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SCHEDULES

THIRD SCHEDULE

Sections 6, 7, 11, 13, 14, 24, 27, 35, 37,
40, 42, 43, 53.

PROVISIONS AS TO COMPENSATION PAYABLE UNDER SECTION SIX OF THIS ACT

PART I

PRELIMINARY

Units for Compensation Purposes

- 1 Subject to the provisions of paragraph 2 of this Schedule, each of the following acquired interests, or groups of such interests, in coal, mines of coal, and acquired property and rights, shall constitute a unit for compensation purposes,—
- (a) each freehold reversion (that is to say, in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease derived immediately out of the fee simple and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the fee simple in the coal and mines together with the interests therein of all persons claiming under him);
 - (b) each acquired leasehold reversion (that is to say, in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease being an under-lease and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the term created by the lease out of which that under-lease was immediately derived together with the interests therein of all persons claiming under, him, with the exception of any such interest that is a retained interest by virtue of a direction under subsection (2) of section five of this Act);
 - (c) each freehold in possession in any valuation region (that is to say, in the case of all the coal and mines of coal in any valuation region that are not on the valuation date comprised in any coal-mining lease, and are in the legal ownership as respects the fee simple of the same estate owner, and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the estate owner in respect of the fee simple in the coal and mines together with the interests therein of all persons claiming under him).
- 2 (1) If the estate owner in respect of a unit for compensation purposes as ascertained under paragraph 1 of this Schedule, or a person claiming under him, makes application in writing in that behalf to the Commission not later than the expiration of six months from the valuation date and satisfies them that, by reason of the subsistence of different interests in different parcels of coal or different mines in the ownership of the estate owner, the interests in those parcels or mines respectively and in acquired

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property and rights annexed thereto ought to be treated as constituting separate units for compensation purposes, they shall be so treated.

- (2) Provision may be made by rules made by the Board of Trade for the consolidation of two or more units for compensation purposes as ascertained under the preceding provisions of this Schedule, or for the division of a unit as so ascertained into two or more units, or for treating as included in any unit as so ascertained, or as constituting a separate unit for compensation purposes, any acquired interest or interests, and for the manner in which the compensation for units to which the rules relate is to be ascertained and paid having regard to the special circumstances of such units.

Constitution of Valuation Boards

- 3 (1) There shall be a Central Valuation Board consisting of the following members, that is to say—
- (a) an independent person, being a member of the legal profession or a person who has had experience in the management of land or with business experience, appointed to act as chairman of the Board;
 - (b) two other independent persons; and
 - (c) in respect of each valuation region, one person who is at the date of his appointment engaged in the management of mineral estates in that region and who has a knowledge of coal-mining, and experience in the valuation of minerals :

Provided that, for the purpose of the exercise by the Board of their duty under subsection (4) of section six of this Act to divide Great Britain into valuation regions, the Board shall consist of the chairman, the two other independent members, and such number of other members, being persons engaged in the management of mineral estates and having such knowledge and experience as aforesaid, as the Board of Trade may determine.

- (2) The appointments aforesaid shall be made by the Board of Trade after consultation, in the case of the chairman of the Board, with the Lord Chancellor, and, in the case of the other members thereof, with the chairman of the Mineral Owners' Joint Committee and the president of the Chartered Surveyors Institution.
- (3) The Board of Trade may, after such consultation as aforesaid, make a temporary appointment of a person to act as chairman or other member of the Board at any time when the chairman or another member is temporarily absent or unable to act.
- (4) The quorum of the Board shall be such number of the members of the Board as may be prescribed.
- (5) A determination of the Board shall be taken by the votes of the members of the Board present and voting, or, in case of difference between them, of the majority, and in the case of an equality of votes the chairman shall be entitled to a second or casting vote.
- (6) In this and the next succeeding paragraph the expression " independent person " means a person who is not at the date of his appointment, and has not recently been, engaged in or connected with the management of mineral estates and is not a member, or an officer or servant, of an organisation of employers or of workpeople in the coal-mining industry, a practising mining engineer, or in any other manner directly connected with that industry.

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- 4 (1) There shall be a Regional Valuation Board for each valuation region, consisting of the following members, that is to say—
- (a) an independent person, being a member of the legal profession, appointed to act as chairman of the Board; and
 - (b) such number of other members, being persons engaged in the management of mineral estates in the region and having a knowledge of coal-mining and experience in the valuation of minerals, as the Board of Trade may determine.
- (2) The appointments aforesaid shall be made by the Board of Trade after consultation, in the case of the chairman of the Board, with the Lord Chancellor, and, in the case of the other members thereof, with the chairman of the Mineral Owners' Joint Committee and the president of the Chartered Surveyors Institution.
- (3) The Board of Trade may, after such consultation as aforesaid, make a temporary appointment of a person to act as chairman of the Board at any time when he is temporarily absent or unable to act.
- (4) The quorum of the Board shall be such number of the members of the Board as may be prescribed, and the rules may prescribe different numbers as respects different Regional Valuation Boards.
- (5) A determination of the Board shall be taken by the votes of the members of the Board present and voting, or, in case of difference between them, of the majority, and in the case of an equality of votes the chairman shall be entitled to a second or casting vote.
- (6) In this Act references to the Regional Valuation Board mean in relation to any holding the Regional Valuation Board for the valuation region in which the holding is. A holding shall be deemed to be in the valuation region that comprises the premises in which the holding subsisted or the greater part thereof, and if any question arises as to which of two or more valuation regions a holding is in, the question shall be referred to the Central Valuation Board whose decision shall be conclusive.
- 5 (1) The Board of Trade shall, after consultation with the Central Valuation Board or the Regional Valuation Board, as the case may be, appoint a person to act as clerk to each of the said Boards, and such number of persons as the Board of Trade think fit to act as officers and servants of each of the said Boards.
- (2) The Commission shall pay to the chairman and to the members of each of the said Boards and to the officers and servants of each of the said Boards and to a referee appointed under this Schedule, such remuneration, and such allowances for expenses properly incurred by any of them as the Board of Trade may determine, and the Commission shall pay such other expenses of the Central Valuation Board and of a Regional Valuation Board and of a referee appointed under this Schedule as the Board of Trade may determine.
- (3) No person who has an acquired interest, or who has acted in any capacity in connection with the valuation under this Schedule of a holding on behalf of a person having an acquired interest, shall be appointed to be the chairman or an independent member of the Central Valuation Board or of a Regional Valuation Board, and neither the chairman nor an independent member of any such Board shall act as aforesaid. None of the other members of any such Board shall vote on the taking of any determination of the Board as to the value of a holding in respect of which he has acted as aforesaid or, if he has any acquired interest, of a holding that comprises that interest.

