



Electricity Act 1947

1947 CHAPTER 54

PART II

ACQUISITION OF ELECTRICITY UNDERTAKINGS.

Vesting of Assets.

13 Bodies to whom Part II of Act applies.

- (1) This Part of this Act applies to—
- (a) the bodies specified in the Second Schedule to this Act (hereafter in this Act referred to as " authorised undertakers ") being the bodies who fall within the class described in the next following subsection;
 - (b) every company (hereafter in this Act referred to as a " power station company ") who are not authorised undertakers but whose business wholly or mainly consists in the construction, owning or operating of a generating station or stations for the supply of electricity to authorised undertakers; and
 - (c) every company (hereafter in this Act referred to as an " electricity holding company ") who—
 - (i) are not authorised undertakers, or a power station company,
 - (ii) had at the date of the last audited balance sheet of the electricity holding company before the first day of January, nineteen hundred and forty-six, one or more subsidiary companies, being authorised undertakers or power station companies, and
 - (iii) at the said date held securities of, or rights in respect of moneys owed by, the said subsidiary companies, the value of which, as shown in that balance sheet, amounted to not less than three-quarters of the total amount of all the assets of the holding company as so shown:

Provided that any company who are not authorised undertakers, a power station company or an electricity holding company but who hold securities of, or rights in respect of monies owed by, authorised undertakers or power station companies amounting to a substantial proportion of the assets of the first mentioned company,

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may serve on the Minister, not later than two months after the passing of this Act, a notice stating that they wish to be treated as an electricity holding company, and the Minister may, on the service of such notice, if he thinks fit, by order direct that this Act is to have effect, and be deemed always to have had effect, as if the company were an electricity holding company, and this Act shall have effect accordingly.

- (2) The class of bodies referred to in paragraph (a) of the last foregoing subsection are—
- (i) bodies who supply electricity, under the authority of any enactment, in any area of supply in Great Britain; and
 - (ii) bodies who supply electricity, under the authority of an enactment, to the bodies mentioned in paragraph (i) hereof or to the Central Electricity Board:

Provided that the said class does not include—

- (a) the North of Scotland Board;
 - (b) any body, other than a local authority, whose business as suppliers of electricity consists wholly or mainly in the supply of electricity for consumption by themselves or by a company of whom they are a subsidiary company;
 - (c) any local authority who supply electricity for the purposes of a transport undertaking carried on by them and do not supply electricity for other purposes to any substantial extent; or
 - (d) any body, other than a local authority, who carry on a transport undertaking and who do not supply electricity under any provisional or special order made under the Electricity (Supply) Acts, 1882 to 1936.
- (3) Where a special order made under section twenty-six of the Electricity (Supply) Act, 1919, comes into force between the passing of this Act and the vesting date and provides for the transfer of the undertaking or any part of the undertaking of any authorised undertakers to another body, the order may—
- (a) if the body from whom the undertaking or part thereof is transferred no longer falls within the class described in subsection (2) of this section, provide that this Part of this Act shall not apply to that body;
 - (b) if by reason of the transfer, the body to whom the undertaking or part thereof is transferred falls within the said class, provide that this Part of this Act shall apply to that body;

and this Act shall have effect in accordance with any such direction.

- (4) Any such special order may, for the purpose of giving effect to a transfer of the undertaking or part thereof, revoke or amend any enactment relating to the powers of the body from whom the undertaking or part thereof is transferred.
- (5) For the purposes of paragraph (c) of subsection (1) of this section, where the value of any such securities or rights as are therein mentioned is not separately shown in the balance sheet therein mentioned, by reason that they are grouped with other assets of the company and the balance sheet shows the value of the group as a whole, the value placed on the said securities or rights in the books of the company and used in arriving at the value of the group of assets as so shown shall have effect as if it had been shown separately in the balance sheet.
- (6) Where an agreement under section eighteen of the Act of 1943 for the transfer to the North of Scotland Board of the whole or any part of the undertaking of any undertakers comes into force between the passing of this Act and the vesting date, and

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the undertakers thereupon cease to fall within the class described in subsection (2) of this section, this Part of this Act shall not apply to them.

14 Vesting of assets of electricity undertakings.

- (1) Subject to the provisions of this Part of this Act all property, rights, liabilities and obligations which, immediately before such date as may be appointed by order of the Minister (in this Act referred to as " the vesting date ") were property, rights, liabilities and obligations of a body to whom this Part of this Act applies, shall on the vesting date vest by virtue of this Act and without further assurance in such Electricity Board or Boards as may be specified in the following provisions of this section or determined thereunder.

The vesting date shall be not less than six months after the establishment of the Central Authority and not less than three months after the establishment of all the Area Boards and the definition by order made under Part I of this Act of all the areas for which those Boards are established and shall not be earlier than the first day of April, nineteen hundred and forty-eight.

- (2) Subject to the provisions of this section relating to the North of Scotland District—
- (a) the property, rights, liabilities and obligations mentioned in subsection (1) of this section of the Central Electricity Board, any power station company and any electricity holding company, shall vest in accordance with the said subsection (1) in the Central Authority;
 - (b) the property, rights, liabilities and obligations aforesaid of any authorised undertakers to whom this Part of this Act applies (other than the Central Electricity Board) shall vest as aforesaid in such one of the Area Boards as may be determined by order of the Minister:

Provided that—

- (i) all generating stations of any such authorised undertakers and all main transmission lines of such undertakers, being lines connecting a generating station directly with another generating station or with any main transmission lines of the Central Electricity Board, and all property and rights held or used by the undertakers wholly or mainly for the purposes of such stations and transmission lines and all liabilities and obligations wholly or mainly incurred by the undertakers for those purposes;
- (ii) all rights, liabilities and obligations under agreements between any authorised undertakers and any railway undertakers for the supply of electricity to the railway undertakers for the purposes of haulage or traction, and all transmission lines used wholly or mainly for the purpose of giving a supply to any railway undertakers for the purposes of haulage or traction; and
- (iii) all investments and cash of any such undertakers and all rights and liabilities thereof in respect of income tax and excess profits tax;

shall vest in the Central Authority and not in an Area Board.

- (3) The last foregoing subsection shall not apply—
- (a) to any authorised undertakers or power station company whose undertaking is wholly or mainly carried on in the North of Scotland District; or
 - (b) to any electricity holding company whose interests in undertakings of authorised undertakers and power station companies consist wholly or mainly of interests in the undertakings of undertakers and companies referred to in paragraph (a) of this subsection;

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and the property, rights, liabilities and obligations referred to in subsection (1) of this section of any such undertakers or company shall vest in accordance with that subsection in the North of Scotland Board instead of the Central Authority or an Area Board, as the case may be.

- (4) Any dispute arising under either of the last two foregoing subsections as to the Electricity Board in whom any property, rights, liabilities or obligations are to vest shall be determined by the Minister or, if the North of Scotland Board is a party to the dispute, by the Minister and Secretary of State jointly.
- (5) Subject to the provisions of this Part of this Act, every agreement to which any body to whom this Part of this Act applies were a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the body, shall, unless its terms or subject matter make it impossible that it should have effect as modified in manner provided by this subsection, have effect as from the vesting date as if—
- (a) the appropriate Board had been a party to the agreement;
 - (b) for any reference (however worded and whether express or implied) to the body there were substituted, as respects anything falling to be done on or after the vesting date, a reference to the appropriate Board;
 - (c) for any reference (however worded, and whether express or implied) to, or to any part of, or to any sum determined by reference to, any profits or receipts of the undertaking of the body or any part of that undertaking there were substituted, as respects profits or receipts arising on or after the vesting date, a reference to, or to the corresponding part of, or to a sum similarly determined by reference to, an estimate of what those profits or receipts would have been but for the vesting of the undertaking or part thereof in the appropriate Board;
 - (d) for any reference (however worded and whether express or implied) to the directors or any director of the body there were substituted, as respects anything falling to be done on or after the vesting date, a reference to such person as the appropriate Board may direct;
 - (e) for any reference (however worded and whether express or implied) to any officer of the body there were substituted, as respects anything falling to be done on or after the vesting date, a reference to such person as the appropriate Board may appoint or, in default of appointment, to the officer of the Board who corresponds as nearly as may be to the first mentioned officer;
 - (f) in the case of an agreement for the rendering of personal services to the body, the services to which the agreement relates were, on and after the vesting date, any services under the appropriate Board to be selected by that Board, which are reasonably equivalent services; and
 - (g) save as provided by the four last foregoing paragraphs, for any reference (however worded and whether express or implied) to the undertaking of the body or any part of that undertaking or to the area of supply of the body or any part of that area there were substituted, as respects anything falling to be done on or after the vesting date, a reference to so much of the business carried on by the appropriate Board as corresponds to the undertaking or part of the undertaking of the body or, as the case may be, a reference to the area constituting the said area of supply or part thereof immediately before the vesting date.

