



# Coal Industry Nationalisation Act 1946

## 1946 CHAPTER 59

### *The National Coal Board.*

#### **1 Establishment of National Coal Board and functions thereof.**

- (1) There shall be a National Coal Board which shall, on and after the primary vesting date, be charged with the duties of—
  - (a) working and getting the coal in Great Britain, to the exclusion (save as in this Act provided) of any other person ;
  - (b) securing the efficient development of the coal-mining industry ; and
  - (c) making supplies of coal available, of such qualities and sizes, in such quantities and at such prices, as may seem to them best calculated to further the public interest in all respects, including the avoidance of any undue or unreasonable preference or advantage.
- (2) The functions of the National Coal Board (in this Act referred to as " the Board ") shall include the carrying on of all such activities as it may appear to the Board to be requisite, advantageous or convenient for them to carry on for or in connection with the discharge of their duties under the preceding subsection, and in particular, but without prejudice to the generality of this section,—
  - (a) searching and boring for coal in Great Britain, to the exclusion of any other person ;
  - (b) treating, rendering saleable, supplying and selling coal ;
  - (c) producing, manufacturing, treating, rendering saleable, supplying and selling products of coal;
  - (d) producing or manufacturing any goods or utilities which are of a kind required by the Board for or in connection with the working and getting of coal or any other of their activities, or which can advantageously be produced or manufactured by the Board by reason of their having materials or facilities for the production or manufacture thereof in connection with the working and getting of coal or any other of their activities, and supplying and selling goods or utilities so produced or manufactured;
  - (e) any activities which can advantageously be carried on by the Board with a view to making the best use of any of the assets vested in them by this Act;

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- (f) activities conducive to advancing the skill of persons employed or to be employed for the purposes of any of the activities aforesaid, or the efficiency of equipment and methods to be used therefor, including the provision by the Board themselves, and their assisting the provision by others, of facilities for training, education and research.
- (3) The Board shall have power to do any thing and to enter into any transaction (whether or not involving the expenditure, borrowing in accordance with the provisions of this Act in that behalf or lending of money, the acquisition of any property or rights, or the disposal of any property or rights not in their opinion required for the proper discharge of their functions) which in their opinion is calculated to facilitate the proper discharge of their duties under subsection (1) of this section or the carrying on by them of any such activities as aforesaid, or is incidental or conducive thereto.
- (4) The policy of the Board shall be directed to securing, consistently with the proper discharge of their duties under subsection (1) of this section,—
  - (a) the safety, health and welfare of persons in their employment;
  - (b) the benefit of the practical knowledge and experience of such persons in the organisation and conduct of the operations in which they are employed ;
  - (c) that the revenues of the Board shall not be less than sufficient for meeting all their outgoings properly chargeable to revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under sections twenty-eight and twenty-nine of this Act) on an average of good and bad years.

## **2 Constitution of the Board.**

- (1) The Board shall be a body corporate by the name of "the National Coal Board", with perpetual succession and a common seal and power to hold land without licence in mortmain.
- (2) The Board shall consist of a chairman and eight other members.
- (3) The chairman and other members of the Board shall be appointed by the Minister of Fuel and Power (in this Act referred to as " the Minister ") from amongst persons appearing to him to be qualified as having had experience of, and having shown capacity in, industrial, commercial or financial matters, applied science, administration, or the organisation of workers.
- (4) A person shall be disqualified for being appointed or being a member of the Board so long as he is a member of the Commons House of Parliament.
- (5) The Minister shall appoint one of the members of the Board to act as deputy chairman.
- (6) There shall be paid to the members of the Board such salaries and allowances as may be determined by the Minister with the approval of the Treasury, and, on the retirement or death of any of them as to whom it may be so determined to make such provision, such pensions and gratuities to them or to others by reference to their service as may be so determined.

The said salaries and allowances, and any such pensions and gratuities as aforesaid, shall be paid out of the revenues of the Board.

- (7) The Minister may make regulations with respect to—

- (a) the appointment of, and the tenure and vacation of office by, the members of the Board ;
  - (b) the quorum, proceedings and meetings of the Board, and determinations of the Board ; and
  - (c) the execution of instruments and the mode of entering into contracts by and on behalf of the Board, and the proof of documents purporting to be executed, issued or signed by the Board or a member, officer or servant thereof.
- (8) Subject to the provisions of any regulations made under the last preceding subsection, the Board shall have power to regulate their own procedure.

### **3 Powers of the Minister in relation to the Board.**

- (1) The Minister may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of their functions in relation to matters appearing to the Minister to affect the national interest, and the Board shall give effect to any such directions.
- (2) In framing programmes of reorganisation or development involving substantial outlay on capital account, the Board shall act on lines settled from time to time with the approval of the Minister.
- (3) In the exercise and performance of their functions as to training, education and research, the Board shall act on lines settled as aforesaid.
- (4) The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Board, and shall furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished, in such manner and at such times as he may require.

