Status: *Point in time view as at 01/02/1991.*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, Part V. (See end of Document for details)*

SCHEDULES

FIRST SCHEDULE

ASSETS TO BE TRANSFERRED TO THE BOARD

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 suceeding 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 thereout 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

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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 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 [M1]Rating and Valuation (Apportionment) Act 1928, and "farming stock" and "other agricultural assets" have the meanings assigned to those expressions respectively by the [M2]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;

"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

M1 1928 c. 44.

M2 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 [M3]Rating and Valuation (Appportionment) Act 1928;

the expression "farming stock" includes agricultural requisites and agricultural produce as defined in the [M4]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 [M5]Agricultural Holdings (Scotland) Acts 1923 [M6]and 1931, for improvement, damage by game, disturbance or otherwise and any other tenant right.

Marginal Citations

M3 1928 c. 44.
M4 1929 c. 13.
M5 1923 c. 10.
M6 1931 c. 44.

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