

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Coal Industry Nationalisation Act 1946, FIRST SCHEDULE. (See end of Document for details)

SCHEDULES

FIRST SCHEDULE

Section 5.

ASSETS TO BE TRANSFERRED TO THE BOARD

PART I

ASSETS TO BE TRANSFERRED WITHOUT OPTION

Unworked coal and mines of coal (and certain associated minerals).

- 1 (1) Interests in unworked coal, and in mines of coal, of colliery concerns and of the Coal Commission, and, subject to the provisions of section thirty-six of this Act, any other interest being a retained interest within the meaning of the ^{M1}Coal Act 1938, by virtue of subsections (1) to (5) of section five of that Act.
- (2) Interests of the Coal Commission in minerals other than coal, and interests of colliery concerns and of subsidiaries thereof in unworked minerals other than coal being minerals which can only be economically worked in association with the working of coal or which can only be economically brought to the surface by the use of a mine of coal an interest in which vests in the Board.

Marginal Citations

M1 1938 c. 52.

Collieries, and colliery coke ovens and manufactured fuel plants.

- 2 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used for colliery activities, coal carbonisation and coal products distillation activities allied with colliery activities, or manufactured fuel activities (in this Act referred to as “colliery production activities”):

Provided that where a colliery concern or a subsidiary thereof, or a concern of which a colliery concern is a subsidiary, operates iron and steel works at the primary vesting date—

- (a) interests of the colliery concern or of a subsidiary thereof in fixed and movable property used for coal carbonisation and coal products distillation activities allied with colliery activities shall be excepted from this paragraph so as to fall instead within paragraph 21 of this Schedule; and
- (b) the activities for which that property is used shall not be treated as colliery production activities by virtue of this paragraph, but without prejudice to the provisions of the said paragraph 21.

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Colliery electricity plants.

- 3 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used for or in connection with the following (in this Act referred to as “colliery electricity activities”) namely, generating, transforming or converting electricity consumed exclusively or mainly in the course of colliery production, transport, sales or welfare activities or in the course of any combination of those activities, and interests of such concerns and subsidiaries in fixed and movable property used for or in connection with transmitting or distributing electricity generated, transformed or converted by means of property interests in which vest in the Board by virtue of the preceding provisions of this paragraph.

Colliery transport loading and storage works.

- 4 Interests of colliery concerns and of class A subsidiaries thereof (other than any such concerns or subsidiaries whose business includes the operation of iron and steel works) in railways, aerial ropeways, canal wharves, and other fixed and movable property (not being things mentioned in paragraph 12 of this Schedule) used exclusively or mainly for any one or more of the following (in this Act referred to as “colliery transport activities”), namely, the inland transport, loading, discharging, handling, or storing, of products of colliery production activities or articles required for colliery production or electricity activities.

Colliery merchanting property.

- 5 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used exclusively or mainly for the purposes of the sale or supply by colliery concerns or by class A subsidiaries thereof of products of colliery production activities (in this Act referred to as “colliery sales activities”), or for the purposes of the sale or supply of such products by bodies administering schemes which, immediately before the primary vesting date, have effect under Part I of the ^{M2}Coal Mines Act 1930.

Marginal Citations

M2 1930 c. 34.

Colliery institutes, etc.

- 6 (1) Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used as or in connection with an institute, a hospital, baths, a canteen, or otherwise, for providing for the benefit of staff employed in colliery production, electricity, transport, or sales activities (in this Act referred to as “colliery welfare activities”).
- (2) Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used at a coal mine within the meaning of the ^{M3}Coal Mines Act 1911, in rescue work.

Marginal Citations

M3 1911 c. 50.

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Maintenance, operational, office and general equipment.

- 7 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used exclusively or mainly for any one or more of the following, namely, repairing and maintaining things falling within any of the preceding paragraphs or this paragraph, preparing and adapting such things for use, providing means of access, lighting, heating and ventilation for the purposes of any of the activities therein mentioned, and any other activities incidental to the carrying on of any of the activities therein mentioned, including the organisation and supervision thereof, and securing safety therein.

Stocks of colliery products.

- 8 Interests of colliery concerns and of class A subsidiaries thereof in stocks of products of colliery production activities.

Certain curtilages and development sites.

