



Coal Act 1938

1938 CHAPTER 52

PART I

UNIFICATION OF COAL MINING ROYALTIES

Financial provisions

23 Receipts of, and payments by, the Commission

All sums received by the Commission shall be paid into a separate fund, to be called "the Coal Fund", and all payments by the Commission shall be made out of that fund.

24 Reserve fund of the Commission

- (1) The Commission shall establish a reserve fund, and shall carry to the credit of that fund, immediately after their accounts for each financial year have been made up, an amount equal to any excess of their revenues for that year over their liabilities for that year properly chargeable to revenue account, whether in respect of salaries, allowances, remuneration, pensions, gratuities or expenses payable under the First or Third Schedule to this Act or of other administrative expenses, of interest on any loan raised or stock issued by them, of any sums which by the terms of the raising or issue of any such loan or stock they are bound to set aside towards the repayment of the principal thereof, or of any other matter involving a liability properly so chargeable (which excess is in this and the next succeeding section referred to as the Commission's "annual surplus").
- (2) The reserve fund shall be applicable primarily for the purposes of meeting any deficiency at any time arising on the revenue account of the Commission and of meeting any extraordinary claim or demand at any time arising against the Commissions, and the Board of Trade shall from time to time, with the approval of the Treasury, by regulation prescribe—
 - (a) an amount, in this and the next succeeding section referred to as "the prescribed minimum reserve", being such an amount as may be required by

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the Board with the approval of the Treasury to be held for the time being to the credit of the reserve fund for answering those purposes; and

- (b) an amount, in this and the next succeeding section referred to as " the prescribed appropriation to reserve ", being such an amount as may be required by the Board with the approval of the Treasury to be made available for carrying to the credit of the reserve fund at the end of each financial year of the Commission whilst the regulation remains in force.
- (3) At any time at which the value of the reserve fund is greater than the prescribed minimum reserve, the Commission may apply a part thereof, not exceeding in value the amount of the excess, in purchasing for cancellation stock issued by them under this Part of this Act or otherwise for the redemption of debt.
 - (4) Sums credited to the reserve fund shall be invested from time to time in such securities of the Government of the United Kingdom as the Commission may, with the approval of the Board of Trade, think fit, and references in this and the next succeeding section to the value of the reserve fund or of any part thereof shall be construed as references to the value of the investments and cash of which the reserve fund or that part thereof consists, as determined by the Treasury.
 - (5) If any question arises as to whether any liability of the Commission ought to be treated as properly chargeable to revenue account, or any claim or demand arising against the Commission ought to be treated as of an extraordinary character, it shall be referred to the Board of Trade whose decision shall be conclusive.

25 Reduction by the Commission of rents

- (1) If at any time, on an estimate made by the Commission, it appears to them that their annual surplus for future financial years is likely on the average to exceed the amount which is at that time the prescribed appropriation to reserve, they may reduce any such rents within their control as are specified in the next succeeding subsection by amounts not exceeding in the aggregate one-half, or if the value of the reserve fund is then greater than the prescribed minimum reserve the whole, of the estimated excess of their annual surplus over the prescribed appropriation to reserve.
- (2) The rents which may be reduced under the preceding subsection shall be any of the following at the discretion of the Commission, that is to say,—
 - (a) rents payable in respect of underground way-leaves, whether expressly reserved in respect thereof or not;
 - (b) rents payable by particular lessees working coal in any district or part of a district which are, having regard to all the circumstances, more onerous than the average of the rents payable by lessees working coal under similar conditions in that district or part of a district; and
 - (c) rents payable by lessees generally working coal in any district or part of a district which are, having regard to all the circumstances, more onerous than the average of the rents payable by lessees generally working coal under similar conditions in other districts or in another part of that district:

Provided that, if at any time the Commission report to the Board of Trade that such reduction of rents as they have power to effect under the foregoing provisions of this subsection has been substantially completed, the Board of Trade may make and lay before Parliament an order making provision to the effect that the preceding subsection shall apply to rents within the control of the Commission generally or to any class of

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such rents, and, if each House of Parliament resolves that the order be approved, the order shall have effect from such date as the Board, of Trade may appoint.

- (3) Subject as aforesaid the Commission shall not reduce any rent during the currency of the lease by which it is reserved, and in granting leases the Commission shall reserve the best rent which in their opinion can reasonably be obtained, regard being had to any power to reduce rents for the time being exercisable by them in accordance with the preceding provisions of this section, to any money laid out or to be laid out by the lessee and generally to the circumstances of the case :

Provided that—

- (a) this subsection shall have effect without prejudice to the right of the Commission, in a case in which it appears to them requisite for the proper discharge of their duty under section two of this Act so to do, to grant relief to a lessee from payment of particular instalments of rent reserved by a lease; and
 - (b) the Commission may reduce the rent reserved by a lease, or may grant a lease reserving a rent less than the best rent, if they are satisfied that other provision made by the lease in consideration of their so doing affords a financial advantage substantially equivalent in value to the amount of the reduction or to the amount by which the rent is less than the best rent, as the case may be.
- (4) In this section the expression " district " means the area for the time being treated under the Coal Mines (Minimum Wage) Act, 1912, as a district for the purposes of the minimum rate.

