manner they are to be taxed.

PART V.

APPLICATION TO SCOTLAND.

23. The foregoing provisions of this Schedule shall apply to Scotland, subject to the following modifications:—

- (i) For heads (a), (b) and (c) of paragraph 1 the following shall be substituted:—

“(a) in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease granted by the proprietor of the dominium utile and in the case of acquired property and rights

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3RD SCH.
—cont.

annexed to any such coal or mine, the interest therein of such proprietor (hereinafter referred to as the estate owner) together with the interests therein of all persons claiming under him;

(b) in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease that is a sub-lease and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the lessee who is the landlord under the sub-lease (hereinafter referred to as the estate owner), together with the interests of all persons claiming under him with the exception of any such interest that is a retained interest by virtue of a direction under subsection (2) of section five of this Act;

(c) in the case of all the coal and mines of coal in any valuation area that are not on the valuation date comprised in any coal-mining lease, and are in the ownership of the same person, as proprietor of the dominium utile (hereinafter referred to as the estate owner), and in the case of acquired property and rights annexed to any such coal or mine the interest therein of that person, together with the interests therein of all persons claiming under him."

- (ii) In the application of paragraph 4 to a valuation region in Scotland, a reference to the Lord Advocate shall be substituted for the reference to the Lord Chancellor.
- (iii) For sub-paragraph (6) of paragraph 5 the following sub-paragraph shall be substituted:—

"(6) The Court of Session or the sheriff court shall in respect of proceedings before the Central Valuation Board, or a referee appointed under this Schedule, or a Regional Valuation Board have the like powers to grant warrant to enforce the attendance of witnesses or the production of documents as in any arbitration, and it shall be competent in any such proceedings to examine witnesses on oath or affirmation."

- (iv) For paragraph 18 the following paragraph shall be substituted:—

"18. For the purposes of any provision of this Act under which a payment is to be made at any date to the person entitled to the compensation for a holding, that person shall be ascertained as follows—

(a) where the whole interests comprised in one holding were vested immediately before the valuation date in a single person, he shall be the person entitled;

(b) if the holding could, immediately before the valuation date have been sold and conveyed to a purchaser—

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3RD SCH.
—cont.

- (i) by any person holding the same in a fiduciary capacity, or
- (ii) by the heir at law duly served of a deceased owner, or
- (iii) under powers conferred by any enactment in such manner as to give the purchaser a valid title free from all feudal prestations and subject only to the inherent right of superiority of the Crown, the person who could have given a valid discharge for the purchase money arising on such a sale if paid on the date on which the compensation is paid shall be the person entitled;

(c) in a case in which either of the preceding sub-paragraphs would have applied but for the existence of the rights of a superior or the subsistence of a heritable security—

- (i) except in a case in which immediately before the valuation date the creditor in a heritable security was in possession or in receipt of the income of the premises in which the holding subsisted, the Commission may serve notice in writing on the superior or the creditor or both, as the case may be, that they propose to act under this provision, and if within one month after the service of the notice no superior or creditor gives notice in writing to the Commission that he objects to their so acting, the person who would have been entitled if sub-paragraph (a) or (b), as the case may be, of this paragraph had applied shall be the person entitled;
- (ii) in the excepted case aforesaid the Commission may serve notice on the superior or superiors, if any, that they propose to act under this provision and if within one month after the service of the notice no superior gives notice in writing to the Commission that he objects to their so acting, the creditor in the heritable security shall be the person entitled;

(d) in any other case and also in any such case as aforesaid if the Commission consider it expedient

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3RD SCH.
—cont.

in order to avoid expense or delay or for any special reason, the Commission may consign or deposit the compensation in a bank subject to the orders of the Court of Session or, where such compensation does not exceed five hundred pounds, of the sheriff court, and the compensation shall thereafter be paid in such proportions to such persons as the Court of Session or sheriff court, as the case may be, shall determine :

Provided that, in the case of any person under disability or holding under a limited title, the Court of Session or the sheriff court, as the case may be, may direct that any compensation in which such person may have an interest shall be invested, distributed or otherwise applied in such manner as the Court of Session or the sheriff court may deem just."