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- (6) Other documents, not being enactments, which refer, whether specifically or generally, to any such body, shall be construed in accordance with the provisions of the last foregoing subsection, so far as applicable.
- (7) Without prejudice to the generality of the foregoing provisions of this section, where, by the operation of any of the said provisions, any right, liability or obligation vests in an Electricity Board, the Board and all other persons shall, as from the vesting date, have the same rights, powers and remedies (and in particular the same rights as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Board, and any legal proceedings or applications to any authority pending on the vesting date by or against the body, in so far as they relate to any property, right, liability or obligation vested in an Electricity Board by virtue of this Act, or to any agreement or document which has effect in accordance with subsection (5) or subsection (6) of this section, or to any enactment applied to the Board by or under this Act, shall be continued by or against the Board to the exclusion of the body.
- (8) Notwithstanding anything in this section—
- (a) there shall not, by reason of the vesting of property, rights, liabilities or obligations of any body to whom this Part of this Act applies, in any Electricity Board, be transferred to the Board any right, liability or obligation of the body in respect of any securities issued by the body;
 - (b) where any agreement provides for the borrowing of money by any such body or the raising of money by the issue of securities of any such body and the money has not been borrowed or raised before the vesting date, no right, liability or obligation under the agreement shall be transferred to any such Board;
 - (c) no right, liability or obligation under any agreement for the rendering by any person of services to any such body as a director (other than a managing director or a director whose functions are substantially those of an employee) shall be transferred to any such Board, except any liability in respect of fees earned or expenses incurred before the vesting date; and
 - (d) no right, liability or obligation of any such body, being a right exercisable against, or a liability or an obligation to, any other such body shall be transferred to any such Board:

Provided that where, under an agreement subsisting immediately before the vesting date, a body to whom this Part of this Act applies were under an obligation to give a bulk supply of electricity to another such body, and the obligation to give that supply and the right to receive it would, but for this subsection, have vested in different Area Boards, the Area Board in whom that obligation would have vested shall continue to give the bulk supply to the other Area Board on such terms and conditions as may be agreed between them or, in default of agreement, as may be determined by the Central Authority.

- (9) Regulations may provide for the registration of the title of any Electricity Board to assets vesting in them by virtue of this Act, being assets of a kind subject to provision for the registration of title thereto, and for any other matters for which provision appears to the Minister to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in any such Board by virtue of this Act.

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- (10) In this section the expression " the appropriate Board " means, in relation to any body all of whose property, rights, liabilities and obligations vest by virtue of this Act in a single Electricity Board, that Board, and in any other case means—
- (a) in relation to an agreement, the Electricity Board in whom rights, liabilities and obligations under the agreement vest by virtue of this Act; and
 - (b) in relation to any document other than an agreement, the Electricity Board appearing from the subject matter of that document to be concerned therewith.
- (11) Subject to the next following section and section seventeen of this Act, every body to whom this Part of this Act applies shall be dissolved on the vesting date.

15 Provisions as to undertakings of local authorities.

- (1) In the case of any authorised undertakers being a local authority the provisions of the last foregoing section shall only apply to property held or used by the local authority wholly or mainly in their capacity as authorised undertakers, and rights, liabilities and obligations acquired or incurred by the local authority in the said capacity, and accordingly references in that section to the property, rights, liabilities and obligations of a body to whom this Part of this Act applies, or to any agreement to which any such body was a party, or to documents referring to any such body, or to legal proceedings or applications by or against any such body shall be construed as references to property held or used by the local authority wholly or mainly in their capacity as authorised undertakers and rights, liabilities and obligations acquired or incurred by the local authority in the said capacity or, as the case may be, to agreements, documents, legal proceedings or applications of or relating to the local authority in their capacity as authorised undertakers, and subsection (n) of the last foregoing section shall not apply to any such local authority.
- (2) Regulations may provide—
- (a) for excluding from or including in the property, rights, liabilities and obligations which vest in an Electricity Board by virtue of this Act, such property, rights, liabilities or obligations held, used, acquired or incurred by any such local authority partly in their capacity as authorised undertakers and partly in other capacities, on such terms (which may include the payment of money), as may be agreed between the Electricity Board concerned and the local authority or, in default of agreement, determined in accordance with the regulations;
 - (b) for requiring any Electricity Board, as respects property which vests in them by virtue of this Act, being property held or used by any such local authority partly in their capacity aforesaid and partly in other capacities, to grant to the local authority such interests in the property or rights over or attaching to the property or in respect of the user thereof, on such terms (which may include the payment of money), as may be agreed between the Electricity Board and the local authority or, in default of agreement, determined in accordance with the regulations, or for requiring the similar grant of interests or rights by the local authority to the Electricity Board in a case where such property does not vest in the Board;
 - (c) for conferring on any Electricity Board in whom land of any such local authority is vested easements and other rights over or attaching to other land of the local authority, being easements and rights which are required to enable land which is so vested to be used for the purposes of the Board, on such terms (including the payment of money) as may be agreed between the Electricity

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- Board and the local authority or, in default of agreement, determined in accordance with the regulations;
- (d) for the severance of leases comprising land of which part only was used by the local authority in their capacity as authorised undertakers, and for apportionments and indemnities consequent on such severance;
 - (e) for substituting for any agreement entered into by any such local authority partly in their capacity as authorised undertakers and partly in other capacities separate agreements in the requisite terms, and for any apportionments and indemnities consequent thereon; and
 - (f) for any other matters supplementary to or consequential on the matters aforesaid for which provision appears to the Minister to be necessary or expedient.

For the purposes of this subsection, any property which is held or used by a local authority temporarily in their capacity as authorised undertakers and normally in other capacities, or normally in the said capacity and temporarily in other capacities, shall be deemed to be property held or used by a local authority partly in the said capacity and partly in other capacities.

- (3) Any question arising under this section as to whether any property is or was held or used by any such local authority wholly or mainly in their capacity as authorised undertakers, or whether any property is or was (for the purposes of the last foregoing subsection) held or used partly in the said capacity and partly in other capacities, or whether any rights, liabilities or obligations were acquired or incurred by any such local authority in the said capacity or whether any agreements or documents relate or related to any such local authority in their capacity as authorised undertakers, shall, in default of agreement, be determined by the Minister of Health, and he shall have regard to whether or not entries relating to any property, rights or liabilities were or ought to have been included in accounts furnished by the local authority to the Electricity Commissioners under section nine of the Electric Lighting Act, 1882.
- (4) Where at any time before the expiration of three months beginning with the vesting date a local authority has served on the Minister of Health and on the Electricity Board concerned, or an Electricity Board has served on the said Minister and on the local authority concerned, a notice in the prescribed form stating that a question has arisen under this section or under any regulations made thereunder as to—
 - (a) whether any property is or was held or used by the local authority wholly or mainly in their capacity as authorised undertakers and accordingly vests in the Electricity Board by virtue of this Act;
 - (b) whether any property of the local authority ought to be excluded from or included in the property which so vests;
 - (c) whether interests in any property of the local authority, or rights over or attaching to such property or in respect of the user thereof, ought to be granted by the local authority to the Electricity Board or by the Board to the authority; or
 - (d) whether any lease ought to be severed;

and the question has not been settled by agreement or determined before the vesting date, the property concerned shall not, pending such agreement or determination, vest in the Electricity Board by virtue of this Act and, if the notice is given after the vesting date, shall be deemed not to have so vested, but the property shall, so far as it is so to vest having regard to the agreement or determination, vest on such date as may be agreed or determined, and pending the settlement or determination of the

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said question and the vesting of property and the granting of interests or rights in accordance therewith, the Electricity Board shall be entitled and shall be deemed to have been entitled as from the vesting date to use the property for the like purposes and to the like extent as it was used, immediately before that date, by the local authority in their capacity as authorised undertakers, on such terms (which may include the payment of money) as may be agreed between the Electricity Board and the local authority or, in default of agreement, determined by the Minister of Health.

- (5) Notwithstanding anything in the last foregoing section or this section, there shall not, by reason of the vesting of property, rights, liabilities and obligations of any local authority, in any Electricity Board, be transferred to that Board any liabilities or obligations in respect of any loan raised by the local authority, or be transferred to that Board any property forming part of a sinking fund established for the redemption of any such loan, and any property vesting in the Board, being property subject to a mortgage created for securing the repayment of any such loan, shall vest free of the mortgage.
- (6) References in the following provisions of this Act to bodies to whom this Part of this Act applies (not being references which expressly exclude local authorities) shall be construed, in relation to a local authority, as referring to that authority in their capacity as authorised undertakers.