- 9 In cases in which an interest in fixed property vests in the Board, whether without option or by virtue of the exercise of an option, and the owner of that interest has also an interest in land used exclusively or mainly for coal industry or transferred allied activities for which that property is used, or an interest in land owned by him exclusively for the purpose of having land available for use for such activities or an extension thereof, the interest of that owner in that land.

PART II

ASSETS TO BE TRANSFERRED AT OPTION OF THE BOARD OR OF OWNERS

Colliery stores.

- 10 (1) Interests of colliery concerns and of class A subsidiaries thereof in consumable or spare stores available for use for colliery production, electricity, transport, sales or welfare activities.
- (2) Interests of companies or other persons, being companies or persons whose business consists exclusively or mainly of activities for the purposes of the purchase for colliery concerns or class A subsidiaries thereof, or for such concerns and such subsidiaries, of things required for colliery production activities, in things required as aforesaid, and in fixed and movable property used exclusively or mainly for activities for those purposes.

Waterworks.

- 11 Interests of colliery concerns and of class A subsidiaries thereof in fixed and movable property used for supplying water from a mine of coal, and interests of such concerns and subsidiaries in consumable or spare stores available for use for such activities as are mentioned in this paragraph.

Where an option is exercised for the vesting in the Board of an interest in property mentioned in this paragraph, the activities for which that property is used or that interest is owned shall be treated for the purposes of paragraphs 3 to 8 of this Schedule as if those activities had been colliery production activities.

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Certain wharves, etc. used for colliery purposes.

- 12 Interests of colliery concerns and of class A subsidiaries thereof in wharves not being canal wharves, in private harbours, and in staithes, and in fixed and movable property appurtenant thereto, used for colliery transport activities.

Housing property.

- 13 Interests of colliery concerns and of class A or class B subsidiaries thereof in dwelling-houses, or in other land, owned by such concerns or subsidiaries for the purposes of providing housing accommodation for staff employed in colliery production, electricity, transport, sales, or welfare activities.

Farming property.

- 14 Interests of colliery concerns in farms, farming stock and other agricultural assets

PART III

*ASSETS TO BE TRANSFERRED AT OPTION OF THE BOARD OR
 OF OWNERS SUBJECT TO ARBITRATION IN CASE OF OBJECTION*

Manufactured fuel plants other than of collieries.

- 15 Interests of persons by whom manufactured fuel activities are carried on, other than colliery concerns or class A subsidiaries thereof, in fixed and movable property used exclusively or mainly for the purposes of manufactured fuel activities.

Certain transport, loading and storage works other than of collieries.

- 16 Interests of persons other than colliery concerns or class A subsidiaries thereof, being persons whose business includes the operation of things mentioned in this paragraph, in railways, aerial ropeways, wharves, harbours, staithes, and other fixed and movable property, used exclusively or mainly for colliery transport activities for the purposes of a particular colliery concern or of a class A subsidiary of such a concern, or of both such a concern and such a subsidiary thereof.

Associated merchanting property.

- 17 Interests of companies, being companies in whose respective businesses two or more colliery concerns have interests, in fixed and movable property used exclusively or mainly for the purposes of the sale or supply by such a company of the products of colliery production activities of the interested concerns or any of them.

Central rescue stations.

- 18 Interests of any persons, owned by them for the purposes of a central rescue station equipped for rescue work and for the training of rescue workers which is provided and maintained in pursuance of regulations made under the ^{M4}Coal Mines Act 1911, in fixed and movable property used for those purposes.

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Marginal Citations

M4 1911 c. 50.

Brickworks.

- 19 Interests of colliery concerns and of Class A subsidiaries thereof in fixed and movable property used for the purposes of the making of bricks, tiles or earthenware pipes, or other products manufactured from colliery debris or brick clay or earth, or in connection with those purposes, and interests of such concerns and subsidiaries in consumable or spare stores available for use for such activities as are mentioned in this paragraph.

Where an option is exercised for the vesting in the Board of an interest in property mentioned in this paragraph, the activities for which that property is used or that interest is owned shall be treated for the purposes of paragraphs 3 to 8 of this Schedule as if those activities had been colliery production activities.

Curtilages and development sites not within Part I.