- (v) Paragraph 21 shall have effect as if for any reference to an estate or other interest subject to a settlement within the meaning of the Settled Land Act, 1925, there were substituted a reference to an estate or other interest subject to a trust within the meaning of the Trusts (Scotland) Act, 1921, or to an entail or to a liferent and any reference to the trustees of the settlement shall be construed accordingly.

- (vi) After paragraph 21 the following paragraph shall be inserted :—

" 21A. Where any coal or mine of coal or acquired property or rights vested in the Commission by virtue of this Act shall, immediately prior to the valuation date, be subject to a feu-duty or a heritable security, which affects also other property not so vested, and compensation is paid to the person entitled to such feu-duty or the creditor in such heritable security, such person or creditor shall be bound to execute a discharge or deed of restriction to such extent and on such conditions as may, failing agreement, be determined by the sheriff. The Commission shall be liable to pay the costs incurred in connection with the preparation, execution, stamping and recording in the Register of Sasines of any such discharge or deed of restriction as the same may be taxed by the auditor of the sheriff court."

- (vii) In this Schedule references to a freehold in possession, shall be construed as references to the whole interests specified in head (c) of paragraph 1 of this

Schedule as modified by this paragraph, and references to payment into Court under sub-paragraph (c) of paragraph 18 shall be construed as references to consignment or deposit in bank under sub-paragraph (d) of the paragraph directed by the foregoing provisions to be substituted for paragraph 18.

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3RD SCH.
—cont.

TABLE.

Section 42.

Person entitled to, and disposal of, compensation for Crown lands.

Land.	Person entitled.	Manner of disposal of principal and interest.
Land under the management of the Commissioners of Crown Lands.	The Commissioners of Crown Lands.	As capital and income respectively of the land revenues of the Crown.
Land held by His Majesty in right of the Duchy of Lancaster.	The person to whom the purchase money for land sold under the Duchy of Lancaster Lands Act, 1855, is payable.	As sums representing such purchase money and sums representing interest thereon respectively.
Land held by His Majesty in right of His private estates.	Such person as may be nominated under His Majesty's royal sign manual.	In such manner as His Majesty may be pleased to direct.
Land forming part of the possessions of the Duchy of Cornwall.	The person to whom gross sums of money receivable in respect of a sale of any of the said possessions under the Duchy of Cornwall Management Acts, 1863 to 1893, are payable.	As such gross sums and sums representing interest thereon respectively.
Land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department.	Such person as that department may direct.	In such manner as the Treasury may direct.

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FOURTH SCHEDULE.

LEASE CONSOLIDATION SCHEMES.

Sections 12,
27, 40, 43.

1.—(1) A lease consolidation scheme, and the single lease to be granted pursuant thereto, shall be prepared by the Commission in agreement with the working lessee.

(2) The said lease may comprise, in addition to the coal and mines of coal in the colliery area, any other premises that are to vest in the Commission by virtue of Part I of this Act and are comprised in any of the subsisting working leases, and may, if the person competent to grant a lease thereof consents to the inclusion thereof but not otherwise, comprise also any premises that are so to vest but are not comprised in any of the subsisting working leases and any premises that are not so to vest.

(3) The said lease shall not (except with his consent) impose upon any person any liability not being a liability to which he would have been subject by virtue of a subsisting working lease, or render more onerous whether as regards extent, duration, terms, conditions or otherwise, any liability to which any person would have been so subject, or deprive him of the benefit of any covenant, condition or provision of a subsisting working lease affecting or relating to any premises other than coal or a mine of coal.