26 Power of the Commission to borrow

- (1) For the purposes hereinafter mentioned the Commission may, in accordance with regulations made by the Board of Trade with the approval of the Treasury, borrow money in such manner and subject to such provisions as to the repayment thereof and as to re-borrowing for the purpose of paying off a loan previously raised as may be prescribed by the regulations.
- (2) The regulations may empower the Commission to borrow temporarily from bankers or otherwise, and may apply with or without modifications any enactment relating to borrowing by any local authority.
- (3) Except in the case of a temporary borrowing from bankers or otherwise for the purpose of defraying, pending the raising of a loan, expenses intended to be defrayed by means of the loan, the consent of the Board of Trade shall be requisite as respects the times at which the Commission are to exercise the powers of borrowing conferred on them by this Part of this Act.

27 Purposes for which the Commission may borrow

- (1) Subject to the provisions of this section, the Commission may borrow for all or any of the following purposes:—
- (a) the payment of the principal sums payable by way of compensation under section six of this Act and of the interest on those sums;
 - (b) the payment of the sums payable by the Commission under the Registration Act, or this Part of, or the Third, Fourth or Fifth Schedule to, this Act, in respect of costs;

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- (c) the payment of the sum payable by the Commission under this Act to the Board of Trade in respect of the expenses incurred by the Board under the Registration Act;
 - (d) the payment of the sums payable by the Commission under paragraph 5 of the Third Schedule to this Act in respect of remuneration and expenses;
 - (e) the payment of interest accrued up to the first anniversary of the vesting date on money borrowed by the Commission, of the administrative expenses of the Commission incurred before the said first anniversary, and of any other expenditure properly incurred by the Commission before the said first anniversary on revenue account;
 - (f) the payment of any sums payable by the Commission in respect of assignments to them of debts due in respect of rent payable before the vesting date;
 - (g) any purpose within the powers of the Commission the cost of which ought in the opinion of the Board of Trade to be spread over a term of years.
- (2) Any money borrowed under this section and the interest thereon shall be charged on all the property and revenues of the Commission.
- (3) The Commission shall not have power to borrow under subsection (1) of this section more than the aggregate of amounts sufficient to raise seventy-six million, four hundred and fifty thousand pounds.
- (4) The Commission may borrow for the purpose of paying off moneys previously borrowed by them under subsection (1) of this section or under this subsection which are intended to be repaid, so far as provision has not been made for the repayment of those moneys under the regulations in accordance with which they were borrowed.

28 Power of the Commission to issue stock

- (1) The Commission may, for the purpose of raising money which they are authorised to borrow under this Part of this Act, create and issue stock to be called Coal Commission Stock.
- (2) Any stock issued by the Commission and the interest thereon shall be charged on all the property and revenues of the Commission.
- (3) Subject to the provisions of this Act, any stock created by the Commission shall be issued, transferred, dealt with and redeemed in accordance with regulations made by the Board of Trade with the approval of the Treasury.
- (4) Any such regulations may apply for the purposes of this section, with or without modifications, any provisions of the Local Loans Act, 1875, or of any enactment relating to stock issued by any local authority.

29 Power of the Treasury to guarantee loans raised by the Commission

- (1) The Treasury may guarantee in such manner and on such conditions as they think fit the payment of the principal and interest on any loan proposed to be raised by the Commission.
- (2) Any sums required by the Treasury for fulfilling any guarantee given under this section shall be charged on and issued out of the Consolidated Fund of the United Kingdom

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or the growing produce thereof, and any sums received by way of repayment of any sums so issued or of interest thereon shall be paid into the Exchequer.

- (3) All the property and revenues of the Commission shall be charged with the repayment of any sums so issued out of the Consolidated Fund, including interest thereon at such rates as the Treasury may determine, next after the principal and interest of any loan guaranteed by them under this section and any sums which by the terms of the raising or issue of any such loan the Commission are bound to set aside towards the repayment of the principal thereof, and in priority to any other charge not existing at the date on which the loan in respect of which such issue has been made from the Consolidated Fund was raised.
- (4) The Treasury shall, so long as any such guarantee is in force, lay before both Houses of Parliament within one month after each thirty-first day of March a statement of the guarantees, if any, given during the last preceding year ending on that date, and an account of the total sums, if any, which have up to that date been either issued out of the Consolidated Fund under this section or received by way of repayment of any sums so issued.

30 Commission's accounts and audit thereof

- (1) The Commission shall prepare accounts of their transactions in respect of the period between the date of the passing of this Act and the thirty-first day of March next following and of each subsequent period of twelve months (each of which periods shall be deemed to be a financial year of the Commission) in such form and manner as the Board of Trade, with the approval of the Treasury, may direct, and shall transmit the accounts to the Board of Trade at such time as the Board, with the approval of the Treasury, may direct.
- (2) The Board shall, on or before the thirtieth day of November in each year transmit to the Comptroller and Auditor General the accounts prepared by the Commission under the preceding subsection for their financial year last ended, and the Comptroller and Auditor General shall examine and certify them and lay copies thereof, together with his report thereon, before both Houses of Parliament.