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Any person who contravenes the provisions of this paragraph shall be liable on summary conviction to a fine not exceeding ten pounds in respect of every day on which he acts in contravention thereof.

- (4) The Central Valuation Board and a Regional Valuation Board may cause any inquiry or inspection required to be made by them to be made on their behalf by one or more of the members or officers or servants of the Board.
- (5) It shall be the duty of each person having an acquired interest that is comprised in a holding to furnish to the Central Valuation Board, or a referee appointed under this Schedule, or the Regional Valuation Board, on being requested so to do by the Board or the referee, all such information with respect to any matter relevant to the valuation of the holding as the Board or the referee may reasonably require, and the Board or the referee may require any such person to verify any information given by him in such manner by statutory declaration or otherwise as may be reasonably requisite.
- (6) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—
 - (a) the administration of oaths and the taking of affirmations;
 - (b) the correction of mistakes and errors in awards; and
 - (c) the summoning, attendance and examination of witnesses and the production of documents;

shall apply in respect of proceedings before the Central Valuation Board, or a referee appointed under this Schedule, or a Regional Valuation Board, but save as aforesaid the said Acts shall not apply to or at any such proceedings.

- (7) Subject to the provisions of this Schedule and of rules made thereunder, the Central Valuation Board, a referee appointed under this Schedule, and a Regional Valuation Board shall have power to regulate their own procedure.

PART II

PROVISIONS AS TO REGISTRATION UNDER THE REGISTRATION ACT

- 6 In order for compensation to be payable under section six of this Act in respect of a holding, an application for the registration under the Registration Act of particulars in respect thereof must have been made before the valuation date, or, if not so made, must be made within the period of six months beginning on that date.
- 7 For the purposes of proceedings for registration taken under the Registration Act on or after the valuation date, and for the purposes of the operation on or after that date of the provisions of that Act relating to the rectification of the register—
 - (a) references in that Act to property and rights held in association with coal or a mine of coal shall be construed as references to acquired property and rights, references in that Act to matters subject to which coal hereditaments are held shall be construed as references to the matters specified in subsection (2) of section four of this Act, and references in that Act to a proprietary interest shall be construed as references to an acquired interest;
 - (b) the information to be furnished in relation to an application for registration shall extend to the circumstances of the holding relevant to the ascertainment of the right, if any, to withdraw support that is to vest in the Commission under Part II of the Second Schedule to this Act with any coal

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- or mine in which the holding subsisted, and those circumstances shall be included in the matters particulars whereof may be registered;
- (c) information given to the Commission which is by that Act required to be related to the circumstances as existing at the date when the information is given shall be related to the circumstances as existing on the valuation date; and
 - (d) references in that Act to particulars being incorrect shall include references to the omission of any relevant particulars.
- 8 (1) In the case of a holding in respect of which an application for the registration of particulars has been duly made under the Registration Act before the valuation date, the person by whom the application for registration was made, or any person having an acquired interest that is comprised in the holding, may, at any time during the period of six months beginning on the valuation date, give notice in the prescribed form to the Commission of any matter in respect of which—
- (a) if registration has been effected before the notice is given, the registered particulars; or
 - (b) if registration has not then been effected but a draft of the particulars to be registered has been settled and any copy thereof sent, the draft particulars; or
 - (c) if no copy of the draft particulars has then been sent, the particulars contained in the statement and other information furnished;
- appear to him to be incorrect or incomplete having regard to the circumstances of the holding subsisting on the valuation date and to the provisions of this Act.
- (2) Where a notice is given to the Commission under this paragraph in a case in which registration has been effected, the provisions of the Registration Act with respect to rectification of the register shall have effect, so, however, that, if it appears to the Commission that no alteration of the particulars registered is required, they shall notify the person by whom the notice was given of their decision not to make any such alteration, and he shall be entitled to make an application to the Court for a direction to the Commission to make therein the alterations appearing to him to be requisite at any time within one month from the service of the Commission's notice on him.
- (3) Where a notice is given to the Commission under this paragraph in a case in which registration has not been effected but a draft of the particulars has been settled and any copy thereof sent, the Commission may settle a substituted draft thereof and—
- (a) if they do so, the provisions of the Registration Act with respect to draft particulars shall have effect in relation to the substituted draft to the exclusion of the original draft, without prejudice, however, to any right in respect of costs incurred in relation to the original draft;
 - (b) if they do not do so, they shall notify the person by whom the notice was given of their decision not to do so, and he shall be entitled to make an application to the Court for the variation of the original draft at any time within one month from the service of the Commission's notice on him.
- (4) An application to the Court made under this paragraph shall be deemed for the purposes of the Registration Act to be made under Part I of the Second Schedule thereto.
- (5) Where a notice is given to the Commission under this paragraph by a person other than the person by whom the application for registration of particulars in respect of the holding to which the notice relates was made or a person to whom the

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application has been notified under sub-paragraph (2) (a) of paragraph 2 of the Second Schedule to the Registration Act, the person by whom the notice was given shall have the like rights under the Registration Act in connection with the settling of the particulars to be registered, the payment of costs and all other matters, and the like duties thereunder, as a person entitled under that sub-paragraph to be notified of the application.

PART III

VALUATION

Claims and Valuation Proceedings

- 9 (1) In order for compensation to be payable under section six of this Act in respect of a holding, a notice of claim for compensation to be paid in respect thereof must be served on the Commission within the period of six months beginning on the valuation date.

