



Coal Act 1943

1943 CHAPTER 38

PART I

AMENDMENTS OF PART I OF THE COAL ACT, 1938

11 Withdrawal of support where notice of approach required by retained lease

(1) Where on the valuation date—

- (a) the fee simple in coal comprised in a coal mining lease then subsisting and the fee simple in land supported thereby were vested in the same person ; and
- (b) there was contained in the lease a provision, intended to protect from subsidence the land or part thereof or buildings or works thereon, to the effect that—
 - (i) the lessee should not work the coal or part thereof without the consent of some other person ; or
 - (ii) some other person might prohibit the lessee from working the coal or part thereof ;

then, if the power of consenting to or prohibiting the working was on that date vested in some person other than the estate owner in respect of the fee simple in the coal (whether or not jointly with that, estate owner), or would have become so vested on a severance of the fee simple in the coal from the fee simple in the land, the provisions of the Second Schedule to this Act shall have effect in relation to the restricted coal.

(2) In this section and the said Second Schedule—

- (a) the expression " restricted coal " means, in relation to coal comprised in any such lease as aforesaid—
 - (i) any coal to which, during the subsistence of the lease, any such provision as aforesaid therein contained relates or has at any time related; and
 - (ii) where the buildings or works which the provision is or was intended to protect are or include future buildings or works, any other coal to which the provision would, by reason of the construction of buildings

Status: This is the original version (as it was originally enacted).

or works after the end of the lease, have related if the lease had been still subsisting;

but does not include any coal which, under the foregoing provisions of this paragraph, would be restricted coal by reason only of the existence at any time (whether before or after the commencement of this Act) of buildings or works which have since ceased to exist; and

- (b) the expression " protected land " means, in relation to any restricted coal, the land, buildings or works protected by the provision by virtue of which the coal is restricted coal, or which would be so protected if the lease containing that provision were still subsisting.
- (3) For the purposes of this section and the said Second Schedule, a. provision contained in a document varying or supplementing a lease shall be treated as if it were contained in the lease, and in that Schedule this section is referred to as " the principal section " .