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## SCHEDULES

### THIRD SCHEDULE

#### PROVISIONS AS TO COMPENSATION PAYABLE UNDER SECTION SIX OF THIS ACT

#### 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

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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;
- (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

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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 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 consignment or deposit in bank under sub-paragraph (d) of the paragraph directed by the foregoing provisions to be substituted for paragraph 18.

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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.
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.