- (2) A notice of claim for compensation must be in the prescribed form and must be served by a person who has an acquired interest that constitutes or is comprised in the holding :

Provided that, in the case of a holding belonging to an ecclesiastical corporation to which the Ecclesiastical Leasing Acts apply, a notice must be served by the Ecclesiastical Commissioners, and in any other case the Commission may receive a notice served by a person who has not such an interest as aforesaid if they are satisfied that, by reason of that person being concerned in the administration of the holding or on other grounds appearing to the Commission to be sufficient, it is convenient that the notice should be served by him.

- (3) A notice of claim for compensation for a holding in respect of which an application for the registration of particulars has been made before the valuation date must, if the person by whom the notice is served (in this Schedule referred to as " the claimant ") is aware of any error or omission in such particulars relating to the registration as are mentioned in paragraph 8 of this Schedule, be accompanied by such a notice as is therein mentioned given by him, and must in any event include a statement, verified in such manner by statutory declaration or otherwise as the Commission may reasonably require, to the effect that the claimant has examined the said particulars and has made such investigation of the circumstances of the holding as is reasonably requisite for discovering any error or omission therein and is not aware of any matter, or of any other matter, as the case may be, in respect of which such a notice may be given:

Provided that, in the application of this sub-paragraph to a matter with respect to which the Commission or the Board of Trade have given such an indication as to the information material in their opinion for valuation purposes as is mentioned in section thirty-six of this Act, the omission from the particulars of matter outside the scope of the indication given may be disregarded.

- (4) A notice of claim for compensation must be accompanied by a statement in the prescribed form, and verified as aforesaid, of all the circumstances of the holding relevant to the ascertainment of the person entitled to the compensation for the holding and known to the claimant at the time when the notice is served, and the

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claimant shall, on being requested by the Commission so to do, give to them such further information as to the circumstances relevant to the ascertainment of that person as the Commission may reasonably require.

- 10 (1) In the case of each holding in respect of which an application for the registration of particulars has been duly made under the Registration Act and a notice of claim for compensation has been duly served, the Commission shall, as soon as may be after the registration of particulars in respect thereof has been effected, give notice thereof to the Regional Valuation Board:

Provided that—

- (a) in a case in which registration in respect of a holding has been effected before the expiration of the period during which notice may be given under paragraph 8 of this Schedule, the Commission shall not give notice of the registration under this paragraph until that period has expired or, where any notice is given under that paragraph, until the proceedings consequent thereon have been completed; and
 - (b) the Commission shall not in the case of any holding give notice of registration under this paragraph if it appears to the Commission that there is any error or omission that renders the particulars registered in respect thereof open to objection, or that any such error or omission is likely to appear from proceedings still to be taken in connection with the registration of particulars in respect of another holding.
- (2) When the Commission give notice of registration under this paragraph in relation to any holding, they shall serve a copy of the notice on the claimant, and also on the following persons, that is to say, the person, if other than the claimant, by whom the application for registration was made, any person entitled under sub-paragraph (2) (a) of paragraph 2 of the Second Schedule to the Registration Act to be notified of the application, and any other person by whom a notice has been given to the Commission under paragraph 8 of this Schedule (who are hereinafter in this Schedule referred to as " persons intervening ").
- (3) The valuation of a holding shall be made on the basis of the particulars registered in respect thereof on the date on which notice of registration is given to the Regional Valuation Board in relation thereto under this paragraph, and as from that date the provisions of the Registration Act with respect to the rectification of the register shall cease to have effect in relation to the holding :

Provided that, if from any information in the possession of the Regional Valuation Board it appears to them that there is in the particulars so registered as aforesaid an error or omission of material importance for valuation purposes, they may, at any time before they have settled their draft valuation of the holding, notify the Commission that they are of that opinion and thereupon the said provisions shall again come into effect, and, if any alteration is made thereunder in the particulars so registered as aforesaid, the valuation shall be made on the basis of the particulars as altered.

- (4) The particulars registered in respect of a holding on the date on which notice of registration is given to the Regional Valuation Board in relation thereto under this paragraph, or, in the case of particulars that are altered after that date under the proviso to the last preceding sub-paragraph, those particulars as so altered, shall be assumed conclusively to be correct and complete for the purposes of the valuation of the holding, and shall also, as against the estate owner in respect of the holding and all persons claiming under him and their successors in title respectively be assumed

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prima facie to be correct and complete for the purpose of ascertaining the premises that vest in the Commission on the vesting date and the title for which they so vest, but the inclusion therein, or the omission therefrom, of any matter shall not be treated as affecting any right or liability, or as binding on any person, for any other purpose.

- (5) The estate owner in respect of a holding, in respect of which the payment of compensation under this Act is claimed, and all persons claiming under him and their successors in title respectively shall be estopped from asserting after the vesting date any matter adversely affecting the premises in which the holding subsisted, unless it is shown that there was furnished for the purposes of the Registration Act information of all the circumstances of the holding relevant to that matter, or, if it was a matter with respect to which the Commission or the Board of Trade gave such an indication as to the information material in their opinion for valuation purposes as is mentioned in section thirty-six of this Act, such information with respect to that matter as was thereby indicated.
- 11 (1) The claimant in respect of a holding must deliver to the Regional Valuation Board an estimate of the value of the holding in such form, and accompanied by such plans and other documents, as may be prescribed, together with a certificate signed by the person by whom the estimate was made to the effect that it was made on the basis on which holdings are, under the provisions of subsection (4) of section seven of this Act and of this Schedule, required to be valued.
- (2) The said estimate may be delivered at any time after the date on which the notice of claim was served, and, if it has not been delivered at the date on which notice of the registration of particulars in respect of the holding is given to the Regional Valuation Board, it must be delivered within such period as the Board may specify by notice requiring delivery thereof served on the claimant after that date, so however that the period specified shall not be less than one month from the service of the notice requiring delivery thereof.
- (3) As soon as may be after notice of the registration of particulars in respect of a holding has been given to the Regional Valuation Board and an estimate of the value thereof has been delivered to them, they shall, after making such inquiries and inspections and taking such other steps as they think requisite, review the estimate and settle a draft of their valuation of the holding :
- Provided that, if default is made in the delivery of an estimate, the Regional Valuation Board shall settle a draft of their valuation in such manner as they think fit as soon as may be after the notice of registration has been given and the time for the delivery of the estimate has expired.
- (4) When the Regional Valuation Board have settled a draft of their valuation of a holding, they shall give notice thereof in the prescribed form to the claimant, and, if the valuation relates to subsidiary coal hereditaments within the meaning of section six of this Act or to coal or a mine of which a person is entitled to require a lease to be granted to him under section thirteen of this Act, to the Commission, and, if the claimant, or, in either of the cases aforesaid, the Commission, so require in the prescribed manner and within the prescribed period, the Board shall give him or them an opportunity of being heard by a person experienced in the valuation of minerals or in the management of mineral estates, or in the case of a claimant, in person, and where in either of the cases aforesaid a hearing is required either by the Commission or the claimant, the Board shall give to the other of them also an opportunity of being heard as aforesaid. The said notice to the claimant shall contain an intimation of his right to be so heard.