16 Right of pre-emption for local authorities in respect of land vested in an Electricity Board.

- (1) Where any land of a local authority vests by virtue of this Act in an Electricity Board, the local authority shall, for a period of ten years from the date of the vesting of the land, have the right of pre-emption conferred by the subsequent provisions of this section.
- (2) If the Electricity Board in whom the land vests by virtue of this Act, or any other Electricity Board to whom it is subsequently transferred, desire within the said period of ten years, to dispose to any person other than an Electricity Board, whether absolutely or for a term of years, of any of that land as being land not required by the Board for the discharge of their functions under this Act, they shall before disposing of it give to the local authority at least three months' notice, stating whether they desire to dispose of it absolutely and, if not, stating the term of years for which they desire to dispose of it.
- (3) Where the local authority receive a notice under subsection (2) of this section and notify the Board, before the expiration of the period of three months from the date of the Board's notice, that they desire to acquire the land either absolutely or for the term of years specified in the Board's notice, as the case may be, they shall have the right and be under an obligation to acquire that land on such terms as may be agreed between the Board and the authority or, in default of agreement, as may be determined, by arbitration to be fair and reasonable having regard to all the circumstances of the case.
- (4) The right of pre-emption conferred upon the local authority by this section shall be deemed to be an estate contract within the meaning of section ten of the Land Charges Act, 1925, and that Act and the Land Registration Act, 1925, shall have effect accordingly.

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17 Composite companies.

- (1) This section applies to the companies (in this Act referred to as " composite companies ") who are specified in Part II of the Second Schedule to this Act, being companies who, by virtue of any enactment, supply gas, or gas and water, as well as electricity:

Provided that this section shall not apply to any such company who serve on the Minister, not later than two months after the passing of this Act, a notice stating that they do not wish this section to apply to them, and references in this Act, except in the said Schedule, to composite companies shall not be construed as referring to any company who have served such a notice.

- (2) The provisions of section fourteen of this Act shall, in the case of composite companies, only apply to property held or used by the company wholly or mainly in their capacity as authorised undertakers, and to rights, liabilities and obligations acquired or incurred by the company in the said capacity, and accordingly references in that section to the property, rights, liabilities and obligations of a body to whom Part II of this Act applies, or to any agreement to which any such body was a party, or to documents referring to any such body, or to legal proceedings or applications by or against any such body shall be construed as references to property held or used by the company wholly or mainly in their capacity as authorised undertakers, and rights, liabilities and obligations acquired or incurred by the company in the said capacity or, as the case may be, to agreements, documents, legal proceedings or applications of or relating to the company in their capacity as authorised undertakers, and subsection (11) of the said section shall not apply to any composite company.
- (3) Any question arising under this section as to whether any property is or was held or used by a composite company wholly or mainly in their capacity as authorised undertakers or whether any rights, liabilities or obligations were acquired or incurred by any such company in the said capacity or whether any agreements or documents relate to any such company in the said capacity shall, in default of agreement, be determined by arbitration under this Act, and the arbitration tribunal shall have regard to whether or not entries relating to any property, rights or liabilities were or ought to have been included in the accounts furnished by the company to the Electricity Commissioners under section nine of the Electric Lighting Act, 1882.
- (4) Subsections (2) and (4) of section fifteen of this Act shall apply to a composite company in like manner as they apply to a local authority, subject to the modification that for references to the Minister of Health there shall be substituted references to the Minister, and any question whether any property is or was (for the purposes of the said subsection (2) as so applied) held or used partly in the said capacity and partly in other capacities shall, in default of agreement, be determined by arbitration under this Act, and the last foregoing section shall also apply to a composite company in like manner as it applies to a local authority.
- (5) No part of the cash and investments of a composite company shall vest in an Electricity Board under section fourteen of this Act, and the last two foregoing subsections shall accordingly not apply thereto, but regulations shall, subject to the provisions of this Part of this Act with respect to the final payment of dividends and interest, provide for the apportionment, as between the Board and the company, of the whole of the cash and investments of the company, together with any income accruing thereon pending such apportionment, in such shares as may be agreed between them or, in default of such agreement, determined in accordance with the regulations.

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Any references in the following provisions of this Act to property which vests by virtue of this Act shall include a reference to property apportioned to an Electricity Board under this subsection.

- (6) Regulations may make provision for the apportionment of, and the making of financial adjustments with respect to, any liabilities incurred by a composite company partly in their capacity as authorised undertakers and partly in other capacities, and for any necessary variation of mortgages and incumbrances relating to such liabilities.
- (7) Where any property of a composite company which vests by virtue of this Act in an Electricity Board is subject to any mortgage or other incumbrance created for the purpose of securing a debt which does not so vest in the Board and is not apportioned as between the Board and the company, the property shall vest free of that mortgage or incumbrance.
- (8) The Electricity Board in whom any property, rights, liabilities or obligations of any composite company vest by virtue of this Act shall make available to the company such facilities for the examination of and the making of extracts from or copies of books, accounts and documents relating to the electricity undertaking of the company as the company may reasonably require for the purposes of this Act and for other purposes arising out of the carrying on of the company's business, and such services of officers of the Board as they may reasonably require to enable them to make use of those facilities.
- (9) References in the following provisions of this Act, except section twenty-six thereof, to bodies to whom this Part of this Act applies (not being references which expressly exclude composite companies) shall be construed, in relation to a composite company, as referring to that company in their capacity as authorised undertakers.

18 Disclaimer of agreements and leases.

- (1) Where any Electricity Board in whom are vested the rights, liabilities and obligations of any body to whom this Part of this Act applies, being rights, liabilities and obligations under an agreement made or varied on or after the nineteenth day of November, nineteen hundred and forty-five, are of opinion that the making or the variation of that agreement was not reasonably necessary for the purposes of the activities of the said body or that the agreement was made or varied with an unreasonable lack of prudence on the part of the said body, the Board may, by notice in writing given to the other parties to the agreement before the expiration of three months from the vesting date, disclaim the agreement:

Provided that any of the said parties may, within the prescribed period from the date on which the notice is served, refer to arbitration under this Act the question whether or not the agreement or variation thereof was reasonably necessary as aforesaid, or was made or varied with unreasonable lack of prudence, and, on such arbitration, the arbitration tribunal shall either confirm or revoke the notice.

- (2) Where a notice is so given by an Electricity Board with respect to any agreement and is not revoked by the arbitration tribunal—
 - (a) subsection (5) of section fourteen of this Act shall be deemed never to have applied to the agreement;
 - (b) the agreement shall be deemed to have been frustrated on the vesting date and the parties thereto for that reason to have been discharged from the further performance thereof; and

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- (c) the like consequences shall follow as between the Board and any party to the agreement who, before the date on which the notice of disclaimer becomes final, has in pursuance of the agreement, supplied goods or rendered services to the Board which the Board have accepted, or to whom, before the said date, the Board have, in pursuance of the agreement, supplied goods or rendered services which he has accepted, as would have followed if those goods or services had been supplied or rendered at the request of the Board or of that party, as the case may be, apart from the agreement, and any payments by or to the Board before the said date shall be adjusted accordingly.

For the purposes of this subsection, a person who permits another to use or enjoy any property or rights shall be deemed to render a service to him.

- (3) Subsection (1) of this section, but not subsection (2), shall apply to leases, and where a notice of disclaimer is given by the Board under subsection (1) with respect to any lease and is not revoked by the arbitration tribunal, the lease shall be deemed to be surrendered on the date on which the notice of disclaimer becomes final.
- (4) Where any lease is disclaimed under this section, the arbitration tribunal may, on the application of the Electricity Board who gave the notice or the other party to the lease, make such modifications (if any) of the provisions of the lease relating to repairing obligations or any other provisions taking effect on or within a limited time before the determination of the lease as they think just.
- (5) Where any agreement (other than a lease) is disclaimed under this section, then, for the purposes of the Law Reform (Frustrated Contracts) Act, 1943, the Electricity Board in whom any rights, liabilities or obligations under the agreement are or would (but for the frustration) be vested shall be deemed to have been a party to the agreement in lieu of the body from whom those rights, liabilities or obligations were or would have been transferred.
- (6) For the purposes of this section, a notice of disclaimer which is not revoked shall be deemed to become final on the following date, that is to say,—
- (a) if no reference to arbitration is made under subsection (1) of this section, the date on which the period for making such a reference expires;
- (b) in any other case, the date on which the notice is confirmed by the arbitration tribunal.
- (7) This section shall not apply to any agreement or lease made or varied with the previous consent of the Electricity Commissioners given for the purpose of any enactment other than this section nor shall it apply to any agreement or lease the making or variation of which has been approved in writing by the Minister, either generally or specially, and whether before or after the date of the making or variation of the agreement or lease.

19 Subsequent transfer of property from one Electricity Board to another.

- (1) The Minister may, whether on the application of any of the Electricity Boards concerned or without any such application, provide by order—
- (a) for the transfer to any Electricity Board of any property, rights, liabilities and obligations vested by virtue of this Act in another such Board;
- (b) for the modification of agreements so far as necessary for giving effect to the transfer of rights, liabilities and obligations thereunder from one such Board to another and, in a case where part only of the rights, liabilities and obligations under any agreement are transferred, for substituting for the agreement

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separate agreements in the requisite terms, and for any apportionments and indemnities consequent thereon;

- (c) for the purpose of transferring part of the land comprised in any lease vested in any such Board to another such Board, for the severance of that lease, and for apportionments and indemnities consequent thereon;
- (d) for such other financial adjustments between the Boards concerned as may be required in consequence of any such order, and for any other matters supplementary to or consequential on the matters aforesaid for which provision appears to the Minister to be necessary or expedient:

Provided that the Minister shall consult the Central Authority before making any such order.

