

SCHEDULES

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 coalmining 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 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.
- 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.

Status: This is the original version (as it was originally enacted).

- 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 hi 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

Sections 4, 6, 43.

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

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 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 :

Status: This is the original version (as it was originally enacted).

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.

- 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 sub-paragraph 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, 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 :

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

THIRD SCHEDULE

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

PROVISIONS AS TO COMPENSATION PAYABLE UNDER SECTION SIX OF THIS ACT

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 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).

Status: This is the original version (as it was originally enacted).

- 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 :

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.
- (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.

Status: This is the original version (as it was originally enacted).

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.

- (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 for the purposes of the operation on or after that date of the provisions of that Act relating to the rectification of the register—
 - (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.
- (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.

Status: This is the original version (as it was originally enacted).

- (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 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:

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.

- (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 :
- 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 subparagraph, 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 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.

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- (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 sub-paragraph (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 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 (6) 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.
- (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.
- (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.

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- (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 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.

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 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 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.

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- (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.
- (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 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

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- (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;
 - (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 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

- 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 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'—
 - (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 subparagraphs 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 subparagraph (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 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 or 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.

TABLE

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.

FOURTH SCHEDULE

Sections 12, 27, 40, 43.

LEASE CONSOLIDATION SCHEMES

- 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

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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 underlease 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.
- 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-

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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 any premises comprised therein and of the lessee thereunder, to execute the lease on being required by the Commission so to do at any time after the date of the taking effect of the scheme.

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.
- (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

Sections 13, 27, 40, 43.

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

- 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 ").
- 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,

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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 subparagraphs (2) and (3) of paragraph 9 of the Fourth Schedule to this Act shall have effect in relation to such costs.

SIXTH SCHEDULE

Section 47.

AMENDMENTS OF 20 & 21 GEO. 5. C. 34, S. 13

- 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 maybe 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;

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- (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 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."

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.

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SEVENTH SCHEDULE

Section 50.

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

- 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.

(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. "

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, 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

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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 proceedings 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 proceedings, but only in such form as does not disclose information " relating to any particular business or undertaking. "