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- (5) As soon as may be after giving effect to the preceding provisions of this paragraph in the case of any holding, the Board shall settle their valuation thereof and shall give notice of their valuation in the prescribed form to the claimant and to each of the persons intervening if any, and in either of the cases aforesaid, to the Commission. The said notice to the claimant or any person intervening shall contain an intimation of the right of the person to whom it is given to have the valuation reviewed under the provisions of paragraph 12 of this Schedule.
- 12 (1) Within the prescribed period after service upon him by the Regional Valuation Board of notice of their valuation of a holding, the claimant or any person intervening may give notice in the prescribed manner to the Board of Trade that he claims to have the valuation reviewed under this paragraph.
- (2) Where a claim for review is made to the Board of Trade under the preceding subparagraph, they shall cause the valuation to be reviewed by a referee selected from a panel of referees to be appointed by them. The panel may include all or any of the members, other than the independent members, of the Central Valuation Board or of any Regional Valuation Board, but shall include at least two persons who are not members of any of those Boards, and the referee selected in any particular case shall not be a member of the Regional Valuation Board whose valuation is to be reviewed.
- (3) The proceedings on a reference under this paragraph shall be held in public, and the Regional Valuation Board and the person by whom the reference was claimed shall be entitled, if the Board or that person, as the case may be, so desire, to appear thereat and to be heard by such representative as the Board or that person, as the case may be, may appoint, or, in the case of the person claiming the reference, to be heard in person, and the Board and that person shall each of them be entitled to call one (and, unless the referee otherwise directs, not more than one) expert witness to give evidence as to the value of the holding.

Where a claim for review of the valuation of a holding is made by the claimant and also by a person intervening, or by two or more persons intervening, one person only shall be entitled to be heard on behalf of all of them and the single expert witness shall be called on behalf of all of them. In the event of difference between the persons aforesaid as to the person to be heard, or to be called as an expert witness, the difference shall be determined by the referee.

- (4) A referee shall have power to direct the Regional Valuation Board to alter their valuation in any case in which an alteration therein appears to him to be requisite, and the Board shall give effect to any such direction.
- (5) In any case in which it appears to a referee that a claim for a reference was frivolous or was not justified by a substantial error or omission in the valuation of the Regional Valuation Board, he shall direct that the person claiming the reference shall not be entitled to payment of any costs incurred by that person in connection with the reference, or of such part of those costs as the referee may think fit, and may, if he thinks fit, direct that that person shall pay the whole, or such part as the referee may think fit, of the costs incurred by the Regional Valuation Board in connection with the reference.
- (6) In the case of a valuation that relates to subsidiary coal hereditaments within the meaning of section six of this Act or to coal or a mine of which a person is entitled to require a lease to be granted to him under section thirteen of this Act, the foregoing provisions of this paragraph shall have effect subject to the following modifications, that is to say,—

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- (a) the Commission may give notice as specified in sub-paragraph (1) of this paragraph of a claim for review thereof;
- (b) on a reference made at the instance of the Commission, the claimant in respect of the holding, and, on a reference made at the instance of the claimant or of a person intervening, the Commission, shall be entitled to the like rights as are conferred by sub-paragraph (3) of this paragraph on the person by whom a reference is claimed; and
- (c) the costs that the person claiming the reference, whether the Commission or another, may be directed under sub-paragraph (5) of this paragraph to pay shall include the costs incurred by the claimant in respect of the holding or of the Commission, as the case may be, in the exercise of the rights conferred on him or them by head (6) of this sub-paragraph.

13 In the valuation of a holding regard shall be had to the following rules, that is to say—

- (a) no allowance shall be made on account of the compulsory acquisition by the Commission of the premises in which the holding subsisted; and
- (b) the state in which the said premises were at the valuation date shall be taken into consideration;

and also to such rules as may be prescribed for securing uniformity of valuation.

14 The Central Valuation Board shall have power to make, with the approval of the Board of Trade, rules as to the procedure to be followed in giving effect to the three last preceding paragraphs and for prescribing anything that is therein directed to be prescribed, and in those paragraphs the expression "prescribed" means prescribed by rules made under this paragraph:

Provided that rules under this paragraph shall not be made until a draft thereof has been approved by a resolution passed by each House of Parliament.

Costs of Valuation Proceedings

- 15 (1) Subject to the provisions of this paragraph and of sub-paragraph (5) of paragraph 12 of this Schedule, the Commission shall pay the costs reasonably incurred by the claimant, or a person intervening, in respect of any holding in giving effect in relation to that holding to the preceding provisions of this Part of this Schedule, or of the rules made thereunder, relating to his rights and duties in relation to the valuation of the holding.
- (2) If two or more notices of claim are served in relation to the same holding, the liability of the Commission under this paragraph shall be limited to such a sum as would have been payable by them if a single notice only had been served, so however, that the Commission may pay costs in excess of that sum in any case in which it appears to them that the service of more than one notice was justified having regard to any special circumstances.
- (3) The Commission shall not be liable under this paragraph to pay any costs in a case in which the holding in question is ultimately certified to have no value.
- (4) The Commission shall not be liable to pay any costs under this paragraph incurred by a person who has neglected to comply at the due time with any of the preceding provisions of this Schedule that impose upon him a duty in connection with the valuation of the holding in question, whether with respect to the delivery of an

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estimate of the value of the holding, to the furnishing of information with relation thereto or to any other matter.