2.—(1) The said lease shall be a lease granted, in the case of any premises to be comprised therein, being premises comprised in any of the subsisting working leases, out of the freehold reversion in those premises, or, if two or more coal-mining leases thereof by way of lease and under-lease are subsisting, out of the leasehold reversion in those premises immediately expectant on the subsisting working lease, and accordingly the term to be granted in the case of premises that are so subject to two or more leases shall not be longer than the residue of the term for which that immediate reversion is held.

(2) The said lease shall, notwithstanding anything in subsection (2) of section twelve of this Act, not include any premises that are comprised in a subsisting working lease being an under-lease in a case in which interests in those premises arising under a superior lease are to be retained by virtue of a direction under subsection (2) of section five of this Act.

3. A lease consolidation scheme must—

- (a) specify a date on which it is to take effect;
- (b) specify the subsisting working leases and any superior lease out of which any of the subsisting working leases is derived; and

(c) contain provisions for rendering the rent reserved by the single lease to be granted pursuant thereto and the benefit of every covenant or provision contained in that lease having reference to the subject matter thereof and on the lessee's part to be observed or performed, and every condition of re-entry and other condition therein contained, capable of being recovered, received, enforced and taken advantage of during the period between the date on which the scheme takes effect and the vesting date, by a person acting as agent or in trust for all the persons interested in reversion expectant on that lease during that period.

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4TH SCH.
—cont.

4. At least six months before the date specified in a lease consolidation scheme for its coming into effect, a copy of the scheme shall be delivered to the person for the time being entitled to recover the rent attributable to the reversion immediately expectant on each of the leases specified therein.

5.—(1) The standard amount of rent in respect of any reversion may be determined by agreement between the Commission and the person for the time being entitled to recover the rent attributable to that reversion, or, in default of agreement either the Commission or that person may refer it for determination to an arbitrator selected by agreement between them, 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) In the case of a reversion that is a leasehold reversion, the standard amount of rent in respect thereof shall be determined on the basis of the net rent, that is to say the amount which the reversioner would have been entitled to receive, less the amount that he would have been liable to pay, by way of rent in respect of premises that are to be comprised in the single lease to be granted pursuant to the scheme.

6. If any person upon whom a copy of a lease consolidation scheme is required to be served objects to any of the provisions included in the scheme under sub-paragraph (c) of paragraph 3 of this Schedule, he may require those provisions to be determined by an arbitrator selected by agreement between the Commission and all the persons upon whom a copy of the scheme is required to be served, 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.

7.—(1) It shall be the duty of each person whose grant or concurrence is requisite to the taking effect of a lease prepared by the Commission under paragraph 1 of this Schedule as respects

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4TH SCH.
—cont.

If any person makes default in the performance of the duty imposed upon him by this paragraph, the Commission may execute the lease in his name and on his behalf.

(2) A lease executed under this paragraph shall be deemed to have taken effect on the date of the taking effect of the scheme, and as from that date the subsisting working leases shall be deemed to have been determined so far as regards the premises comprised in the lease so executed.

(3) The provisions of section eleven of this Act shall have effect in relation to a severance effected by the determination of a subsisting working lease under the last preceding sub-paragraph as regards a part of the premises comprised therein, as they have effect in relation to such a severance as is mentioned in that section of the reversion on a lease subsisting on the vesting date, so however that the apportionment of the rent reserved by the subsisting working lease shall be made on the basis of the apportionment made for the purpose of the determination under this Schedule of the standard amount of rent.

8.—(1) The person entitled by virtue of the provisions inserted in a lease consolidation scheme under sub-paragraph (c) of paragraph 3 of this Schedule to recover the rent reserved by the single lease granted pursuant thereto shall be deemed to be the immediate lessor for the purposes of the provisions of section twenty-four of the Finance (1909–10) Act, 1910, that relate (as originally enacted and as applied by Part III of the Mining Industry Act, 1926) to the assessment, collection and recovery of mineral rights duty and royalties welfare levy, in respect of the period between the date on which the lease takes effect and the vesting date.

