

SCHEDULES

SECOND SCHEDULE

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

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.”

(c) . . . ^{F1}

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Coal Act 1938, Part III. (See end of Document for details)

Textual Amendments

F1 [Para. 8\(c\)](#) repealed with saving by [Coal Industry Act 1975 \(c. 56\)](#), s. 7(1), [Sch. 5](#)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Coal Act 1938, Part III.