



# Coal Act 1938

## 1938 CHAPTER 52

### PART I

#### UNIFICATION OF COAL MINING ROYALTIES

##### *Unification of ownership of coal in the hands of the Commission*

### **3 Commission to acquire fee simple in coal**

- (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 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

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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 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.

#### **4 Property and rights with which, and matters subject to which, coal is to be acquired**

- (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.

#### **5 Retention of certain leasehold and other interests**

- (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

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- (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 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 coalmining 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.