10 Edw. 7. &
1 Geo. 5. c. 8.

(2) The powers conferred by the provisions inserted as aforesaid shall be exercisable during the period aforesaid as regards the matters to which those provisions relate, as statutory powers, to the exclusion of any other power that might otherwise have been exercisable as regards those matters.

(3) The said person shall—

(a) if the amount of the rent receivable by him for any period in respect of premises that were comprised in any of the subsisting working leases, after deduction of income tax, mineral rights duty and royalties welfare levy, is less than the aggregate of the standard amounts of rent determined under this Schedule for that period, distribute that rent, together with the

amount of the deficiency payable by the Commission under subsection (5) of section twelve of this Act, among the persons entitled in reversion (whether immediate or superior) expectant on that lease in proportion to the said standard amounts of rent; or

(b) if the amount of that rent, after such deduction as aforesaid, is greater than the said standard amounts, distribute that rent, after deducting the sum payable to the Commission under subsection (6) of section twelve of this Act, among the persons and in the proportions aforesaid.

(4) A superior reversioner who is entitled to a payment under the preceding sub-paragraph in respect of any premises for any period shall not be entitled to recover from his immediate lessee any rent in respect of those premises for that period.

9.—(1) The costs reasonably incurred in giving effect to the provisions of this Schedule by any person other than the Commission or the working lessee shall be paid by the Commission, under and subject to the provisions of this paragraph :

Provided that, in relation to costs payable by virtue of sub-paragraph (3) of paragraph 7 of this Schedule, the provisions of section eleven of this Act shall have effect to the exclusion of the provisions of this paragraph.

(2) In case of difference as to the amount of the costs other than costs of a reference or award, to be paid under this paragraph, the Board of Trade may direct in what manner they are to be taxed.

(3) An arbitrator may direct that the Commission shall not be liable to pay any such costs as aforesaid, being costs of a reference or award incurred by a party to a reference who appears to the arbitrator to have been guilty of any such unreasonable failure to agree with the Commission or any other party, or of any such negligence or default, as to disentitle him to payment thereof.

FIFTH SCHEDULE.

GRANT OF LEASES TO FREEHOLDERS OF COAL CARRYING ON COAL-MINING BUSINESS.

Sections 13,
27, 40, 43.

1. Where application has been duly made to the Commission for the grant of a lease under section thirteen of this Act, the Commission shall prepare a draft of the proposed lease and deliver a copy thereof to the person entitled to the grant of the lease (in this Schedule referred to as "the lessee").

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5TH SCH.
—cont.

2.—(1) Where the premises to be demised are at the date of the application subject to a mortgage otherwise than by way of floating charge, the Commission shall give notice in writing to the mortgagee of the fact of the application having been made, and the mortgagee may, at any time before the compensation in respect of the premises is paid, give notice in writing to the Commission that he elects to have, in lieu of any interest in such compensation a charge upon the interest of the lessee under the lease.

(2) Where notice is duly given by a mortgagee under the preceding sub-paragraph, the provisions of the Third Schedule to this Act relating to the person entitled to the compensation shall have effect as if the premises had not been subject to the mortgage, and the Commission shall prepare a draft of such instrument, whether being a substituted security or an instrument making provision for the variation of a subsisting security, as may be requisite for preserving so far as may be the rights and liabilities of the mortgagee and of the lessee and deliver a copy thereof to each of them.

3. A person to whom a copy of a draft has been delivered under either of the two last preceding paragraphs may within six weeks after the delivery thereof serve notice on the Commission of his objection to the terms thereof on the ground that the proposed lease does not comply with the provisions of section thirteen of this Act, or that the proposed substituted security or other instrument does not comply with the provisions of the last preceding paragraph, as the case may be, and where notice is so served, the terms of the draft may be modified by agreement between the parties concerned, and in default of agreement the terms thereof shall be settled 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.

