



# Coal Act 1938

## 1938 CHAPTER 52

### PART II

#### REDUCTION IN NUMBER OF COAL-MINING UNDERTAKINGS

- 46 Transfer to the Commission of functions of the Coal Mines Reorganisation Commission**
- (1) The functions of the Coal Mines Reorganisation Commission constituted by Part II of the Coal Mines Act, 1930, are hereby transferred to and shall be performed by the Commission and the Coal Mines Reorganisation Commission shall cease to exist, and accordingly the said Part II shall have effect with the substitution, for references therein to the Coal Mines Reorganisation Commission, of references to the Commission.
  - (2) Such expenses of the Commission in connection with the preparation, submission and carrying out of schemes under Part I of the Mining Industry Act, 1926, as the Board of Trade may, with the approval of the Treasury, determine shall be paid to the Commission by the Board, and any expenses of the Board under this subsection shall be defrayed out of moneys provided by Parliament.
  - (3) Section eleven of the Coal Mines Act, 1930, is hereby repealed.
- 47 Duty of the Commission to reduce number of coalmining undertakings where necessary in interests of efficiency**
- (1) Where in the opinion of the Commission the number of separate undertakings consisting of or comprising coal mines (hereinafter referred to as " coal-mining undertakings ") to which the coal in any area is leased is so great as to be detrimental to the economical and efficient working, treating or disposing thereof, it shall be the duty of the Commission, to endeavour to effect a reduction in the number of such undertakings :
- Provided that the Commission shall not, under the powers conferred by section thirteen of the Coal Mines Act, 1930, submit to the Board of Trade any scheme under Part I

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of the Mining Industry Act, 1926, until after the thirty-first day of December nineteen hundred and thirty-nine, nor shall they thereafter exercise the powers of submitting such a scheme except in pursuance of an order made under this section.

- (2) The Commission may, at any time, if they are of opinion that adequate progress in the reduction of the number of coal-mining undertakings is not being made, make a report to the Board of Trade recommending that the powers of the Commission under the said section thirteen of submitting amalgamation and absorption schemes should become exercisable in any area specified in the report as an area in which such progress has in the opinion of the Commission been inadequate, and such report shall set forth the proposals of the Commission in regard to that area and the advantages which are expected to follow therefrom.
- (3) After receiving any such recommendation from the Commission, the Board of Trade may lay before Parliament the report in which the recommendation was contained and may then make a provisional order declaring that it is expedient in the national interest that the number of coal-mining undertakings should be reduced in the area with respect to which the recommendation was made and directing that the said powers of the Commission shall become exercisable in that area in manner proposed by such report with such modifications (if any) as the said Board may think fit and within such period as may be prescribed by such provisional order :

Provided that any such provisional order shall so define the area in which the said powers are to become exercisable as to show so far as practicable what undertakings are likely to be affected by their exercise, and the order when made shall be published in the London Gazette (or, in the case of an order relating to an area in Scotland, in the Edinburgh Gazette) and in at least one newspaper circulating in the area to which the order relates.

- (4) A provisional order made under this section shall be of no effect unless it is confirmed by Parliament, but if the order is so confirmed, either without modifications or with modifications as to the area with respect to which the order is to have effect, it shall come into force on the date of the passing of the Act confirming the order or on the first day of January nineteen hundred and forty, whichever is the later date.
- (5) The said section thirteen shall have effect subject to the amendments specified in the Sixth Schedule to this Act.

#### **48 Powers of the Commission as to obtaining information for purposes of Part II**

- (1) Where information is required by the Commission for the discharge of the functions to be performed by them by virtue of this Part of this Act and the Commission consider it necessary for the purpose of obtaining such information to cause an inspection to be made at any premises used in connection with the carrying on of a coal-mining undertaking, the Commission may, after serving upon the persons carrying on the undertaking a notice showing the general nature of the information required, authorise in writing any member or officer of, or technical or professional agent appointed by, the Commission, to make inquiries on their behalf as to the coal-mining undertaking specified in the authority, and any person so authorised may, so far as is reasonably necessary for the purpose of obtaining such information, enter any premises used in connection with the carrying on of that undertaking, and may inspect any such premises and may measure or weigh any stocks, and may take copies or extracts of any accounts, books, plans, or other documents, and may require copies or extracts of any such accounts, books, plans or other documents to be delivered to the Commission.

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- (2) The Commission may require the owner of any coal-mining undertaking in an area in which their powers under section thirteen of the Coal Mines Act, 1930, of submitting schemes are exercisable, to prepare such accounts, plans, or other documents, relating to the undertaking and such valuations of the property and liabilities of the undertaking as are reasonably necessary for the discharge of the functions aforesaid, and may require copies thereof to be delivered to the Commission.
- (3) Any member or officer of, or technical or professional agent appointed by, the Commission, before exercising his powers under subsection (1) of this section shall, if required to do so, produce his written authority to make inquiries on behalf of the Commission as to the coal-mining undertaking with respect to which the powers are exercised; and any person required under this section to deliver any copies or extracts to the Commission shall be entitled to be paid by the Commission all costs reasonably incurred by him in the preparation and delivery thereof.
- (4) Any person who, after having had produced to him the written authority of any such member, officer or agent as aforesaid, obstructs him in the exercise of his powers under this section or refuses or neglects when required to produce any accounts, books, plans or other documents under his control, any person who refuses or neglects when required to deliver to the Commission any copy or extract of such accounts, books, plans or other documents, and any owner of a coal-mining undertaking who makes default in complying with any requirement made under subsection (2) of this section, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a person convicted of a second or subsequent offence under this section, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and fine.

#### **49 Exemption from stamp duty in respect of amalgamation or absorption schemes and instruments executed thereunder**

- (1) No stamp duty shall be payable—
  - (a) in respect of any amalgamation or absorption scheme confirmed under Part I of the Mining Industry Act, 1926; or
  - (b) in respect of any amalgamation scheme framed in accordance with the provisions of Part I of that Act by the owners of two or more coalmining undertakings, if the Board of Trade are satisfied, on the recommendation of the Commission, that the scheme is in the national interest, and, on the recommendation of the owners by whom the scheme was framed, that it is unnecessary for the purpose of giving effect to the scheme that it should be referred to and confirmed by the Railway and Canal Commission under that Act; or
  - (c) in respect of any share or loan capital issued, or any conveyance agreement assignment or transfer made, or document executed, or thing done, in pursuance of any scheme exempt from stamp duty under the foregoing provisions of this section, or in pursuance of any arrangements for combining the financial interests in coal-mining undertakings by the formation of holding companies or otherwise, being arrangements approved on the recommendation of the Commission by the Board of Trade as being in the national interest, if in either case the Board certify that the issue, making, execution or the doing thereof is reasonably required for the purposes of such

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a scheme, or of such arrangements, and of conducting to the more economical and efficient working or disposing of coal.

- (2) Subsection (2) of section five of the Mining Industry Act, 1926, and subsection (7) of section thirteen of the Coal Mines Act, 1930, are hereby repealed.