



Coal Act 1938

1938 CHAPTER 52

PART I

UNIFICATION OF COAL MINING ROYALTIES

Transitional provisions

11 Apportionment of rent and determination of questions on severance of subsisting leases

- (1) In the case of every coal-mining lease subsisting on the vesting date in the case of which either—
- (a) a severance of the reversion immediately expectant on the lease is effected, by the vesting in the Commission by virtue of this Part of this Act of that reversion as regards a part only of the premises which are comprised in the lease; or
 - (b) a severance of the interests arising under the lease is effected, by the vesting in the Commission by virtue of this Part of this Act of those interests as regards a part only of the premises which are comprised in the lease and the immediate reversion in which is vested in the Commission;

and the lease does not reserve separate rents for the several parts of the premises, the rent reserved by the lease shall be apportioned, and the parts of that rent to be apportioned to the several parts of the premises shall, in default of agreement between the Commission and any other person entitled in reversion immediately expectant on the lease and the lessee, be determined by an arbitrator selected by agreement between the parties or, in default of agreement, by the Lord Chancellor in the case of England or the Lord President of the Court of Session in the case of Scotland.

- (2) Where an apportionment of the rent reserved by a lease has been made for the purposes of a valuation of a part of the premises under the Third Schedule to this Act, an arbitrator shall have regard to that apportionment for the purposes of a determination under the preceding subsection.

Status: This is the original version (as it was originally enacted).

- (3) In the case of every coal-mining lease subsisting on the vesting date in the case of which such a severance as aforesaid is effected as aforesaid, the Commission shall pay the costs reasonably incurred by any person in connection with a reference to arbitration under subsection (1) of this section, or with any application to the Court that may be requisite for the purpose of determining any question as to the rights or liabilities of any person under the lease that arises in consequence of the severance :

Provided that the arbitrator or the Court, as the case may be, may direct that the Commission shall not be liable to pay any such costs as aforesaid incurred by a person who appears to the Court to have made a reference or application or prosecuted proceedings thereon unreasonably, or to have been guilty of any such unreasonable failure to agree with the Commission or with any other party, or of any such negligence or default, as to disentitle him to payment of those costs; and, if it appears to the Court that the necessity for the determination of the question raised on an application arose in part only in consequence of such a severance as aforesaid, the Court may direct that the Commission shall be liable to pay a proportionate part only of such costs as aforesaid.

- (4) A Regional Valuation Board shall cause proper records to be kept of apportionments of rent made by them for the purposes of valuations made by them and of any alteration of any such apportionment made by a referee on a review of a valuation made by them, and any entry in any book or other document kept for the purposes of this subsection, or a copy thereof upon which is endorsed a certificate purporting to be signed by a person authorised in that behalf by the Board stating that the copy is a true copy, shall in all legal proceedings be evidence of the entry and of the apportionment referred to.