



# Railways Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 33 8 and 9 Vict

*<sup>XI</sup>Working of mines*

## **78B Savings.**

- (1) Nothing in this Act shall affect any agreement between the mine owner and the royalty owner for the payment of any rent or royalty:

Provided that—

- (i) the payment of compensation by the company to the royalty owner in respect of any minerals shall extinguish any liability by the mine owner to pay any royalty in respect of the same minerals;
- (ii) the mine owner shall be entitled to make such deductions as are authorised by sub-section (3) of section 79A of this Act notwithstanding anything in any agreement between him and the royalty owner entered into before the first day of August, nineteen hundred and twenty-three unless the agreement was made after the first day of November, nineteen hundred and twelve, and expressly or by necessary implication provided for the payment of royalties in respect of the minerals supporting the railway or works in the event of the mine owner working them in virtue of a right acquired by agreement or statute or otherwise, or for the payment of royalties in respect of such minerals whether they are or are not worked;
- (iii) if the exercise by the company of powers conferred upon them by the foregoing provisions of this Act as to minerals in the area of protection will prevent the mine owner from working such quantity of minerals as at the royalties reserved will produce the sum total of the fixed or minimum rent remaining payable under the lease, or otherwise occasions serious hardship having regard to the obligation of the mine owner to pay such rent, or owing to any provision in the lease restricting the time within which a deficiency due to previous short working may be made good, such adjustment shall be made between the royalty owner and the mine owner as, failing agreement, may be determined by arbitration, and any question

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**Changes to legislation:** There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Section 78B. (See end of Document for details)

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whether the circumstances are such as to give rise to such a right of adjustment shall be similarly determined.

Where at the time of the exercise by the company of such power as aforesaid any deficiency due to previous short working which may be good in a subsequent period exists, the amount of such deficiency shall be treated for the purposes of this proviso as if it formed part of the sum total of the fixed or minimum rent remaining payable under the lease.

- (2) Nothing in this Act shall alter, diminish or affect any right to let down the surface, either unconditionally or subject to payment of compensation, or to any other condition, which a mine owner or royalty owner may possess, whether by statute grant lease agreement or otherwise, derived from a title antecedent to the acquisition by the company of their interest in the surface, or conferred on him by a reservation contained in the grant to the company, and a mine owner having such a title and having served a notice in accordance with this Act with respect to the working of any minerals, shall be free to work any such minerals, as to which a counter-notice shall not have been received, discharged from all the restrictions and provisions of this Act, other than those contained in sub-section (2) of section seventy-nine of the Act but, if a counter-notice is served, the minerals to which such counter-notice relates, shall, for the purposes of the assessment of compensation payable to the mine owner or royalty owner under this Act for leaving the same unworked, be deemed to be minerals lying wholly under the inner area of protection, and the appropriate percentage for the purpose of section eighty-one of this Act shall be one hundred.

**Changes to legislation:**

There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Section 78B.