4. Subject to any agreement between the parties named in the draft of a lease, substituted security or other instrument settled under this Schedule, it shall be the duty of each of those parties, on being required by any other of them so to do, to execute a lease, security or other instrument in the terms of the draft.

5. Subject as aforesaid the procedure for giving effect to the provisions of section thirteen of this Act shall be such as may be prescribed.

6. The costs reasonably incurred in giving effect to the provisions of this Schedule by a person other than the Commission shall be paid by the Commission, and sub-paragraphs (2) and (3) of paragraph 9 of the Fourth Schedule to this Act shall have effect in relation to such costs.

SIXTH SCHEDULE.

A.D. 1938.

AMENDMENTS OF 20 & 21 GEO. 5. c. 34, s. 13.

Section 47.

1. In section thirteen, after subsection (1) thereof, there shall be inserted the following subsection :—

“ (1A) The following provisions shall have effect with respect to any scheme submitted to the Board of Trade by the Coal Commission—

- (a) the scheme shall provide for the consideration to be given to each of the constituent companies from which property is to be transferred (hereinafter referred to as a transferor company) being given out of the securities of the new company or of the constituent company to which that property is transferred, as the case may be (hereinafter referred to as the transferee company) and, except in so far as may be otherwise agreed between all the transferor companies and the transferee company, only out of such securities, and for the amount of the consideration being determined upon the basis of the value at the date of transfer of the property and liabilities of each transferor company transferred by the scheme; the value of the property being assessed at what would have been the value thereof at the date of transfer as between a willing buyer and a willing seller;
- (b) the scheme shall determine the classes of securities of the transferee company which are to be given to the transferor companies in respect of the different classes of property transferred to it, and shall make provision for the determination of the amount of the consideration to be given to each of the transferor companies out of those securities, in so far as it is not determined by the terms of the scheme, being finally determined upon principles specified therein, by arbitration or otherwise, after the scheme has come into operation;
- (c) the scheme may provide for any property of a transferor company thereby transferred to a transferee company being so transferred either subject to, or freed from, all liabilities for the repayment of money lent which immediately before the date of transfer were secured on that

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6TH SCH.
—cont.

property, but if a scheme provides for the transfer of any property freed from all such liabilities, the scheme shall make provision for entitling all persons who immediately before the date of transfer had, by way of security for such repayment, an interest in that property, to participate in the consideration to be received by the transferor company by means of a charge on that consideration or any part thereof, and with the like priorities between each other as existed before the coming into force of the scheme;

- (d) the scheme may make provision for making in any trust affecting property or liabilities transferred to the transferee company, including any compensation trust created in accordance with the provisions of the Workmen's Compensation (Coal Mines) Act, 1934, such modifications as may be consequential upon the amalgamation or absorption to be effected by the scheme."

24 & 25
Geo. 5. c. 23.

2. For subsection (2) of the said section thirteen there shall be substituted the following subsection:—

"(2) In relation to any scheme submitted to the Board of Trade under this section by the Coal Commission, the Act of 1926 shall have effect as if for the proviso to subsection (2) of section seven thereof and section eight thereof (which both relate to the consideration of schemes by the Railway and Canal Commission) there were substituted the following proviso, that is to say:—

Provided that the Railway and Canal Commission—

- (a) shall hear such persons, whether in support of or against the scheme, as they think fit, including representatives of persons employed in any undertakings affected by the scheme; and
- (b) shall not have power to make, or require to be made, in the scheme modifications inconsistent with the enactments relating to the matters which are required to be provided for by schemes submitted to the Board of Trade by the Coal Commission but subject as aforesaid may make such modifications, if any, as they consider necessary for enabling the amalgamation or absorption affected by the scheme to be carried out upon terms and conditions that are fair and equitable to all persons affected by the scheme, and are calculated to avoid financial injury to any of

the constituent companies and to enable the undertaking of the transferee company to be efficiently carried on; and

- (c) shall (after giving notice of any modifications proposed to be made by them not only to the Commission but also to the constituent companies in like manner as they would have been required by section ten of the Act of 1926 to do if the scheme had been submitted by those companies) confirm the scheme if they are satisfied that it conforms to the enactments relating thereto and, consistently with those enactments, that the amalgamation or absorption affected by the scheme will be carried out upon such terms and conditions as aforesaid."