- (5) The Commission shall not be liable to pay any costs under this paragraph incurred by a person intervening in respect of any intervention on his part which was not reasonably requisite for the proper valuation of the holding in question.
- (6) The High Court shall have power, on the application of a person aggrieved by a denial on the part of the Commission by virtue of any of the four preceding sub-paragraphs of liability to pay any such costs as aforesaid, to give such directions as to the matter in question as appear to the Court to be just.
- (7) The Commission shall have power to enter into undertakings to pay, and to pay, any costs other than those aforesaid reasonably incurred by any person in connection with the valuation of a holding.
- (8) The amount of any costs that the Commission are liable under or by virtue of this paragraph to pay shall be determined by reference to a scale to be prescribed by the Treasury.
- (9) In case of difference as to the amount of any costs that the Commission are liable under or by virtue of this paragraph to pay, or as to an apportionment required to be made for the purposes of sub-paragraph (2) of this paragraph, the Board of Trade may direct in what manner those costs are to be taxed, or the apportionment is to be settled, as the case may be.

Certification of values for purposes of payment of compensation

- 16 (1) When a Regional Valuation Board have settled the valuations of all the holdings in their region for which compensation is payable, and the proceedings on all claims for reference under paragraph 12 of this Schedule relating to any such holdings have been completed, and the time within which any other claim for such reference may be made has expired, the Board shall certify the amounts ascertained by those valuations respectively to the Commission in accordance with subsection (6) of section seven of this Act, and the Commission shall send to the claimant in respect of each such holding a copy of the certificate that relates to that holding, together with a statement of the aggregate of the amounts certified in respect of all such holdings as attributable to principal coal hereditaments.
- (2) The provisions of this paragraph and of the preceding paragraphs of this Schedule, that relate to the notification of an amount ascertained by a valuation, whether in draft, settled, revised, or certified, shall extend to the notification of a nil valuation.
- 17 (1) So soon as may be after the Commission have received from a Regional Valuation Board certificates sent by them under the last preceding paragraph, the Commission shall publish in one or more newspapers circulating in the valuation region a notice to the effect that certificates relating to that region have been sent to them under that paragraph, and naming a place where the certificates may be seen at all reasonable hours by any person having an acquired interest comprised in a holding in that region or a successor in title of any such person.
- (2) If any person aggrieved desires to question the validity of any certificate relating to a valuation region in respect of which a notice has been published by the Commission under the preceding sub-paragraph, or the propriety of the omission from the certificates sent in relation to that region of a certificate relating to any holding, on the ground that any requirement of this Act or of the Registration Act or

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of any rules made under either of them has not been complied with, he may, within six weeks after the first publication of the notice, make an application for the purpose to the High Court, and, where any such application is duly made, the Court—

- (a) may by interim order direct the Commission to suspend the payment of compensation on the basis of the certificates sent; and
 - (b) if satisfied upon the hearing of the application that the interests of the applicant have been substantially prejudiced by any such requirement as aforesaid not having been complied with, may quash a certificate relating to any holding that appears to the Court to be affected, and give such directions as appear to the Court to be requisite for remedying the default and enabling the giving of valid certificates as respects all holdings in the valuation region for which compensation is payable to be completed.
- (3) Subject as aforesaid the amounts specified in certificates relating to a valuation region in respect of which such a notice as aforesaid has been published shall be deemed to have been properly certified for the purposes of subsection (7) of section seven of this Act, and the holdings to which the certificates relate shall be deemed for those purposes to be the holdings in that region for which compensation is payable, and the right of the Commission to make payments on the basis of such certificates shall not, after the expiration of the said period of six weeks, be questioned by prohibition or certiorari or in any other legal proceedings whatsoever.

PART IV

PAYMENT AND DISPOSAL OF COMPENSATION

Ascertainment of person entitled

18 For the purposes of any provision of this Act under which a payment is to be made at any date to the person entitled to the compensation for a holding, that person shall be ascertained as follows :—

- (a) if the holding could at the valuation date have been sold and conveyed to a purchaser in such manner as to bind or over-reach all acquired interests comprised in the holding (either in the actual circumstances or if any requisite consent, approval, request or notice had been received or given) either—
 - (i) by, or by the direction of, a single person in whom the whole beneficial interest comprised in the holding was vested,
 - (ii) under the powers conferred by the Settled Land Act, 1925, or under any additional powers conferred by a settlement, or
 - (iii) by trustees for sale, or
 - (iv) by a personal representative in the exercise of his paramount powers, or
 - (v) under powers conferred by any other enactment,
 the person who could have given a valid discharge for the purchase money arising on such a sale if paid on the date in question shall be the person entitled;

- (b) in a case in which the preceding sub-paragraph would have applied but for the subsistence at the valuation date of a mortgage not capable of being over-reached as therein mentioned, then, if the mortgage has been

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discharged before the date in question, the person who would have been entitled if the preceding sub-paragraph had applied shall be the person entitled, and, if the mortgage is still subsisting at that date, then—

- (i) except in a case in which at the valuation date the mortgagee or a receiver appointed by him was in possession, or in receipt of the income, of the mortgaged premises, the Commission may serve notice in writing on the mortgagee that they propose to act under this provision, and, if within one month after service of the notice, the mortgagee does not give notice in writing to the Commission that he objects to their so acting, the person who would have been entitled if the preceding sub-paragraph had applied shall be the person entitled;
- (ii) in the excepted case aforesaid, and in a case in which the Commission do not think fit to serve notice as aforesaid or a mortgagee served with such a notice gives notice of objection as aforesaid, the mortgagee shall be the person entitled;
- (c) in any other case, and also in any such case as aforesaid if the Commission consider it expedient in order to avoid expense or delay or for any special reason, the Commission may make payment to the proper officer of the Supreme Court or, in a case where the sum to be paid does not exceed five hundred pounds, of the county court, in accordance with rules of court, or to trustees appointed by the Commission, and that officer or the trustees, as the case may be, shall be the person entitled.

