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## SCHEDULES

### SECOND SCHEDULE

Section 11.

#### PROVISIONS AS RESPECTS RESTRICTED COAL

- 1 (1) The Commission shall have, annexed to any restricted coal, Such a right as is hereinafter mentioned, to the extent to which the existing owners of the coal were competent on the valuation date to grant such a right, that is to say, a right to withdraw support from the protected land so far as may be reasonably requisite for the working of the restricted coal, subject to an obligation either—
- (a) to pay proper compensation for damage arising from such working to the protected land ; or
  - (b) with the consent (which shall not be unreasonably withheld) of the person who would otherwise be entitled to claim compensation for that damage to make good that damage to the reasonable satisfaction of that-person and without expense to him.
- (2) The Commission shall have, annexed to any restricted coal, the same right (if any) to withdraw support from any land, other than the protected land, so far as may be reasonably requisite for the working of the restricted coal, as they would have, in relation to that land, by virtue of paragraph 5 of the Second Schedule to the principal Act if no provision contained in the relevant lease by virtue of which that coal would be restricted coal had been applicable thereto.
- (3) Any person interested in land damaged by the working of restricted coal in exercise of a right to withdraw support therefrom conferred on the Commission by this paragraph subject to an obligation to pay proper compensation for or to make good damage arising from such working and which has been granted by the Commission to a lessee, shall be entitled to enforce against the Commission any liability to pay proper compensation for or to make good that damage pursuant to that obligation which the lessee fails to discharge:

Provided that nothing in this sub-paragraph shall be construed as rendering invalid any provision contained in a lease granted by the Commission requiring the lessee to indemnify the Commission against liability in respect of any such obligation as aforesaid.

- 2 (1) Where any right conferred—
- (a) by any such provision as is referred to in paragraph (b) of subsection (1) of the principal section contained in any such lease as is therein referred to ; or
  - (b) by any similar provision imported by reference to any such provision as aforesaid into any lease of coal granted by the Commission before the commencement of this Act ;

to give consent to, or impose prohibitions or restrictions on, the working of any restricted coal would, apart from this paragraph, be, or has since the vesting date been, vested in some person other than the Commission (whether or not jointly with the Commission), then, subject to the following provisions of this paragraph, that right and any other rights incidental thereto shall be, and shall be deemed to have

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been as from the vesting date, vested by virtue of this paragraph in the Commission and not (either alone or jointly with the Commission) in any other person.

- (2) Where by reason of the working of any coal, being coal the working of which the Commission have, or are deemed to have had, power by virtue of this paragraph to withhold consent to or to prohibit or restrict under any such provision as aforesaid, support is or has been withdrawn from any land, then, subject to the following provisions of this paragraph, the Commission shall, unless the coal was worked without their knowledge or consent, be under the like obligation to pay compensation for, or make good damage arising from, the withdrawal of the support as if it had been withdrawn in exercise of a right conferred on the Commission by the foregoing paragraph and granted by them to the lessee of the coal.
- (3) Where, by virtue of a notice given to, or consent given by, some person other than the Commission (whether alone or jointly with the Commission), any person has, before the commencement of this Act, become entitled under any such lease as aforesaid to work restricted coal free from the restrictions imposed by any such provision as aforesaid contained in the lease, nothing in this paragraph shall be taken—
- (a) to affect that right; or
  - (b) to impose on the Commission any obligation to pay compensation for, or make good damage arising from, the withdrawal of support in the exercise of that right.
- (4) Nothing in this paragraph shall be construed as rendering invalid any provision requiring any person, as a condition of the Commission's consenting to or not prohibiting the working of any coal, to indemnify the Commission against liability in respect of any obligation to pay proper compensation for, or to make good damage arising from, such working.
- (5) Nothing in this paragraph shall be taken to affect any agreement made before the commencement of this Act between the Commission and any person interested in the protected land (otherwise than under a lease of the restricted coal) as to the exercise of their rights under any such provision as aforesaid in relation to the restricted coal.
- 3 Any question as to the subsistence by virtue of the foregoing provisions of this Schedule of an obligation to pay proper compensation or as to the rights or liabilities of any person in respect of the enforcement of an obligation so subsisting, shall be determined by arbitration.
- 4 Nothing in this Schedule shall take away or abridge, as against the Commission or any other person—
- (a) any such right as is referred to in paragraphs (a), (b) or (c) " of subsection (1) of section thirty-four of the principal Act (which relates to certain statutory rights of the Crown, local authorities, statutory undertakers and other persons) ; or
  - (b) any right conferred by a working facilities order;
- or shall, by reason of any reference contained in a lease of coal to any such right as aforesaid, confer any right or impose any liability on the Commission.
- 5 (1) On an application under section eight of the Mines (Working Facilities and Support) Act, 1923 (which provides for the imposition by the Railway and Canal Commission of restrictions on the working of minerals where a person having an interest in land is not entitled to support or to sufficient support for buildings or works), the applicant shall not be required to pay or give any compensation or consideration in respect of the imposition of restrictions appearing to the Railway and Canal Commission to

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be justified by the existence of a right conferred on the Coal Commission by this Schedule.

- (2) Notwithstanding anything in section thirteen of the Mines (Working Facilities and Support) Act, 1923, restrictions, the imposition of which appears to the Railway and Canal Commission to be justified as aforesaid, may be imposed under section eight of that Act on the application of, and so as to vest the right to enforce the restrictions in, any such company, authority or body as is mentioned in the said section thirteen, and such restrictions may be so imposed on the application of, and so as to vest the right to enforce the restrictions in, any company or other body or person carrying on an undertaking primarily for the supply of gas, electricity, water or hydraulic power for public purposes or to members of the public.