3. Subsection (4) of the said section thirteen is hereby repealed.

A.D. 1938.
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6TH SCH.
—cont.

SEVENTH SCHEDULE.

AMENDMENTS OF 20 & 21 GEO. 5. C. 34, SS. 5 AND 8.

Section 50.

1. After subsection (1) of section five there shall be inserted the following new subsection :—

“(1A) If it appears to the Board of Trade to be expedient that more than one district committee of investigation should be constituted for any district with a view to the investigation of complaints relating to different matters or to different localities by different committees, two or more such committees may be constituted therefor and shall be charged respectively with the duty of investigating any complaint with respect to the operation of the district scheme for that district made in relation to such matters or to such localities as the Board may direct.”

2. In subsection (2) of section five, after the words “Board of Trade”, there shall be inserted the words following—“the person to be appointed as chairman shall be a member of the legal profession.”

3. For subsection (3) of section five there shall be substituted the following subsections :—

“(3) A committee of investigation may act notwithstanding any vacancy in their number.

A.D. 1938.

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7TH SCH.
— cont.

(3A) The Board of Trade shall cause to be constituted a panel of persons suitable to exercise the functions of the chairman of any committee of investigation in the event of the chairman of any such committee being unable to act on the investigation of any complaint, and in such an event a person shall, in such manner as the Board may direct, be selected from the panel to act as the chairman, and a person so selected for the investigation of any complaint shall, in relation to that investigation, be deemed to be the chairman of the committee, and references in this section to 'the chairman' shall be construed accordingly.

(3B) Upon the occasion of the appointment of a member of a committee of investigation as a representative of any interest, the Board shall, after consultation with such bodies as appear to them to represent that interest, appoint two persons, one of whom shall, in the event of that member being unable to act on the investigation of any complaint, be selected in such manner as the Board may direct to act as the member of the committee representative of that interest and a person so selected for the investigation of any complaint shall, in relation to that investigation, be deemed to be the member of the committee representative of that interest, and references in this section to 'the members' shall be construed accordingly.

(3C) The chairman shall be present at every meeting of a committee of investigation. Any such committee may take evidence on oath, and for that purpose the chairman shall have power to administer an oath. Any evidence taken by a committee shall, except in so far as it relates to any particular business or undertaking or unless the committee for any special reason otherwise decide, be taken in public, and the decision of the committee upon every complaint shall be delivered in public. Subject to the foregoing provisions of this subsection, the meetings and procedure of every committee of investigation shall be regulated in accordance with rules made by the Board of Trade for the purpose."

4. At the end of subsection (5) of section five the following words shall be added:—

"and the complainant also shall furnish the committee with such returns, accounts and other information as the committee considers relevant to the investigation."

5. In subsection (7) of section five the words "subject as hereinafter provided" and the proviso to that subsection are hereby repealed.

6. In subsection (8) of section five for the words from “make representations with respect thereto” to the end of the subsection there shall be substituted the words following—
 “make to the persons having power under the scheme to rectify the matter such representations as the committee think desirable for that purpose, and those persons shall exercise their functions under the scheme in conformity with the representations.”

A.D. 1938.

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7TH SCH.
—cont.