- (2) An order made under this section which affects the North of Scotland Board shall be made by the Minister and the Secretary of State jointly, and they shall consult that Board before making any such order.

Compensation to Holders of Securities.

20 Compensation to holders of securities of bodies other than local authorities.

- (1) Every holder of securities of any body to whom' this Part of this Act applies, not being securities of a local authority or a composite company, shall be entitled to be compensated by the issue to him by the Central Authority, in accordance with the provisions of the Third Schedule to this Act, of British Electricity Stock of such amount as in the opinion of the Treasury is at the vesting date of a value equal to the value of the said securities held by him, regard being had (in estimating the value of the stock so issued) to the market value of government securities at the vesting date:

Provided that—

- (a) if the whole of the beneficial interest in any such securities was, immediately before the vesting date, vested in any body to whom this Part of this Act applies, no compensation shall be payable in respect of those securities and the securities shall be extinguished on the vesting date;
 - (b) if the holder of any such securities was such a body, but the whole of the beneficial interest was not so vested, the stock issued as aforesaid in respect of those securities shall be held by the Central Authority, and the said Schedule shall have effect as if the Authority were the holder of those securities; and
 - (c) any stock issued as aforesaid in respect of securities guaranteed by the Treasury shall be of the same nominal amount, shall carry interest at the same rates and payable at the same dates, and shall if redeemable be redeemed in the same manner and at the same times and by payment of the same amounts, as in the case of the securities.
- (2) For the purposes of this section, the value of any securities of any such body which were quoted in the Stock Exchange Official Daily List on all six of the following dates, that is to say, the first, fourth, fifth, sixth, seventh and eighth days of November, nineteen hundred and forty-six, shall, subject as hereinafter provided, be deemed to be the average of the mean of the quotations therefor appearing in the said list on those dates, such addition, if any, being made to that average as is necessary to make it a complete multiple of one penny:

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- (a) quotations for the securities appeared in the said list on any of the following dates thereafter referred to as " the alternative dates "), that is to say, the fifteenth day of February, the fifteenth day of March, the sixteenth day of April, the fifteenth day of May, the fifteenth day of June, and the sixteenth day of July, nineteen hundred and forty-five; and
- (b) the average mentioned in the foregoing provisions of this subsection is less than the average of the mean of the quotations for the securities appearing in the said list on all the alternative dates on which a quotation therefor so appeared;

the value of the securities for the purposes of this section shall be deemed to be the average of the mean of the quotations therefor appearing in the said list on the alternative dates.

- (3) Where, in the case of any class of securities to which the last foregoing subsection applies, there has been at any time after the eighth day of November, nineteen hundred and forty-six, a fresh issue of securities of that class, the value of every security of that class for the purposes of this section shall, instead of being determined under the last foregoing subsection, be deemed to be the average of the values of all the securities of that class calculated on the basis that—
 - (a) the value of each of the securities comprised in that issue is the price at which it was issued, and
 - (b) the value of the remaining securities is the value which those securities had for the purposes of this section immediately before the issue took place.
- (4) Where, at any time after the eighth day of November, nineteen hundred and forty-six, any securities to which subsection (2) or subsection (3) of this section applies have been converted into securities of a different nominal value—
 - (a) the value of those securities as so converted shall, for the purposes of this section, be deemed to be a value bearing to the value which the securities had for the purposes of this section immediately before the conversion took place the same proportion as the nominal value of the securities as converted bears to the nominal value of the securities immediately before the conversion took place; and
 - (b) the last foregoing subsection shall apply to securities which have been converted as aforesaid, but if a part only of a class of securities has been converted as aforesaid, the converted securities shall, for the purposes of the last foregoing subsection, be treated as securities of a different class from that of the unconverted securities.
- (5) Where a new class of securities has been issued at any time after the first day of November, nineteen hundred and forty-six, the value of securities of that class for the purposes of this section shall be deemed to be the price at which they were issued, and the last two foregoing subsections shall apply to any fresh issue or conversion of securities of that class.
- (6) If any question arises under any of the last four foregoing subsections as to the value of any securities, it shall be settled by agreement between the Minister and the stockholders' representative appointed under the next following section or, in default of such agreement, determined by arbitration under this Act.
- (7) For the purposes of this section, the value of any securities of any such body, not being securities to which subsection (2), (3), (4) or (5) of this section applies, shall be such value as may be agreed between the Minister and the said stockholders' representative

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or, in default of such agreement, as may be determined by arbitration under this Act, and the arbitration tribunal, in determining the value of those securities, shall have regard, as far as may be, to the value of securities to which subsection (2) of this section applies (as determined under that subsection), being securities which, as respects all matters affecting their value, are most nearly comparable to the first named securities, and if, in relation to any class of securities to which this subsection applies, such a fresh issue or conversion of securities as is mentioned in subsection (3) or subsection (4) of this section has occurred, the arbitration tribunal shall also have regard, as far as may be, to the manner in which the value of securities is to be determined in cases to which the said subsection (3) or subsection (4) applies.

(8) In this section—

the expression " the Stock Exchange Official Daily List " means the publication known as the Stock Exchange Daily List of Officially Quoted Securities which is published by and under the authority of the Council of the Stock Exchange, London;

the expression " quotation " has the same meaning as in the said list and, accordingly, does not include the statements of the business that was done;

the expression " the mean of quotations " means the average of the two figures shown in the list on the date in question in respect of the security in question under the heading " Quotations ".

(9) For the purposes of this section and the following provisions of this Part of this Act, the securities of a body to which the same rights attach shall be deemed to constitute a class of securities.

21 Appointment of stockholders' representative.

(1) In the case of any body to whom this Part of this Act applies, being a body in respect of whose securities compensation is payable under the last foregoing section, there shall be appointed, before such date not later than the vesting date as may be prescribed, an individual, in this Act referred to as the stockholders' representative ", to represent the interests of all holders of securities of that body in connection with the determination of the amount of compensation payable in respect of those securities, any payment made after the vesting date of interest or dividend in respect of those securities, and any other matters arising under this Part of this Act affecting the interests of the holders of those securities, and it shall be the duty of the stockholders' representative, in carrying out his functions under this Part of this Act, to represent the interests of the holders of those securities.

(2) The stockholders' representative shall be appointed, in the prescribed manner, by the holders of the securities of the body in question:

Provided that—

(a) if those holders of securities fail to appoint a stockholders' representative before the prescribed date, the Minister shall appoint such a representative;

(b) in the case of securities issued by the Central Electricity Board, any joint electricity authority, or any joint board of local authorities, the stockholders' representative shall be appointed by the Minister.

(3) The Minister shall pay out of moneys provided by Parliament to a stockholders' representative such remuneration (whether by way of salary or fees) and such allowances, and such expenses incurred by him in the exercise of his functions, as may

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be determined by the Minister with the approval of the Treasury, and any sums paid by the Minister under this subsection shall be repaid to him by the Central Authority on demand:

Provided that, in the case of a body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, the said sums shall be repaid to the Minister by the North of Scotland Board.

- (4) Regulations shall make provision—
- (a) as to the mode of appointment of a stockholders' representative and the notices to be given thereof;
 - (b) as to tenure and vacation of office by a stockholders' representative and the appointment, where the office falls vacant, of a new stockholders' representative;
 - (c) for any other matters relating to the office of stockholders' representative for which provision appears to the Minister to be necessary or expedient, including the exercise of functions through agents.

The regulations made with respect to the matters mentioned in paragraphs (a) and (b) hereof shall be made not less than two months before the date prescribed for the purposes of subsection (1) of this section, but without prejudice to the varying of any such regulations to such extent as may subsequently appear to the Minister to be necessary.

- (5) The Electricity Board in whom any property, rights, liabilities or obligations of any body vest by virtue of this Act, and any person to whom any such property, rights, liabilities or obligations which have so vested have been subsequently disposed of, shall make available to the stockholders' representative such facilities for the examination of and the making of extracts from or copies of books, accounts and documents of the body as he may reasonably require for the purposes of his duties, and such services of persons who were officers of the body and are in the employment of the Board or of the said person as the stockholders' representative, may reasonably require for those purposes.

Compensation to Local Authorities.

22 Compensation to local authorities.

- (1) The Central Authority shall, by way of compensation for the vesting in them or in any other Electricity Board of property and rights of any local authority, and in lieu of any other compensation in respect of that vesting, make payments to the authority in accordance with this and the two next following sections.
- (2) Where the local authority have raised a loan wholly or partly for the purposes of their functions as authorised undertakers or have advanced money for those purposes out of any consolidated loans fund or mortgage loans pool established by them or out of any other moneys held by them, and, in pursuance of the arrangements in force immediately before the vesting date for the redemption of the loan and the payment of interest thereon or, as the case may be, for the repayment of the advance and the payment of interest thereon, any amounts would, but for this Act, have fallen, on or after the vesting date, to be debited in the accounts of the local authority in their capacity as authorised undertakers, the Central Authority shall, subject to the provisions of this section, pay those amounts to the local authority at the times at

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which, but for this Act, those amounts would have fallen to be debited in the accounts of the local authority in their capacity aforesaid."

