



Coal Act 1938

1938 CHAPTER 52

PART I

UNIFICATION OF COAL MINING ROYALTIES

Application and interpretation of Part I

44 Interpretation of Part I

(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

" Acquired interest " has the meaning assigned to it by subsection (1) of section seven of this Act;

" Acquired property and rights " has the meaning assigned to it by subsection (1) of section four of this Act;

" Claiming under " shall be construed, in relation to a person referred to as claiming under the estate owner in respect of the fee simple, or under the estate owner in respect of a term of years, in any land, as referring to any person interested in that land in respect of—

- (a) any equitable interest enforceable against that estate owner (other than an equitable term of years under a coal-mining lease or an interest created out of such a term of years),
- (b) a legal mortgage, or charge by way of legal mortgage, of that fee simple or of that term of years, as the case may be,
- (c) a rentcharge in possession which confers a right to take the income incident to that fee simple or to that term of years, as the case may be, or
- (d) a term of years under a lease, other than a coal-mining lease, which is derived out of that fee simple or of that term of years, as the case may be (either immediately or by way of under-lease derived out of a lease other than a coal-mining lease), or an interest created out of such a term of years;

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" Coal " has the meaning assigned to it by subsection (4) of section three of this Act;

" Coal-mining lease " means in relation to any coal a lease that confers a right to work and carry away that coal, and means in relation to any mine of coal a lease that confers a right to use it for a coal-mining purpose;

" Coal-mining purpose " means searching and boring for, winning, working, getting, carrying away, making merchantable or disposing of, coal;

" Existing owners " means, in relation to any coal or mine of coal, all persons who have at the valuation date an acquired interest therein;

" Interested " shall be construed, in relation to a person referred to as interested in any coal or mine of coal, or in any other land, as referring to any person entitled to, or to exercise, or interested in, or in the exercise of, any estate, interest, charge or power (including an option or right of pre-emption, and including a contingent executory or future interest or a possibility coupled with an interest whether or not the object of the gift or limitation of such interest or possibility be ascertained) in, on or over that coal or mine or that other land, as the case may be, or in, on or over the rents and profits thereof, otherwise than in respect only of the benefit of a servitude or restrictive covenant adversely affecting that coal or mine or that other land, as the case may be, and " interest " has a corresponding meaning;

" Interim period " means the period between the valuation date and the vesting date;

" Lease " includes an under-lease, a tenancy and an agreement for a lease, under-lease, or tenancy (but not an option to take a lease, underlease, or tenancy), and in relation to such an agreement the expressions " term of years " and " estate owner " mean respectively the term agreed to be created and the person entitled to have that term vested in him; " lease " and " under-lease " each include a licence (whether personal or by way of profit a prendre) that confers a right to work and carry away coal or a right to use a mine of coal for a coal-mining purpose, and in relation to a licence the expressions " rent," " reversion," " term of years " and other expressions importing a reference to a lease shall be construed accordingly with the requisite adaptations; neither " lease " nor " under-lease " includes a mortgage;

" Mine of coal " means a space which is occupied by coal or which has been excavated underground for a coal-mining purpose, and includes a shaft and an adit made for a coal-mining purpose;

" Mortgage " includes any charge or lien on any property for securing money or money's worth;

" Prescribed " means prescribed by rules made by the Board of Trade;

" Registration Act " means the Coal (Registration of Ownership) Act, 1937;

" Rent " includes yearly or other rent, and any toll, duty, royalty, or other annual or periodical payment in the nature of rent, whether payable in money or money's worth or otherwise, but does not include mortgage interest;

" Retained interest " has the meaning assigned to it by section five of this Act;

" Servitude " means any liberty, privilege, easement, right or advantage annexed to any land and adversely affecting other land; " surface servitude " means any servitude annexed to coal or a mine of coal in so far as it adversely affects the surface of any land (with the exception of a right to withdraw support); and "annexed to" means, in relation to any coal or mine of coal, or

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to any other land, appertaining or reputed to appertain thereto or to any part thereof, or demised, occupied, or enjoyed therewith or with any part thereof, or reputed or known as part or parcel thereof or appurtenant thereto or to any part thereof;

" Working facilities order " means an order of the Railway and Canal Commission under the Mines (Working Facilities and Support) Act, 1923, either as originally enacted or as extended by section thirteen of the Mining Industry Act, 1926.

- (2) For the purposes of this Part of this Act, a person shall not be deemed to be carrying on the business of coal mining unless a substantial part of his business consists of working, getting, and carrying away coal.
- (3) Unless the context otherwise requires, references in this Part of this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.