



Coal Industry Act 1949

1949 CHAPTER 53 12 13 and 14 Geo 6

PART I

AMENDMENTS OF COAL INDUSTRY NATIONALISATION ACT 1946

4 Superannuation &c., rights

- (1) References in section thirty-seven of the principal Act (which provides for the making of regulations with respect to pensions, gratuities and other like benefits) to employment in or in connection with coal industry activities shall be construed as not including and as never having included references to employment in or in connection with coal industry activities by a person other than a colliery concern, a class A subsidiary of a colliery concern, the Coal Commission, a body administering a selling scheme, a selling agent appointed under a group selling scheme or the South Yorkshire Mines Drainage Committee, and references in that section to employment in or in connection with transferred allied activities shall be construed as not including and as never having included references to employment otherwise than by the owner of an interest falling within Part II, III or IV of the First Schedule to the principal Act that vests in the Board by virtue of the exercise of an option in or in connection with activities for which that interest was owned or for which things wherein that interest subsisted were used, and the reference in paragraph (a) of subsection (2) of that section to a person's ceasing to be employed in coal industry activities or transferred allied activities shall be construed accordingly.
- (2) The power conferred by paragraph (c) of subsection (1) of the said section thirty-seven to provide for the continuance, amendment or revocation of existing schemes or other arrangements for the provision of pensions, gratuities or other like benefits and of trust deeds, rules or other instruments made for the purposes thereof, and for the transfer or extinguishment of liabilities under, and the transfer or winding up of funds held for the purposes of, any such schemes or arrangements shall be exercisable in relation to schemes or other arrangements for the provision of such benefits in favour of—
 - (a) persons to whom subsection (2) of that section, as amended by this section, applies; and

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- (b) persons, other than as aforesaid, taken into the employment of the Board before the commencement of this Act, being persons who had been in employment in, or in connection with, coal industry activities or transferred allied activities,

or in favour of other persons by reference to the employment of such persons as aforesaid, to trust deeds, rules or other instruments made for the purposes of any such schemes or arrangements and to liabilities thereunder and funds held for the purposes thereof, but shall not be exercisable in relation to any other schemes or arrangements or instruments, liabilities or funds.

- (3) Subsection (2) of the said section thirty-seven (which provides that, in the case of persons who have been in employment in or in connection with coal industry activities or transferred allied activities before the primary or other relevant vesting date, the regulations to be made for the purposes of subsection (1) of that section shall be so framed as to secure, amongst other things, that where an expectation of accrue, whether as of right or under customary practice, of any particular benefits in favour of any such person, or in favour of another person by reference to his employment, ceases or is prejudiced by reason of his ceasing in consequence of the passing of that Act to be employed by his previous employer or to be employed in the activities aforesaid, the same benefits, or substituted benefits not less advantageous, shall be provided for under the regulations) shall be deemed to have been enacted with the omission of the words “or an expectation of accrue (whether as of right or under customary practice) of”, but the said regulations shall be so framed as to secure that where, in the case of a person to whom the said subsection (2), as amended by subsection (1) of this section, applies, such an expectation as aforesaid ceases or is prejudiced by reason of his ceasing in consequence of the passing of the principal Act to be employed by his previous employer or to be employed in activities to which paragraph (a) of that subsection, as so amended, applies, there shall be provided in his favour or in favour of another person by reference to his employment, fair and reasonable compensation for the cesser of or prejudice to that expectation, being compensation ascertained by reference—

- (a) to the period of employment to service wherein that expectation was ascribable; and
- (b) (except where the benefits expected to accrue would not have been ascertained by reference to emoluments enjoyed by him), to the emoluments enjoyed by him during that period;

and (in such cases and to such extent as may be specified in the regulations) taking into account, as regards the amount thereof, any loss of benefits which might have been expected to accrue by virtue of employment after the expiration of the period aforesaid:

Provided that this subsection, so far as it relates to the framing of regulations, shall have effect subject to such limitations as may be prescribed for meeting cases in which any such expectations as aforesaid may have been created, otherwise than in the ordinary course, in connection with any provision made by the principal Act or with any anticipation of the making of any such provision.

- (4) Regulations made for the purposes of the said section thirty-seven shall provide for the reference to a referee or board of referees appointed by [^{F1}the Secretary of State] of any dispute arising—

- (a) in a case where—
- (i) a right to any particular benefits in favour of a person to whom subsection (2) of that section, as amended by subsection (1) of this

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section, applies, or in favour of another person by reference to his employment, has ceased or been prejudiced by reason of his ceasing in consequence of the passing of the principal Act to be employed by his previous employer or to be employed in activities to which paragraph (a) of the said subsection (2), as so amended, applies; or

- (ii) any such person retired from employment before the primary or other relevant vesting date, and he, or another person by reference to his employment, had been in receipt of benefits granted in respect of his employment,

whether benefits provided in pursuance of regulations so made are the same as, or not less advantageous than, those the right to which has so ceased or been prejudiced, or, as the case may be, those that had been received;

- (b) in a case where an expectation of accrual of any particular benefits in favour of a person to whom the said subsection (2), as amended as aforesaid, applies, or in favour of another person by reference to his employment, has ceased or been prejudiced as aforesaid, whether compensation provided in pursuance of regulations so made satisfies the requirements of the regulations;

and where, upon a reference under a provision of regulations having effect by virtue of this subsection, the referee or board of referees determines what benefits or compensation must be provided in order to satisfy the requirements of the regulations, it shall be the duty of the person charged by the regulations with the provision of the benefits or compensation to give effect to the determination.

- (5) [^{F1}The Secretary of State] may, with the approval of [^{F2}the Treasury], pay out of moneys provided by Parliament—
- (a) to a referee or the members of a board of referees appointed by him under any regulations made under the said section thirty-seven which provide for the reference of disputes arising under the regulations to a referee or board of referees appointed by him, such fees and allowances as he may, with the consent of [^{F2}the Treasury], determine; and
- (b) to persons giving evidence before any such referee or board, such allowances as he may, with the consent of [^{F2}the Treasury], determine.

Textual Amendments

F1 Words substituted by virtue of [S.I. 1959/1769](#) (1959 I, p. 1795), art. 2(1), 1968/729, arts. 2(1), 3(2) and 1970/1537, art. 3

F2 Words substituted by virtue of [S.I. 1981/1670](#), [arts. 2\(1\)\(c\)\(2\)](#), 3(5)

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Changes and effects yet to be applied to :

- s. 4 repealed by [1994 c. 21 Sch. 11 Pt. 3](#)