- (3) Where the local authority have before the vesting date made arrangements for the making of financial adjustments, as between the accounts of the local authority in their capacity as authorised undertakers and any other account of the local authority, in respect of any other transaction or matter affecting both their functions as authorised undertakers and other functions of the authority, and in pursuance of those arrangements any amounts would, but for this Act, have fallen, on or after the vesting date, to be debited or credited in the accounts of the local authority in their capacity as authorised undertakers and credited, or, as the case may be, debited, in some other account of the local authority, the Central Authority shall, subject to the provisions of this section, pay those amounts to the local authority or be entitled to receive those amounts from the authority, as the case may be, at the times at which, but for this Act, those amounts would have fallen to be debited or credited in the accounts of the local authority in their capacity aforesaid:

Provided that this subsection shall not apply in relation to any apportionment of establishment charges between the accounts of the local authority in their capacity aforesaid and other accounts of the authority.

- (4) The Central Authority and the local authority may agree or the Minister of Health may, on the application of either party in default of such agreement, determine that, having regard to the circumstances in which any such arrangements were made and the circumstances arising under this Act, the last foregoing subsection shall not apply to those arrangements or shall apply thereto with such modifications as to the payments to be made by the Central Authority or the local authority as may be so agreed or determined, and the said subsection shall have effect subject to any such agreement or determination.

Any other question arising under either of the two last foregoing subsections as to the payments to be made thereunder shall, in default of agreement, be determined by the Minister of Health.

- (5) Any payment made by the Central Authority or the local authority under the foregoing provisions of this section which would, but for this Act, have been debited or credited as a capital payment, or any payment made in respect of the liability for the redemption of a loan or the repayment of an advance, shall be deemed to be a capital payment, and any other such payment shall be deemed to be an annual payment.

23 Further compensation to local authorities in respect of severance.

There shall be paid by the Central Authority to local authorities, by way of compensation in respect of the severance of their electricity undertakings from their other activities, the sum of five million pounds, and the said sum shall be divided among such of the said local authorities as satisfy: the prescribed conditions, and the amounts to be paid to the individual authorities shall be determined in such manner and in accordance with such principles as may be prescribed.

24 Further compensation to local authorities in respect of capital works.

Where the Minister is satisfied, on the application of a local authority to whom this Part of this Act applies, that the authority incurred at any time after the nineteenth day of November, nineteen hundred and forty-five, in respect of works approved by

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the Electricity Commissioners expenditure properly chargeable to capital account, being expenditure incurred with the consent of the Electricity Commissioners (if such consent was required) and not defrayed out of moneys borrowed or advanced for the purposes of the electricity undertaking or out of the revenue or reserves of the electricity undertaking, the Minister may direct the payment by the Central Authority to the local authority of such sums by way of compensation, not exceeding the amount of the expenditure aforesaid, as may be determined by him :

Provided that no payment shall be directed to be made under this section in respect of any expenditure in respect of which the Central Authority are liable to make payments under subsection (3) of the last but one foregoing section.

Compensation to composite companies.

25 Compensation to composite companies.

- (1) Every composite company shall be entitled to be paid by the Central Authority, by way of compensation for the vesting in that Authority or in any other Electricity Board of property and rights of the company, and in lieu of any other compensation in respect of that vesting, an amount calculated as follows:—
 - (a) the aggregate value of all the securities of the company shall be ascertained in accordance with subsections (2) to (9) of section twenty of this Act, subject to the modification that for the references in subsections (6) and (7) to the stockholders' representative there shall be substituted references to the company;
 - (b) there shall be ascertained the proportion which the average net revenue earned by the electricity undertaking in respect of the last three complete financial years before the tenth day of January, nineteen hundred and forty-seven, bears to the average net revenue earned in respect of those years by the company's undertaking as a whole;
 - (c) the amount of the compensation shall be the aggregate of the following amounts—
 - (i) an amount bearing to the aggregate value of the said securities the same proportion as the said average net revenue of the electricity undertaking bears to the said average net revenue of the company's undertaking as a whole,
 - (ii) an amount, by way of compensation in respect of the severance of the electricity undertaking from the remainder of the company's undertaking, consisting of a sum of five shillings for each complete one thousand of the units of electricity which, in accordance with the figures accepted by the Electricity Commissioners for the purposes of section seven of the Electricity (Supply) Act, 1922, were sold (within the meaning of that section) by the company during the year nineteen hundred and forty-six.
- (2) Any question arising under paragraph (b) of the last foregoing subsection shall, in default of agreement between the company and the Minister, be determined by arbitration under this Act.
- (3) The right of a composite company to compensation under this section shall be satisfied by the issue to the company of British Electricity Stock of such amount as in the opinion of the Treasury is at the vesting date of a value equal to the amount calculated

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under subsection (1) of this section, regard being had (in estimating the value of the stock so issued) to the market value of government securities at the vesting date.

- (4) If, in the case of any composite company, the amount of compensation payable to the company under this section has been determined before the vesting date, the British Electricity Stock to be issued in respect thereof shall be issued on that date, and in any other case the British Electricity Stock shall be issued as soon as the amount of that compensation has been determined.
- (5) Interest on any stock so issued after the vesting date shall begin to accrue as from the vesting date, and the Central Authority shall, on such dates as the Minister may direct, make to the company payments of interest not exceeding the amount which, in the opinion of the Central Authority, will be found to have accrued on the British Electricity Stock ultimately issued in satisfaction of the compensation.

If the amounts paid to any company by the Central Authority under this subsection are equal to or greater than the amount of interest which is found to have accrued on the said stock for the period beginning with the vesting date and ending immediately before the date of the issue of the stock, the interest so found to have accrued shall be treated as discharged, and if the amount paid as aforesaid is less than the amount found to have accrued as aforesaid, the amount so found to have accrued shall be treated as discharged to the extent of the amount so paid, and the balance shall be added to and treated as part of the interest (being interest accruing on and after the issue of the stock) which first falls to be paid after the issue of that stock.

- (6) Regulations may make provision—
- (a) for entitling the holder of any debentures, debenture stock, preference shares or preference stock of a composite company, by notice given within the prescribed period, to require the company to transfer to him such amount the British Electricity Stock issued to the company under this section as is attributable to the value of the said securities held by him, and for the cancellation of those securities to a proportionate extent; and
 - (b) otherwise for the protection of mortgagees and incumbrancers of a composite company.

Control of Dividends and Interest and Safeguarding of Assets pending transfer.

26 Control of dividends, interest and other payments.

- (1) Where any body to whom this Part of this Act applies, being a company, have paid pursuant to a resolution passed after the tenth day of January, nineteen hundred and forty-seven, interest or a dividend on any of their securities in respect of the last complete financial year before the said day or any subsequent period, being payments which, regard being had to any interest or interim dividend paid before the said day in respect of that year or period, are in excess of the payments of interest or dividend permitted under this section, all persons who were directors of the body at the time when the resolution of the directors' was passed authorising or recommending the payments shall, subject to the provisions of this section, be liable to pay to the Central Authority an amount equal to the total amount of the excess.
- (2) The payments of interest or dividend permitted under this section are as follows:—
- (a) in the case of securities in respect of which rates of interest are fixed, payments at those rates;

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- (b) in the case of securities in respect of which rates of preferential dividend are fixed but which give no other rights to participate in the profits of the body, payments at those rates; or
- (c) in the case of any other class of securities, payments of dividend at a rate not exceeding four per cent. per annum or the annual rate paid on that class of securities in respect of the last complete financial year in respect of which a final dividend was paid before the said tenth day of January-, nineteen hundred and forty-seven, whichever is the higher;

Provided that:

- (i) such payments shall only be made out of the net revenue of the body for the period in respect of which the payment is made, or out of any funds applicable in accordance with the normal practice for the purpose of maintaining interest payments and equalising rates of dividend, and any payment shall, so far as it is made otherwise than out of that revenue, or out of those funds, not be permitted under this section; and
 - (ii) where a fresh issue has been made after the said date of securities of a class mentioned in paragraph (c) hereof, being a class on which the annual rate of dividend paid in respect of the said last complete financial year exceeded four per cent. per annum, the payments of dividend permitted under this section on the securities so issued shall not, except with the approval of the Minister, exceed a rate of four per cent. per annum.
- (3) Where any such body as aforesaid have, without the approval of the Minister, paid after the tenth day of January, nineteen hundred and forty-seven, a dividend in respect of any period prior to the last complete financial year before the said day, all persons who were directors of the body at the time when the resolution of the directors was passed authorising or recommending the payments shall, subject to the provisions of this section, be liable to pay to the Central Authority an amount equal to the total amounts of the payments:

Provided that this subsection shall not apply to payments of dividend on cumulative preference shares or stock, being payments which are required to be made in priority to the payment of any dividend on ordinary capital and are made out of the 'net revenue of the body for the said last complete financial year or any subsequent period.