- 20 In cases in which an interest in fixed property vests in the Board, whether without option or by virtue of the exercise of an option, and the owner of that interest has also an interest in land used partly (but not exclusively or mainly) for coal industry or transferred allied activities for which that property is used, or an interest in land owned by him partly (but not exclusively) for the purpose of having land available for use for such activities or an extension thereof, the interest of that owner in that land.

PART IV

OTHER ASSETS TO BE TRANSFERRED AT OPTION OF THE BOARD OR OF OWNERS SUBJECT TO ARBITRATION IN CASE OF OBJECTION

Other colliery assets of any kind, except iron and steel works.

- 21 (1) Interests of colliery concerns and of class A and class B subsidiaries thereof in any things (other than investments, interests in other concerns owned otherwise than as investments, cash or other liquid assets, patents or copyrights in registered designs, or the benefit of contracts) not rendered subject to vesting in the Board by virtue of any of the preceding paragraphs, of whatsoever kind, except interests of such a concern or a class A or class B subsidiary thereof in iron and steel works, and except interests of such a concern or subsidiary in fixed and movable property used for coal carbonisation and coal products distillation activities allied with colliery activities where the exclusive or main purpose of the activities for which the property is so used is to supply coke to an iron and steel works operated by the concern or a subsidiary thereof or by a concern of which the colliery concern is a subsidiary.
- (2) Where an option is exercised for the vesting in the Board of an interest in property falling within this paragraph, activities of a kind specified by the Board in their notice exercising the option as being activities for which they intend to use that property, or, if the option is exercised by the owner, activities of a kind for which that property is exclusively or mainly used by the colliery concern or its class A or class B subsidiary,

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or for which that interest is exclusively or mainly owned, shall be treated for the purposes of paragraphs 3 to 8 of this Schedule as if those activities had been colliery production activities.

PART V

PROVISIONS SUPPLEMENTARY TO THE PRECEDING PROVISIONS OF THIS SCHEDULE

References to ownership, etc., to be related in general to date for vesting.

- 22 (1) References in this Schedule to interests of any concern, company or other person shall be construed as references to interests owned by that concern, company or other person immediately before the primary vesting date (in the case of references in Part I) or before the relevant option notice date (in the case of references in Parts II to IV), and references therein to ownership or to use for or in connection with any purpose, or to availability for use for any purpose, shall be construed as references to ownership or to use for or in connection with that purpose, or to availability for use for that purpose, immediately before those dates respectively, subject however to the provisions of the two next succeeding paragraphs.
- (2) References in this Schedule to any business or activities, and references in the definition therein of the expression “subsidiary” to ownership of capital of a company, shall be construed as references to the business or activities as carried on immediately before the dates respectively mentioned in the preceding sub-paragraph, or to the ownership of the capital as held immediately before those dates respectively, subject however to the provisions of the next succeeding paragraph.

Ownership, etc., discontinued since the 1st January, 1946, to be treated as if continued.

- 23 (1) Where an interest in a thing was owned by any concern, company or other person or for any purpose, or a thing was used for or in connection with any purpose or available for use for any purpose, at any time during the period beginning with the first day of January, nineteen hundred and forty-six, and ending with the primary vesting date or a relevant option notice date, then—
- (a) if that interest has been dealt with in any manner during that period, whether by sale, exchange, surrender, creation thereof of a lease or other inferior interest, diversion to another purpose, or otherwise howsoever, this Act shall have effect as if the interest had not been so dealt with but had remained subsisting in all respects as it would have been if it had not been so dealt with, and
- (b) if that thing has ceased during that period to be used for or in connection with, or to be available for use, as the case may be, for the purpose in question, this Act shall have effect as if it had not so ceased,
- unless, on a question being raised as to the vesting in the Board of that interest having regard to the preceding provisions of this paragraph it is proved by the person contesting such vesting that the dealing in question, or the cesser of use or availability for use, as the case may be, was due to something done or occurring 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.
- (2) Where during the period aforesaid there has been a discontinuance of any business or activities mentioned in this Schedule or a change relevant to provisions thereof

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in the circumstances of the carrying on of any such business or activities, or there has been a change relevant to the definition therein contained of the expression “subsidiary” in the ownership of the capital of a company, this Act shall have effect as if the discontinuance or change had not taken place, unless the like matters as are mentioned in the preceding sub-paragraph are proved as to the discontinuance or change.