Payments on account

- 19 (1) At any time before the vesting date, or after that date but before the relevant certificates have become conclusive under paragraph 17 of this Schedule, the Commission, if they are satisfied that the compensation for any holding, or the aggregate of the compensation for a number of holdings to which the same person is entitled, will be not less than a particular amount, may make payment of such sum not exceeding that amount as they may think fit on account of the compensation for the holding or holdings :

Provided that no payment on account shall be made under this paragraph, except with the consent of the person entitled, either—

- (a) before the first day of January nineteen hundred and forty; or
 - (b) unless the Commission have given to the person entitled not less than three months' notice in writing of their intention to make the payment.
- (2) A payment on account made under this paragraph to the person entitled to the compensation for more than one holding shall be deemed to have been paid on account of the compensation for such of those holdings as the Commission may direct when making the payment, or, if no such direction is given, on account of the compensation for each of them rateably in proportion to the amount thereof.
- (3) A payment on account made under this paragraph before the vesting date, together with interest thereon for the period between the date on which the payment is made and the vesting date at the rate of three pounds per cent. per annum less income tax at the standard rate, shall be treated in account as a payment on account of the capital of the compensation made on the vesting date, and the said interest shall be deemed for the purposes of the Income Tax Acts to be paid on each anniversary of the date of

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the payment on account that occurs before the vesting date and on the vesting date and accordingly shall be treated as a proper deduction from income.

- (4) A payment on account made under this paragraph after the vesting date shall be treated in account as a payment made primarily in or towards discharge of any interest on the compensation that is due at the date of the payment, and the residue thereof, if any, shall be treated in account as a payment on account of the capital of the compensation.
- 20 (1) If in the case of any valuation region the relevant certificates have not become conclusive under paragraph 17 of this Schedule at the vesting date, the claimant or any person intervening in respect of a holding in the region for which compensation is to be payable may require the Commission to make, at the expiration of each quarter thereafter until the certificates become conclusive, a payment on account under the last preceding paragraph of an amount not less than that specified in this paragraph, and, as from the date of any such requirement, the Commission shall be liable to make payments to the person entitled to the compensation for the holding accordingly.
- (2) The amount of a quarterly payment that may be required as aforesaid shall be an amount equal to interest for three months at the rate mentioned in subsection (8) of section seven of this Act on three-quarters of either—
- (a) the draft valuation of the holding settled under subparagraph (3) of paragraph 11 of this Schedule, if at the date of the payment that draft has been settled but the certificate relating to the holding has not been sent to the Commission; or
 - (b) the amount certified, if the certificate has been so sent at that date:

Provided that, if before the beginning of any quarter at the expiration of which a quarterly payment becomes due any payment on account has been made in respect of the holding under the last preceding paragraph otherwise than by way of quarterly payment required as aforesaid, the amount of the quarterly payment shall be reduced by an amount equal to interest for three months at the rate aforesaid on the amount of the said payment on account.

- (3) In the case of a holding consisting of a reversion, if at a date on which a quarterly payment becomes due the draft valuation of the holding has not been settled, the amount of that payment shall be an amount equal to one-eighth of—
- (a) the rent which became payable to the person entitled to the reversion immediately expectant on the lease, in respect of coal, mines of coal and acquired property and rights comprised therein, during the year ending on the vesting date (or, in the case of a lease that has expired before the vesting date, during the last year of its subsistence), less
 - (b) the mineral rights duty and royalties welfare levy payable or allowable by that person in respect of that rent;

so however that that amount shall be subject to the reduction mentioned in the proviso to the last preceding sub-paragraph in the case therein mentioned :

Provided that, in a case in which there is reasonable ground for apprehending that, if a payment of the amount so ascertained were made, the aggregate of that payment and of any other payment on account theretofore made might exceed the aggregate of the compensation for the holding and the interest thereon, the Commission may withhold that payment.

- (4) In a case in which the proviso to the last preceding sub-paragraph has effect and in a case of a holding other than a reversion, if at a date on which a quarterly payment

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becomes due the draft valuation of the holding has not been settled, that payment shall be deferred until the draft has been settled and the amount thereof shall be ascertained under sub-paragraph (2) of this paragraph.

- (5) In this paragraph—
- (a) the expression " quarter " means a period of three months beginning on the first day of July, October, January or April;
 - (b) the references to rent payable to the person entitled to a reversion and to mineral rights duty and royalties welfare levy payable or allowable by that person shall, in their application to a leasehold reversion, be construed as references respectively to the rent which that person was entitled to receive from his lessee less the rent which he was liable to pay to his lessor, and to the duty and levy which he was liable to pay or allow less so much thereof as he was entitled to deduct from the rent payable to his lessor.

Disposal of compensation as between beneficial interests

- 21 (1) The compensation for a holding when paid by the Commission to the person entitled to receive it from them, including any sum paid on account thereof under paragraph 19 or 20 of this Schedule, and the income thereof, shall, in order to its being applied as compensation to the persons whose interests are comprised in the holding, be held and disposed of for the benefit of those persons, or their personal representatives or assigns, in accordance with the succeeding provisions of this paragraph.
- (2) In the case of a holding that consists of or comprises an estate or other interest subject to a settlement within the meaning of the Settled Land Act, 1925, or to a trust for sale the proceeds whereof are subject to a settlement by way of succession, the trustees of the settlement or any Court having jurisdiction in relation to the execution of the trusts of the settlement, and in the case of the Court on the application of any beneficiary under the settlement, may require and cause the compensation, or the part thereof attributable to that estate or other interest, as the case may be, to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the Court, as the case may be, will give to the beneficiaries under the settlement the like benefit therefrom as they might lawfully have had from that estate or other interest, or as near thereto as may be, regard being had to the terms of the settlement and to all relevant circumstances affecting the premises in which the holding subsisted, including—
- (a) the terms of any subsisting coal-mining lease and the operation of any provision therein contained as to undergettings, short workings, and other like matters;
 - (b) the period within which coal being worked might have been expected to be worked out or coal not being worked might have been expected to come into working and to be worked out; and
 - (c) the extent to which, having regard to those circumstances, the premises ought to be regarded as property of a wasting character:

Provided that—

- (i) where a payment on account of the compensation for the holding has been made under paragraph 19 of this Schedule before the vesting date, the net income accruing to the trustees before the vesting date from the investment of the sum paid, up to an amount sufficient to make good to the capital of the settlement the interest on that sum brought into account under paragraph 19

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of this Schedule against the capital of the compensation, shall be set aside as capital of the settlement;

- (ii) subject as aforesaid no part of the income of the compensation shall be required or caused by virtue of this sub-paragraph to be set aside as capital of the settlement.
- (3) In the case of a holding that comprises an estate or other interest subject to a mortgage, the compensation (other than any part thereof that is attributable to an estate or other interest not subject to the mortgage) shall be held and disposed of in like manner as if it had been money arising under a power of sale conferred by the mortgage.
- (4) In the case of a holding that could have been sold as mentioned in sub-paragraph (a) of paragraph eighteen of this Schedule under powers conferred by the Ecclesiastical Leasing Acts, the compensation paid in respect thereof and the income thereof shall be held and disposed of, and the said Acts shall have effect, in like manner as if the compensation had been money paid to the Ecclesiastical Commissioners upon a sale under the said Acts of the premises in which the holding subsisted :

Provided that—

- (a) if the holding was a reversion and the rent reserved by the lease was subject, by virtue of a scheme in force under the said Acts, to a direction for the payment thereof to the Ecclesiastical Commissioners for the benefit of their common fund, the direction shall have effect in relation to the 'income of the compensation as it had effect in relation to the rent; and
 - (b) where a payment on account of the compensation for the holding has been made under paragraph 19 of this Schedule before the vesting date, the net income accruing before the vesting date from the investment of the sum paid shall be set aside as capital of the compensation.
- (5) Money representing compensation attributable to an estate or other interest subject to such a settlement or trust for sale as is mentioned in sub-paragraph (2) of this paragraph, or vested in trustees on or for charitable, ecclesiastical or public trusts or purposes, may, notwithstanding anything in the relevant trust instrument, be invested not only as authorised by law or by the trust instrument but also in or on—
- (a) the stock or other securities of any local authority in the United Kingdom, or
 - (b) the stock, shares or other securities of any statutory undertakers within the meaning of section thirty-three of this Act, or
 - (c) the debentures or debenture stock or the preference or wholly or partially guaranteed stock or shares of any company incorporated by a special Act of, or provisional order confirmed by, or by or under a public general Act of, the Parliament of the United Kingdom, or incorporated by Royal Charter, being a company which has paid dividends upon its ordinary capital at the rate of at least three per cent. per annum for at least the five years next before the time of investment (of which fact a letter purporting to be signed by the secretary of the company or by a banker or member of a firm of bankers or by the secretary or manager of a joint stock bank or of any branch thereof shall be sufficient evidence), or
 - (d) the ordinary or other stock or shares of any company incorporated as aforesaid, being a company which has paid dividends upon its ordinary capital at the rate of at least four per cent. per annum for at least the ten years next before the time of investment (of which fact such a letter as aforesaid shall be sufficient evidence):

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Provided that the power conferred by this sub-paragraph—

- (i) shall not extend to any stocks shares or securities to bearer or subject to any liability for calls or other payments; and
 - (ii) shall be exercisable subject to any consent that would have been requisite if the money had been proposed to be invested as authorised by law or by the trust instrument.
- (6) Subject as aforesaid the compensation for a holding and the income thereof shall be held and disposed of in such manner as to confer on the existing owners whose interests are comprised in the holding, their personal representatives or assigns, the like benefits so far as may be, as they would have had from their respective interests in the premises in which the holding subsisted if those premises had not been acquired by the Commission.

Costs of payment and disposal

- 22 (1) Subject to the provisions of this paragraph and of section thirty-nine of this Act, the Commission shall pay the costs reasonably incurred by any person having an acquired interest that is comprised in a holding or a successor in title of his—
- (a) in connection with the ascertainment of the person entitled to the compensation for the holding; and
 - (b) in a case in which the compensation for the holding is paid into court under sub-paragraph (c) of paragraph 18 of this Schedule, in connection with the investment and re-investment of the sums paid and of obtaining orders for that purpose, of obtaining orders for the payment of the interest on the investments made, and of obtaining orders for the payment out of court of the sums paid or of the investments thereof; or
 - (c) in a case in which the compensation is paid otherwise than as aforesaid, in connection with any application to the Court that may be requisite for the purpose of determining the manner in which the compensation ought to be held and disposed of.
- (2) The Commission shall not be liable to pay under this paragraph any costs incurred by a person who or whose predecessor in title has neglected to furnish to the Commission information, relevant to the ascertainment of the person entitled to the compensation for the holding, that he is required by this Schedule, or has been reasonably required by the Commission, to furnish to them.

The High Court shall have power, on the application of a person aggrieved by a denial on the part of the Commission by virtue of this sub-paragraph of liability to pay any such costs as aforesaid, to give such directions as to the matter in question as appear to the Court to be just.

- (3) In case of difference as to the amount of any costs, other than costs of Court proceedings, that the Commission are liable under this paragraph to pay, the Board of Trade may direct in what manner they are to be taxed.

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PART V

APPLICATION TO SCOTLAND

23 The foregoing provisions of this Schedule shall apply to Scotland, subject to the following modifications:—

(i) For heads (a), (b) and (c) of paragraph 1 the following shall be substituted:—

“(a) in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease granted by the proprietor of the dominium utile and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of such proprietor (hereinafter referred to as the estate owner) together with the interests therein of all persons claiming under him;

(b) in the case of all the coal and mines of coal that are on the valuation date comprised in a coal-mining lease that is a sub-lease and in the case of acquired property and rights annexed to any such coal or mine, the interest therein of the lessee who is the landlord under the sub-lease (hereinafter referred to as the estate owner), together with the interests of all persons claiming under him with the exception of any such interest that is a retained interest by virtue of a direction under subsection (2) of section five of this Act;

(c) in the case of all the coal and mines of coal in any valuation area that are not on the valuation date comprised in any coal-mining lease, and are in the ownership of the same person, as proprietor of the dominium utile (hereinafter referred to as the estate owner), and in the case of acquired property and rights annexed to any such coal or mine the interest therein of that person, together with the interests therein of all persons claiming under him.”