- (4) Where, at any time after the tenth day of January, nineteen hundred and forty-seven, any such body as aforesaid have, without the approval of the Minister,—
- (a) made any payments to their members for the purpose of reducing the share capital of the body otherwise than by redemption, off any redeemable preference shares;
 - (b) made any other payments to their members out of capital moneys; or
 - (c) distributed assets other than money to their members;

all persons who were directors of the body at the time when the resolution of the directors was passed authorising or recommending the payments or distribution shall, subject to the provisions of this section, be liable to pay to the Central Authority an amount equal to the total amount of the payments or, as the case may be, the total value of the assets distributed:

Provided that this subsection shall not apply to any such payment or distribution to any such member otherwise than in his- capacity as a member.

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- (5) Where, at any time after the said day, any such body as aforesaid have redeemed any securities which the body were not under an obligation to redeem before the vesting date, or made payments in respect of the redemption of any securities which exceed the minimum payments required to satisfy the rights existing on the said day of the holders of the securities, all persons who were directors of the body at the time when the resolution of the directors authorising or recommending the redemption or the payments in respect thereof was passed shall, subject to the provisions of this section, be liable to pay to the Central Authority—
- (a) in the case of securities which the body were not obliged to redeem, the amount (if any) by which the sums paid in respect of the redemption of those securities exceed the compensation which would have been payable under this Part of this Act (but for the redemption) to the holders of those securities; or
 - (b) in the case of securities which the body were obliged to redeem but for which the payments made exceeded the said minimum payments, an amount equal to the total amount of the excess.
- (6) For the purposes of this section—
- (a) any payment by a body to its members in their capacity as members out of the net revenue of the body shall be deemed to be a payment of dividend; and
 - (b) any transaction the effect of which is that assets of a body are transferred to any person otherwise than in the capacity of a member of the body, and the consideration for such transfer is given to the members of the body or any class thereof, shall be deemed to be a distribution of those assets to the members of the body or that class thereof.
- (7) Any claim under this section by the Central Authority against the directors of any such body as aforesaid shall be made before the expiration of a period of twelve months beginning with the vesting date, and if so made, shall be determined by arbitration under this Act, and, if the arbitration tribunal decides the claim in favour of the Central Authority, it shall make such orders against all or any of the said directors in respect of their liability on the claim as it thinks just, having regard to all the circumstances.
- (8) References in this section to any payments of interest or dividend made or permitted to be made, by any body shall be construed as references to the gross amounts of those payments, that is to say, to the amounts thereof before any deduction is made therefrom in respect of income tax, and, if any such payment has been made by a body without deduction of income tax, the amount paid shall be deemed for the purposes of this section to be a net amount paid after deduction of income tax, and the gross amount of that payment for the purposes of this section shall be calculated accordingly:
- Provided that, in determining the amount recoverable under this section from the directors of any body in respect of payments of interest or dividend made by that body, there shall be deducted from the amount which would, but for this proviso, be so recoverable a sum equal to the income tax chargeable on that amount at the standard rate for the year in which the payments became due.
- (9) This section shall, in relation to any body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, have effect with the substitution for references to the Central Authority of references to the North of Scotland Board.
- (10) This section shall, in relation to any composite company, have effect subject to the following modifications:—

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- (a) subsections (1), (3), (4) and (5) shall only apply to payments and distributions made, and redemptions carried out, before the vesting date;
- (b) any liabilities arising under this section shall be liabilities of the company and not of the directors; and
- (c) any such liability shall be reduced by applying thereto the proportion ascertained under paragraph (b) of subsection (1) of section twenty-five of this Act.

27 Final payment of dividends and interest.

- (1) As soon as possible after the vesting date, there shall, in the case of any body to whom this Part of this Act applies other than a local authority or a composite company, be ascertained and certified by an auditor appointed by the Minister after consultation with the Central Authority and the stockholders' representative—
- (a) the net revenue of the body for the final financial period;
 - (b) the total gross amounts paid by the body by way of interest or interim dividend on any securities in respect of the final financial period; and
 - (c) the amount (if any) by which the said net revenue exceeds the said total amounts;
- and the Central Authority shall pay to the stockholders' representative the amount referred to in paragraph (c) hereof. In appointing an auditor under this subsection in the case of any body, the Minister shall first offer the appointment to one of the auditors who signed the last balance sheet of the body or examined that balance sheet on behalf of the Electricity Commissioners, and there shall be paid to the auditor out of moneys provided by Parliament such remuneration (whether by way of salary or fees) and such allowances as the Minister may, with the approval of the Treasury, determine, and the amount of the remuneration and allowances shall be repaid to the Minister by the Central Authority on demand.
- (2) The Central Authority, if they think fit, may, before the auditor's certificate is given, make payments to the stockholders' representative on account.
- (3) The stockholders' representative shall apply the sums paid to him under the foregoing provisions of this section (so far as they will go) for the following purposes and in the following order of priority:—
- (a) in making interest payments on any debentures or debenture stock of the body, which have accrued up to the vesting date and have not been paid, at the rates permitted under the last foregoing section;
 - (b) in making such a distribution as is mentioned in the next following subsection to the holders of other securities, if any, of the body; and
 - (c) in repaying the balance, if any, to the Central Authority.
- (4) The distribution falling to be made under paragraph (b) of the last foregoing subsection shall be a distribution under which the holders of the securities there referred to become entitled to the same gross amounts as they would have become entitled to if—
- (a) the statutory or other provisions relating to the body had permitted payments of interest or dividend in respect of the final financial period;
 - (b) the body had had available for distribution the sums paid to the stockholders' representative under this section less the amount applied in making the payments mentioned in paragraph (a) of the last foregoing subsection; and

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- (c) the body had applied the amount so available for distribution, or so much thereof as was required for the purpose, in making payments of interest or dividend for the final financial period, at the rates permitted under the last foregoing section, to the holders of the securities in question, in the proper order of priority, and according to their respective rights, due regard being had to any interest or interim dividend already paid in respect of the final financial period and all necessary adjustments being made where the said period is not a period for which interest or dividend would be payable under the statutory or other provisions relating to those securities:

Provided that the amounts to which the holders would have become entitled by way of interest or dividend for the final financial period in the event contemplated by paragraph (c) of this subsection shall be computed as if the amounts deducted in respect of income tax from the payments mentioned in paragraph (a) of the last foregoing subsection and from any payments made under paragraph (b) of that subsection in respect of any securities were not available for paying any other interest or dividend.

- (5) Where the sums paid to the stockholders' representative under the foregoing provisions of this section are insufficient to enable him—
- (a) to make the interest payments referred to in paragraph (a) of subsection (3) of this section at the maximum rates permitted under the last foregoing section; and
 - (b) to distribute to the holders of the securities referred to in paragraph (b) of that subsection gross amounts equal to payments of interest or dividend on those securities at the maximum rates so permitted;

and the body possessed immediately before the vesting date funds applicable in accordance with the normal practice for the purpose of maintaining payments of interest and equalising rates of dividend, the Central Authority shall pay to the stockholders' representative an additional amount equal to the total amount of the said funds so possessed or to the total amount of the said deficiency, whichever is the less, and the stockholders' representative shall apply that amount in like manner as the other sums paid to him under this section.

- (6) The persons who receive any payment made by a stockholders' representative under the foregoing provisions of this section, shall, subject to the provisions of the next following subsection, hold the payment in the same right and on the same trusts and subject to the same powers, privileges, charges and liabilities as those in, on, or subject to which, any payment of interest or dividend in respect of the securities in question would have been held by them.
- (7) Where any body to whom this Part of this Act applies were the holder of, or had any interest in, any securities of another such body the Central Authority shall have the like right to receive and hold, or benefit from, a payment under paragraph (a) or paragraph (b) of subsection (3) of this section as they would have had if they had been the holder of, or had had that interest in, those securities:

Provided that, in the case of any such body other than a local authority, the gross amounts of any such payments or of the benefit therefrom shall be included in the net revenue of the body for the final financial period for the purposes of this section.

- (8) Where, before the vesting date, there became due from any body to whom this Part of this Act applies, other than a local authority, any payment by way of interest or dividend or any payment by way of a redemption of any security, and, by reason only

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that it was not possible to discover the person entitled thereto, or that the title to the payment had not been established, or that a cheque or warrant issued for the purpose of effecting the payment had not been encashed, that payment was not made before the vesting date, the liability in respect of that payment shall pass to the Central Authority.