- (3) The regulations as to disposal of compensation to be made under section twenty of this Act may make provision for securing that compensation for the transfer of an interest vesting in the Board having regard to the preceding provisions of this paragraph shall be disposed of with due regard to the rights of any person who has purchased or otherwise dealt with that interest during the period aforesaid in good faith.

Things not in use owned for a given purpose to be treated as if used therefor.

- 24 References in this Schedule to things used for any purpose immediately before any date include references to things normally used for that purpose but then temporarily diverted to another use, and to things which are then not in use for any purpose (other than consumable or spare stores) if they are suitable for use for that purpose and an interest therein is then owned for that purpose by a colliery concern or other person whose interest therein would vest in the Board if the things were then in use for that purpose.

Definitions.

- 25 In this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say,—

“coal carbonisation and coal products distillation activities allied with colliery activities” means distilling coal, and treating, and rendering saleable, products (including coke) of the distillation of coal;

“consumable or spare stores” means any consumable stores, including supplies of timber or of materials of any kind, and movable property which is surplus to ordinary requirements and which has not at any time been issued for use or as a standby, so however that property surplus to ordinary requirements shall not be treated as falling outside this definition by reason of its having been so issued if it has been withdrawn on being found unnecessary or unsuitable for the purpose for which it was so issued or on the substitution of other property therefor;

“farm” means any agricultural land and agricultural buildings within the meanings assigned to those expressions respectively by the ^{M5}Rating and Valuation (Apportionment) Act 1928, and “farming stock” and “other agricultural assets” have the meanings assigned to those expressions respectively by the ^{M6}Agricultural Credits Act 1928;

“fixed property” means all buildings, works, fixtures, and fixed machinery and plant, and the sites thereof;

“interest” does not include a mortgage estate or other interest held by way of security;

“iron and steel works” means an establishment whose activities consist exclusively or mainly of making iron, making steel, or applying a process in making iron or steel, or of any combination of such activities;

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“manufactured fuel activities” means manufacturing and rendering saleable any manufactured fuel (including carbonised briquettes and ovoids) of which coal or coke is the principal constituent;

“movable property” means all movable machinery and plant, wagons and other vehicles, engines, tractors, vessels (other than sea-going vessels) animals, and other movable equipment of any kind;

“option notice date” means the date on which a notice exercising an option under subsection (2) or (3) of section five of this Act is given;

“site” includes, in relation to any fixed property, in addition to the land on which it stands at ground level, so much of the subsoil and of the space above that land as the Board may reasonably require to use for the purposes of any of their functions;

“subsidiary” means, in relation to a colliery or other concern, a company not less than ninety per cent. of the issued share capital of which is in the beneficial ownership of that concern, and, for the purposes of the foregoing definition, shares of a company shall be treated as if they had been in the beneficial ownership of a colliery or other concern if they are in the beneficial ownership of—

- (a) a company that is a subsidiary of that concern within the foregoing definitions, or
- (b) a company which owns not less than ninety per cent. of the issued share capital of that concern (in a case in which it is a company);

“class A subsidiary” means, in relation to a colliery concern, a subsidiary thereof whose business includes coal carbonisation and coal products distillation activities allied with colliery activities or includes manufactured fuel activities; and “class B subsidiary” means, in relation to a colliery concern, a subsidiary thereof not being a class A subsidiary.

Marginal Citations

M5 1928 c. 44.

M6 1928 c. 48.

Application to Scotland.

26 In the application of this Schedule to Scotland—

the expression “farm” means any agricultural lands and heritages within the meaning of the ^{M7}Rating and Valuation (Appportionment) Act 1928;

the expression “farming stock” includes agricultural requisites and agricultural produce as defined in the ^{M8}Agricultural Credits (Scotland) Act 1929, and agricultural tenants’ fixtures and other agricultural fixtures which a tenant is by law authorised to remove;

the expression “mortgage estate” means the right of the creditor in a heritable security;

the expression “other agricultural assets” means a tenant’s right to compensation under the ^{M9}Agricultural Holdings (Scotland) Acts 1923 ^{M10}and 1931, for improvement, damage by game, disturbance or otherwise and any other tenant right.

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Marginal Citations

M7 1928 c. 44.

M8 1929 c. 13.

M9 1923 c. 10.

M10 1931 c. 44.

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