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SCHEDULES

THIRD SCHEDULE

PROVISIONS AS TO COMPENSATION PAYABLE UNDER SECTION SIX OF THIS ACT

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.

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- (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 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

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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 *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

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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.

- (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.

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- (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,—
- (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.

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- (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 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.

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- (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 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.