- (9) Where the stockholders' representative is for any reason unable to effect payment of any sum falling to be paid by him under this section, or where a receipt cannot effectively be given for any such sum, the stockholders' representative may pay that sum to the Central Authority and, on the said sum being so paid to the Authority, the liability of the stockholders' representative for the payment of that sum shall pass to the Central Authority.
- (10) This section shall, in relation to any body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, have effect with the substitution for references to the Central Authority of references to the North of Scotland Board and for the references to the Minister of references to the Secretary of State.
- (11) The following provisions shall have effect in the case of a composite company, that is to say:—
- (a) there shall be ascertained and certified as soon as possible after the vesting date by an auditor appointed by the Minister the net revenue of the company for the final financial period;
 - (b) there shall be ascertained and certified by the said auditor as soon as possible after the vesting date the amount required to enable the company to make payments of interest or dividend in respect of the final financial period on all their securities at the full rates permitted under the last foregoing section, assuming that the statutory or other provisions relating to the company permitted payments of interest or dividend in respect of that period and due regard being had to any interest or interim dividend already paid in respect of that period; and
 - (c) the said net revenue shall not, except to the extent (if any) to which it exceeds the amount ascertained and certified under paragraph (b) hereof, be subject to apportionment as between the company and the Electricity Board concerned under the foregoing provisions of this Part of this Act relating to the apportionment of the cash and investments of composite companies.

The provisions of subsection (1) of this section relating to the appointment of an auditor, except the requirement as to consultation with the stockholders' representative, shall apply to an auditor appointed under this subsection and there shall be paid to the auditor by the Central Authority such remuneration (whether by way of salary or fees) and such allowances as the Minister may with the approval of the Treasury determine.

- (12) In this section the expression " final financial period " means such part of the financial year during which the vesting date occurs as precedes that date:

Provided that, where any body has not made the payments of interest or dividends permitted under section twenty-six of this Act in respect of the last complete financial year before the vesting date, the said expression means that year together with such part of the financial year during which the vesting date occurs as precedes the vesting date.

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28 **Income tax provisions.**

- (1) This section shall be construed as one with the Income Tax Acts.
- (2) The gross amounts of any payments made by a stockholders' representative under the last foregoing section shall be deemed to be income for all the purposes of the Income Tax Acts, and the stockholders' representative making the payments shall deduct income tax therefrom at the standard rate for the year in which the payments become due and any amounts so deducted shall, notwithstanding anything in the Income Tax Acts, be paid over to the Central Authority for their own use and benefit.
- (3) If—
 - (a) the payments of any interest of money, annuity or other annual payment charged with tax under Schedule D made by a body to whom this Part of this Act applies other than a local authority or a composite company in the year or years of assessment falling wholly or partly within the final financial period as defined by the last foregoing section; plus
 - (b) any payments made by the stockholders' representative to the holders of securities of the body under the last foregoing section being securities bearing interest;

together exceed—

- (i) the total income of the body for the said year or years; plus
- (ii) the total of the assessments made for the said year or years under Rule 21 of the General Rules in respect of payments by the body,

the said Rule 21 shall have effect as if a payment of a gross amount equal to the excess had been made by the Central Authority, as if that payment were a payment of interest of money charged with tax under Schedule D not payable out of profits or gains brought into charge to tax and as if the Central Authority had deducted tax at the appropriate rates in making that payment:

Provided that, in calculating whether there is such an excess as aforesaid or the extent thereof, any payment which has been reimbursed to the body by any person or is charged to capital shall be disregarded, but the said Rule 21 shall have the like effect in relation to the whole of any such payment as it has effect, or would have effect, under this subsection in relation to such an excess as aforesaid.

In this subsection, the expression " the appropriate rates " means the rates which were applied in making deductions of income tax from the payments referred to in paragraph (b) of this subsection, the lowest rate being taken first and applied to an amount of the excess equal to the amount to which it was applied as aforesaid, and then so with the next lowest rate, and so on.

- (4) Any reference in this section or in the last foregoing section to the gross amount of any payment shall be construed as a reference to the amount of that payment before any deduction is made therefrom in respect of income tax.
- (5) This section shall, in relation to any body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, have effect with the substitution for the reference to the Central Authority of a reference to the North of Scotland Board.

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29 Re-opening of transactions resulting in dissipation of assets.

- (1) This section shall apply in any case where on or after the tenth day of January, nineteen hundred and forty-seven, any body to whom this Part of this Act applies, being a company, have—
- (a) made any payment to any person without consideration or for an inadequate consideration;
 - (b) sold or disposed of any of its property or rights without consideration or for an inadequate consideration;
 - (c) acquired any property or rights for an excessive consideration ;
 - (d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the body; or
 - (e) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the body substantially exceeding any benefit accruing to the body;

and the payment, sale, disposal, acquisition, agreement or variation thereof, or other transaction was not reasonably necessary for the purposes of the body or was made with an unreasonable lack of prudence on the part of the body:

Provided that this section shall not apply:

- (i) to any payment or other transaction to which section twenty-six of this Act applies;
 - (ii) to any payment or other transaction made or entered into for any charitable purpose;
 - (iii) to any payment or other transaction made or entered into in connection with, the determination of any question, dispute or matter falling to be determined under any provision of this Part of this Act or any regulations made thereunder; or
 - (iv) to any payment or other transaction to which the previous consent of the Electricity Commissioners was given for the purposes of any enactment other than this section, or which has been approved in writing by the Minister, either generally or specially, and whether before or after the date of the payment or other transaction.
- (2) The Central Authority may, at any time before the expiration of a period of twelve months beginning with the vesting date, make an application to the arbitration tribunal in respect of any transaction to which in the opinion of the Authority this section applies, and all parties to the transaction, and all persons who were directors of the body at the date when the transaction was entered into shall, unless the tribunal otherwise directs, be made parties to the application.
- (3) Where the arbitration tribunal is satisfied that the transaction in respect of which an application is made is a transaction to which this section applies, then, unless it is shown by any of the parties to the application that the transaction was in the ordinary course of business and was in no way connected with any provision made by this Act or with any anticipation of the making of any such provision, the tribunal shall determine the extent of the net loss or liability caused to or imposed on the body by the transaction, and shall make such orders against all or any of the parties to the application (other than the Central Authority) as it thinks just, having regard to the extent to which they were respectively responsible for the transaction or benefited from it, for the payment by them to the Central Authority of sums sufficient to enable

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the net loss or liability, or such part thereof as the tribunal thinks just, to be made good or met.

- (4) Where any Electricity Board have disclaimed an agreement or lease by a notice under this Part of this Act, being an agreement or lease entered into or varied on or after the said tenth day of January, nineteen hundred and forty-seven, the Central Authority may make an application to the arbitration tribunal under this section in respect of any loss or liability caused to or imposed on the body before the vesting date and, in the case of a lease, any loss or liability caused to or imposed on the Board between the vesting date and the disclaimer of the lease, in consequence of the onerous nature of the agreement or lease.
- (5) Where any application is made to the arbitration tribunal under this section in respect of any transaction, or a reference is made to that tribunal with respect to any notice given under this Part of this Act disclaiming an agreement or lease, the tribunal shall have exclusive jurisdiction—
 - (a) to determine claims arising in respect of the transaction or under the lease or agreement; and
 - (b) if the notice disclaiming any such agreement is confirmed by the tribunal, to determine any claims arising with respect to the agreement under the Law Reform (Frustrated Contracts) Act, 1943.
- (6) This section shall, in relation to any body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, have effect with the substitution for the references to the Central Authority of references to the North of Scotland Board.
- (7) In the case of a composite company, the company, and not the directors, shall be made parties to applications under this section.

30 Provisions as to foreign investments.

- (1) It shall not be lawful for any body to whom this Part of this Act applies other than a composite company to acquire any foreign investments.
- (2) Every such body shall, within such period as may be prescribed, supply to the Minister and the Central Authority particulars in the prescribed form of all foreign investments of the body, and shall dispose of those investments in such manner and within such period as may be prescribed.
- (3) If any such body contravene or fail to comply with the provisions of this section or any regulation made thereunder, all persons who were directors of the body at the time when the contravention or failure occurred shall, subject to the next following subsection, be liable to make good any loss suffered by the Central Authority in consequence of the contravention or failure.
- (4) Any claim under this section by the Central Authority against the directors of any such body shall be made before the expiration of a period of twelve months beginning with the vesting date and shall be determined by arbitration under this Act, and all persons who were directors of the body at the time when the alleged contravention or failure occurred shall, unless the arbitration tribunal otherwise directs, be made parties to the proceedings, and, if the arbitration tribunal decides the claim in favour of the Central Authority, it shall make such orders against all or any of the said directors in respect of their liability under this section as it thinks just, having regard to all the circumstances.

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- (5) In this section the expression " foreign investments " means any assets the transfer of which is governed otherwise than by the law of any part of Great Britain.
- (6) If it appears to the Minister to be necessary or expedient, for the purpose of securing the disposal of foreign investments of any body under this section, to postpone the vesting date in relation to that body, he may direct that the vesting date for the purposes of this Act shall, in relation to that body, be such date, later than the date which would otherwise be appointed or fixed, as may be specified in the direction.
- (7) This section shall, in relation to any body whose property, rights, liabilities and obligations vest by virtue of this Act in the North of Scotland Board, have effect with the substitution for the references to the Minister and the Central Authority of references to the Secretary of State and the North of Scotland Board respectively.

