



# Coal Act 1938

## 1938 CHAPTER 52

### PART I

#### UNIFICATION OF COAL MINING ROYALTIES

##### *Miscellaneous*

#### **31 Commission not to be exempt from taxation, and c**

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

#### **32 Competence of the Commission to acquire certain interests and rights**

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

#### **33 Restriction on working of coal vested in statutory undertakers**

- (1) Subject to the provisions of this section, coal the fee simple in which is at the date of the passing of this Act vested in statutory undertakers (that is to say, a local authority, company or other body or person authorised by or under an Act of Parliament, or

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*Status: This is the original version (as it was originally enacted).*

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an order having the force of an Act of Parliament, to construct, work, or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, sewage disposal, or other public undertaking), having been acquired, under powers in that behalf conferred by any such Act or order as aforesaid, for the purposes of their undertaking, shall vest in the Commission subject, in addition to the matters mentioned in subsection (4) of section four of this Act, to the restriction that the coal shall not be worked without the previous consent in writing of the persons in whom the undertaking is for the time being vested.

- (2) The foregoing subsection shall not apply to any such coal as aforesaid in a case in which the undertakers are not at the date of the passing of this Act interested in any land supported thereby, and, where any such coal as aforesaid vests in the Commission subject to the restriction aforesaid, the restriction shall have effect so long only as the persons in whom the undertaking is for the time being vested are interested in land supported thereby.
- (3) Subsection (1) of this section shall not apply to any such coal as aforesaid which is subject at the date of the passing of this Act to a coal-mining lease.
- (4) A restriction imposed by this section shall not have effect in relation to working carried on in exercise of a right subject to which the coal in question vests in the Commission by virtue of this Part of this Act.
- (5) A consent in relation to a restriction imposed by this section shall not be unreasonably withheld, but this provision does not preclude the right of undertakers whose consent is sought—
  - (a) to give consent subject, as far as may be reasonably requisite, to a condition that working shall not be such as to let down any land in which the undertakers are interested, or shall be limited to working in particular places or in a particular manner, or to other conditions or limitations as regards the working consented to or the payment of proper compensation for, or the making good of, damage arising therefrom; or
  - (b) to require, as a condition of consent, payment of a reasonable sum in respect of any legal or other expenses incurred in connection with the consent.

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

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

### **34 Saving for certain statutory rights**

(1) The matters subject to which by virtue of section four of this Act the vesting in the Commission of any coal, mine of coal, property or rights is to take effect, and the contract referred to in that section for the sale of any coal, mine of coal, property or rights is to be deemed to have been made, shall include the following rights, that is to say :—

- (a) any right vested in a railway company by virtue of the provisions substituted by Part II of the Mines (Working Facilities and Support) Act, 1923, for sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, or by virtue of those sections as originally enacted, any right vested in undertakers by virtue of sections twenty-two to twenty-six of the Waterworks Clauses Act, 1847, and any right vested by virtue of those provisions or of those sections respectively in any other person in a capacity corresponding to that of the company or undertakers thereunder;
- (b) any right vested in a local authority by virtue of the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883; and
- (c) any right to prevent or restrict the working of coal vested in the Crown or in any local authority, highway authority or statutory undertakers by virtue of any enactment or of any order having effect, with or without confirmation by Parliament, under any enactment;

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.