(ii) In the application of paragraph 4 to a valuation region in Scotland, a reference to the Lord Advocate shall be substituted for the reference to the Lord Chancellor.

(iii) For sub-paragraph (6) of paragraph 5 the following sub-paragraph shall be substituted :—

“(6) The Court of Session or the sheriff court shall in respect of proceedings before the Central Valuation Board, or a referee appointed under this Schedule, or a Regional Valuation Board have the like powers to grant warrant to enforce the attendance of witnesses or the production of documents as in any arbitration, and it shall be competent in any such proceedings to examine witnesses on oath or affirmation.”

(iv) For paragraph 18 the following paragraph shall be substituted:—

“18 For the purposes of any provision of this Act under which a payment is to be made at any date to the person entitled to the compensation for a holding, that person shall be ascertained as follows—

(a) where the whole interests comprised in one holding were vested immediately before the valuation date in a single person, he shall be the person entitled;

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- (b) if the holding could, immediately before the valuation date have been sold and conveyed to a purchaser'—
 - (i) by any person holding the same in a fiduciary capacity, or
 - (ii) by the heir at law duly served of a deceased owner, or
 - (iii) under powers conferred by any enactment in such manner as to give the purchaser a valid title free from all feudal prestations and subject only to the inherent right of superiority of the Crown, the person who could have given a valid discharge for the purchase money arising on such a sale if paid on the date on which the compensation is paid shall be the person entitled;
- (c) in a case in which either of the preceding subparagraphs would have applied but for the existence of the rights of a superior or the subsistence of a heritable security—
 - (i) except in a case in which immediately before the valuation date the creditor in a heritable security was in possession or in receipt of the income of the premises in which the holding subsisted, the Commission may serve notice in writing on the superior or the creditor or both, as the case may be, that they propose to act under this provision, and if within one month after the service of the notice no superior or creditor gives notice in writing to the Commission that he objects to their so acting, the person who would have been entitled if subparagraph (a) or (b), as the case may be, of this paragraph had applied shall be the person entitled;
 - (ii) in the excepted case aforesaid the Commission may serve notice on the superior or superiors, if any, that they propose to act under this provision and if within one month after the service of the notice no superior gives notice in writing to the Commission that he objects to their so acting, the creditor in the heritable security shall be the person entitled;
- (d) in any other case and also in any such case as aforesaid if the Commission consider it expedient in order to avoid expense or delay or for any special reason, the Commission may consign or deposit the compensation in a bank subject to the orders of the Court of Session or, where such compensation does not exceed five hundred pounds, of the sheriff court, and the compensation shall thereafter be paid in such proportions to such persons

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as the Court of Session or sheriff court, as the case may be, shall determine :

Provided that, in the case of any person under disability or holding under a limited title, the Court of Session or the sheriff court, as the case may be, may direct that any compensation in which such person may have an interest shall be invested, distributed or otherwise applied in such manner as the Court of Session or the sheriff court may deem just.”

- (v) Paragraph 21 shall have effect as if for any reference to an estate or other interest subject to a settlement within the meaning of the Settled Land Act, 1925, there were substituted a reference to an estate or other interest subject to a trust within the meaning of the Trusts (Scotland) Act, 1921, or to an entail or to a liferent and any reference to the trustees of the settlement shall be construed accordingly.
- (vi) After paragraph 21 the following paragraph shall be inserted :—
- “21A Where any coal or mine of coal or acquired property or rights vested in the Commission by virtue of this Act shall, immediately prior to the valuation date, be subject to a feu-duty or a heritable security, which affects also other property not so vested, and compensation is paid to the person entitled to such feu-duty or the creditor in such heritable security, such person or creditor shall be bound to execute a discharge or deed of restriction to such extent and on such conditions as may, failing agreement, be determined by the sheriff. The Commission shall be liable to pay the costs incurred in connection with the preparation, execution, stamping and recording in the Register of Sasines of any such discharge or deed of restriction as the same may be taxed by the auditor of the sheriff court.”
- (vii) In this Schedule references to a freehold in possession, shall be construed as references to the whole interests specified in head (c) of paragraph 1 of this Schedule as modified by this paragraph, and references to payment into Court under sub-paragraph (c) of paragraph 18 shall be construed as references to consignation or deposit in bank under sub-paragraph (d) of the paragraph directed by the foregoing provisions to be substituted for paragraph 18.

TABLE

PERSON ENTITLED TO, AND DISPOSAL OF, COMPENSATION FOR CROWN LANDS

Section 42.

Land.	Person entitled.	Manner of disposal of principal and interest.
Land under the management of the Commissioners of Crown Lands.	The Commissioners of Crown Lands.	As capital and income respectively of the land revenues of the Crown.

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Land.	Person entitled.	Manner of disposal of principal and interest.
Land held by His Majesty in right of the Duchy of Lancaster.	The person to whom the purchase money for land sold under the Duchy of Lancaster Lands Act, 1855, is payable.	As sums representing such purchase money and sums representing interest thereon respectively.
Land held by His Majesty in right of His private estates.	Such person as may be nominated under His Majesty's royal sign manual.	In such manner as His Majesty may be pleased to direct.
Land forming part of the possessions of the Duchy of Cornwall.	The person to whom gross sums of money receivable in respect of a sale of any of the said possessions under the Duchy of Cornwall Management Acts, 1863 to 1893, are payable.	As such gross sums and sums representing interest thereon respectively.
Land belonging to a Government department or held in trust for His Majesty for the purposes of a Government department.	Such person as that department may direct.	In such manner as the Treasury may direct.