7. After subsection (8) of section five there shall be inserted the following new subsections:—

“(8A) Where a committee of investigation has given a decision under the last foregoing subsection upon a complaint made with respect to the operation of a scheme, any person aggrieved by the decision, or the executive board charged with the duty of administering the scheme, or the central council, as the case may be, may within fourteen days from the date upon which the decision was given (or within such longer period as the Central Appeal Tribunal may in any particular case allow) refer the matter for arbitration by the Central Appeal Tribunal to be constituted as hereinafter provided.

(8B) The Central Appeal Tribunal shall consist of a chairman and two other members appointed by the Board of Trade, and the Board shall appoint as chairman a member of the legal profession and as the other members persons who appear to the Board to be substantially independent of the coal industry or of any other industry in which large quantities of coal are used, and who are not members, or officers or servants, of an organisation of employers or workpeople in the coal-mining industry, practising mining engineers, or in any other manner directly connected with that industry.

(8C) The Board of Trade shall appoint persons having the same qualifications respectively as are requisite in the case of the chairman and other members of the Central Appeal Tribunal to exercise the functions of the chairman and members of the Tribunal in the event of the chairman or any other member being unable to act on any arbitration, and a person so appointed shall, in relation to any arbitration as respects which he is exercising such functions, be deemed to be the chairman or a member, as the case may be, of the Central Appeal Tribunal, and references in this section to ‘the chairman’ and to ‘the members’ shall be construed accordingly.

(8D) The Central Appeal Tribunal shall not have power to act except in the presence of the chairman and both members thereof. Such of the provisions of subsection (3C) of this section as relate to the power to take,

A.D. 1938.

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7TH SCH.
—cont.

and the taking of, evidence by committees of investigation shall apply with respect to the Central Appeal Tribunal as they apply with respect to such committees. Subject to the preceding provisions of this subsection, the procedure of the Central Appeal Tribunal shall be regulated in accordance with rules made by the Board of Trade for the purpose.

(8E) Upon the hearing of any arbitration by the Central Appeal Tribunal, the council or executive board charged with the duty of administering the relevant scheme shall furnish to the Tribunal such returns, accounts and other information relating to the scheme as the Tribunal considers relevant for the purposes of the arbitration.

(8F) The powers of the Board of Trade under subsection (4) of this section shall extend to the Central Appeal Tribunal in like manner as they extend to committees of investigation, but shall include power to pay such remuneration to the members, as well as to the chairman, of the Central Appeal Tribunal as the Board may, with the approval of the Treasury, determine."

8. In subsection (9) of section five for the words from the beginning of the subsection to the words "foregoing subsection" there shall be substituted the following words—"After a decision of the committee of investigation or of the Central Appeal Tribunal as to any complaint has become binding, "the committee or the Central Appeal Tribunal, as the case may be,"; the words "the arbitrators' decision and" shall be omitted; paragraph (b) of subsection (10) and subsection (11) are hereby repealed.

9. At the end of section five the following subsection shall be inserted:—

"(11) Any appointment to be made by the Board of Trade under this section of a person who is thereby required to be a member of the legal profession shall be made after consultation with the Lord Chancellor, or where the appointment is of the chairman of a district committee of investigation for a district in Scotland, after consultation with the Lord Advocate."

10. In section eight after the words "executive board" where those words first occur there shall be inserted the words "the Central Appeal Tribunal"; after the words "conferred upon any such committee" there shall be inserted the words "or upon the Central Appeal Tribunal"; in the proviso to the said section there shall be inserted after the words "the central council" the words "the Central Appeal Tribunal"; and at the end of the said section there shall be added the words

following :—“; and any such information published or disclosed
“ to the Board of Trade or to the Central Appeal Tribunal or to
“ any committee of investigation which is relevant to the pro-
“ ceedings upon any inquiry or arbitration or investigation held
“ by them may be published or disclosed by them to any person
“ being a party to or otherwise directly concerned in those pro-
“ ceedings, but only in such form as does not disclose information
“ relating to any particular business or undertaking.”

A.D. 1938.

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7TH SCH.
—cont.

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