Supplementary Provisions.

31 Establishment of Electricity Arbitration Tribunal.

- (1) For the purpose of determining any question or dispute which under any provision of this Part of this Act or any regulations made thereunder is to be determined by arbitration under this Act, or any matter in respect of which jurisdiction is given to the arbitration tribunal under this Part of this Act, there shall be established a tribunal called the Electricity Arbitration Tribunal (in this Act referred to as " the arbitration tribunal ") and the arbitration tribunal shall subject to the provisions of this section, hear and determine every such question, dispute or matter as aforesaid.
- (2) The arbitration tribunal shall, as the Lord Chancellor may direct, either sit as a single tribunal or sit in two or more divisions, and shall, for the hearing of any proceedings, be constituted as follows:—
 - (a) one member shall be a person of legal experience and he shall be the president of the tribunal;
 - (b) there shall be two other members of whom one shall be a person of experience in business and the other shall be a person of experience in finance:

Provided that, in relation to any proceedings which, under the provisions of subsection (5) of this section, are required to be held in Scotland, the member who is a person of legal experience shall be a person of legal experience in Scotland.

- (3) The members of the tribunal shall be appointed by the Lord Chancellor, except that any member or members appointed as being a person or persons of legal experience in Scotland shall be appointed by the Lord President of the Court of Session, and any member appointed by the Lord President shall only act in relation to proceedings which are required as aforesaid to be held in Scotland.
- (4) The members of the arbitration tribunal shall hold office for such period as may be determined at the time of their respective appointments and shall be eligible for reappointment:

Provided that—

- (a) a member may at any time by not less than one month's notice in writing to the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, resign his office ;

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- (b) the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, may declare the office of any member vacant on the ground that he is unfit to continue in his office ;
 - (c) if any member becomes bankrupt or makes a composition with his creditors, his office shall thereupon become vacant.
- (5) Where any such question, dispute or matter as aforesaid arises out of or in connection with the vesting by virtue of this Act of the property, rights, liabilities and obligations of any body, or in connection with any transaction of any body, and the principal place of business of the body is in Scotland, the tribunal shall sit in Scotland.
- (6) If any member of the arbitration tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the Lord Chancellor, or the Lord President of the Court of Session, as the case may be, shall appoint some other, fit person to discharge his duties for any period not exceeding six months at one time, and the person so appointed shall, during that period, have the same powers as the person in whose place he was-appointed.
- (7) The arbitration tribunal may, at any stage in any proceedings before them, refer to a person or persons appointed by them for the purpose, any question arising in the proceedings, for inquiry and report, and the report of any such person or persons may be adopted wholly or partly by the tribunal and, if so adopted, may be incorporated in an order of the tribunal.

32 Procedure and enforcement of orders of arbitration tribunal.

- (1) The arbitration tribunal shall be a court of record and have an official seal, which shall be judicially noticed, and any order of the tribunal shall be enforceable in England and Wales as if it were an order of the High Court.
- (2) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—
- (a) the administration of oaths and the taking of affirmations; and
 - (b) the correction in awards of mistakes and errors; and
 - (c) the summoning, attendance and examination of witnesses and the production of documents; and
 - (d) the costs of the reference and award,
- shall, with any necessary modifications, apply in respect of any proceedings before the arbitration tribunal, but, save as aforesaid, the said Acts shall not apply to any such proceedings.
- (3) The arbitration tribunal may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise before them, and an appeal shall lie to the Court of Appeal on any question of law or fact from any determination or order of the arbitration tribunal on a claim under section twenty-six of this Act against the directors of a body to whom Part II of this Act applies or on an application under section twenty-nine of this Act in respect of any transaction.
- (4) The Minister shall have a right to be heard in all proceedings before the arbitration tribunal and proceedings on a case stated by or an appeal from that tribunal.
- (5) Subject to the provisions of this section, the procedure in or in connection with any proceedings before the arbitration tribunal shall be such as may be determined by rules to be made by the tribunal with the approval of the Lord Chancellor.

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- (6) In relation to proceedings which, under the last foregoing section, are required to be held in Scotland, this section shall have effect subject to the following modifications—
- (a) for subsections (2) and (3) there shall be substituted the following subsections—
- “(2) The arbitration tribunal shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses as if the arbitration tribunal were an arbiter under a submission.
- (3) The arbitration, tribunal may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings, and an appeal shall lie to the Court of Session on any question of law or fact from any determination or order of the arbitration tribunal on a claim under section twenty-six of this Act against the directors of a body to whom Part II of this Act applies or on an application under section twenty-nine of this Act in respect of any transaction.
- An appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this subsection, and such leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine;”
- (b) in subsection (6) for the reference to the Lord Chancellor there shall be substituted a reference to the Secretary of State.
- (7) The Secretary of State shall have a right to be heard in all proceedings before the arbitration tribunal and proceedings on a case stated by or an appeal from that tribunal, being proceedings to which the North of Scotland Board is a party.

33 Staff and expenses of arbitration tribunal.

- (1) The arbitration tribunal may, subject to the consent of the Treasury as to numbers, appoint such officers as they consider necessary for assisting them in the proper execution of their duties.
- (2) There shall be paid to the members of the arbitration tribunal and to any such officer as aforesaid such remuneration (whether by way of salaries or fees) and such allowances as the Minister may, with the approval of the Treasury, determine.
- (3) There shall be paid to any person to whom proceedings are referred by the arbitration tribunal under the last but one foregoing section for hearing and determination such remuneration (whether by way of salaries or fees) and such allowances as the tribunal may, with the approval of the Treasury, determine.
- (4) Any such remuneration and allowances as aforesaid and any other expenses of the arbitration tribunal shall be defrayed in the first instance by the Minister out of moneys provided by Parliament, but the amounts from time to time so paid by the Minister shall be repaid on demand to the Minister by the Central Authority :

Provided that such proportion of the amounts so paid by the Minister in respect of proceedings to which the North of Scotland Board is a party as the Minister and

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the Secretary of State may determine shall be repaid to the Minister by the North of Scotland Board.

34 Determination of questions as to application of Part II of this Act.

- (1) The Minister shall, within the prescribed period, serve a notice on every body who in his opinion are a power station company or electricity holding company to whom this Part of this Act applies and, unless that body serves on the Minister, within such period (not being less than twenty-eight days) after the service of the notice as may be prescribed, a counter notice in the prescribed form (which is not withdrawn) stating that in their opinion this Part of this Act does not apply to them, this Part of this Act shall be deemed to apply to the body.
- (2) Where any body on whom the Minister has not served a notice under the last foregoing subsection within the period prescribed therefor, are of opinion that they are a power station company or electricity holding company to whom this Part of this Act applies, they may within such further period (not being less than twenty-eight days) as may be prescribed after the expiration of the period aforesaid, serve a notice on the Minister in the prescribed form, and unless the Minister serves on that body, within such period as may be prescribed, a counter notice in the prescribed form (which is not withdrawn) stating that in his opinion this Part of this Act does not apply to them, this Part of this Act shall be deemed to apply to the body.
- (3) Where, in the case of any body, other than authorised undertakers, no notice has been served by the Minister or the body under the foregoing provisions of this section within the periods prescribed therefor, this Part of this Act shall be deemed not to apply to the body.
- (4) Where a counter notice is served under the foregoing provisions of this section and is not withdrawn, the question whether this Part of this Act applies to the body by or on whom the counter notice was served shall be determined by arbitration under this Act.
- (5) Where a question has been referred to arbitration in accordance with the last foregoing subsection and the arbitration tribunal determine that this Part of this Act applies to the body, the tribunal may and, if the vesting date has already occurred, shall, fix a later date which, in relation to that body shall be, and be deemed always to have been, the vesting date for the purposes of this Act.

35 Power to obtain information.

- (1) Regulations may require any body who is or may be a body to whom this Part of this Act applies to produce such books of account, records and documents, to supply copies of and extracts from such books, records and documents, and to furnish such other information as may reasonably be required—
 - (a) by the Minister or the Secretary of State for the purpose of ascertaining whether or not the body is one to whom this Part of this Act applies;
 - (b) by any Electricity Board for the purpose of facilitating the taking over of the business of the body by them on the vesting date; or
 - (c) by the Minister, the Secretary of State or any Electricity Board for other purposes arising out of the provisions of this Part of this Act;

and to provide facilities for the examination of any such books, records and documents, and the taking of copies thereof and extracts therefrom, and facilities for the verification of other information furnished under the regulations; and such regulations

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may make provision as to the manner, time and place in or at which any requirement under the regulations is to be complied with. :

- (2) Regulations made under this section shall make provision for the payment to any such body of expenses reasonably incurred by them in complying with any requirements made by or under the regulations.