### **4 Consumers' councils.**

- (1) There shall be established for the purposes mentioned in this section two consumers' councils, to be known respectively as the Industrial Coal Consumers' Council and the Domestic Coal Consumers' Council.
- (2) Each of the said councils shall consist of such number of persons as the Minister may think fit, appointed by him to represent the Board, and—
  - (a) in the case of the Industrial Coal Consumers' Council, after consultation with such bodies representative of the interests concerned as the Minister thinks fit, to represent consumers of coal, coke and manufactured fuel respectively, for industrial purposes or other purposes involving supply in bulk, and persons engaged in organising or effecting the sale or supply, whether for home use or for export, of coal, coke and manufactured fuel respectively, for those purposes ;
  - (b) in the case of the Domestic Coal Consumers' Council, after consultation with such bodies representative of the interests concerned as the Minister thinks fit, to represent consumers of coal, coke and manufactured fuel respectively, for domestic purposes and other purposes not falling within the preceding paragraph, and persons engaged in organising or effecting the sale or supply of coal, coke and manufactured fuel respectively, for those purposes.

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In formulating his proposals for appointments to each of the said councils, the Minister shall have particular regard to nominations made to him by the said bodies representative of the interests concerned of persons recommended by them as having both adequate knowledge of the requirements of those interests and also qualifications for exercising a wide and impartial judgment on the matters to be dealt with by the council generally.

- (3) The Industrial Coal Consumers' Council shall be charged with the duties—
  - (a) of considering any matter affecting the sale or supply, whether for home use or for export, of coal, coke or manufactured fuel for the purposes mentioned in paragraph (a) of subsection (2) of this section which is the subject of a representation made to them by consumers for those purposes of coal, coke or manufactured fuel, as the case may be, or which appears to them to be a matter to which consideration ought to be given apart from any such representation, and, where action appears to them to be requisite as to any such matter, of notifying their conclusions to the Minister ;
  - (b) of considering, and reporting to the Minister on, any such matter which may be referred to them by the Minister.
- (4) The Domestic Coal Consumers' Council shall be charged with the like duties in relation to the sale or supply of coal, coke and manufactured fuel for the purposes mentioned in paragraph (b) of subsection (2) of this section.
- (5) On the notification or making to the Minister by either of the said councils of their conclusions or report on any matter, if it appears to him, after consultation with the Board, that a defect is disclosed in the Board's general arrangements for the production, sale or supply of coal, coke or manufactured fuel, as the case may be, he may give to the Board such directions as he may think requisite for remedying the defect, and the Board shall give effect to any such directions.
- (6) The said councils shall be furnished by the Minister with such clerks, officers and staff as appear to him, with the concurrence of the Treasury as to numbers, to be requisite for the proper discharge of their functions, and the Minister shall pay to the members of the said councils such allowances, and to the clerks, officers and staff of the said councils such remuneration and allowances, as he may with the approval of the Treasury determine, and shall pay such expenses incurred by the said councils as he may so determine.
- (7) Provision may be made by regulations for or in connection with any such matters in relation to the said consumers' councils as are mentioned in subsection (7) of section two of this Act in relation to the Board, and for the appointment of a chairman of each of the said councils, with or without provision for another to act in his place, and, subject to the provisions of any such regulations, the said councils shall have power to regulate their own procedure.
- (8) Each of the said councils shall make an annual report to the Minister, and the Minister shall lay the reports before each House of Parliament.
- (9) A regional industrial coal consumers' council or a regional domestic coal consumers' council may be appointed by the Minister for any prescribed locality for which such appointment appears to him to be expedient, whether in consequence of or apart from a recommendation in that behalf of the Industrial Council or the Domestic Council, as the case may be, established under subsection (1) of this section, and provision may be made by regulations for the dissolution of a regional council appointed for any locality

if it appears to the Minister that such a council is no longer needed for that locality, or for the variation of the locality for which such a council is to act.

- (10) Where there is a regional council for any locality, then, as regards consumers and sale or supply in that locality, the regional council shall be charged with the performance of such of the duties imposed on the Industrial Council or the Domestic Council, as the case may be, by subsection (3) or (4) of this section as may be prescribed, and provision may be made by regulations as to the regional council's reporting to the Industrial Council or the Domestic Council, as the case may be, established under subsection (1) of this section or direct to the Minister, and generally as to the relations between the regional council and the said Industrial Council or Domestic Council.
- (11) Subsections (2), (6) and (7) of this section shall apply to a regional council as they apply to the Industrial Council or the Domestic Council, as the case may be, established under subsection (1) of this section, with the substitution of references to consumers in the locality for which the regional council is to act and to sale or supply therein for references to consumers and to sale or supply generally, and subsection (5) of this section shall apply on the notification or making direct to the Minister of conclusions or a report of a regional council.
- (12) In this section the expression " manufactured fuel " means any manufactured fuel (including carbonised briquettes and avoids) of which coal or coke is the principal constituent.

*Transfer of assets to the Board.*

**5 Transfer of assets generally.**

- (1) The assets described in Part I of the First Schedule to this Act shall vest in the Board, by virtue of this section and without further assurance, on such date as the Minister may by order appoint in that behalf (in this Act referred to as " the primary vesting date ").
- (2) The assets described in Part II of the First Schedule to this Act shall be subject to the following provision, that is to say, the Board and the owner thereof shall each have the option to require that any such assets shall vest in the Board, exercisable by notice in writing given to the other, and any such assets as to which that option is duly exercised shall vest in the Board as aforesaid on the first day of the month next after that in which the notice is given :  
  
Provided that if the notice is given before the primary vesting date, the vesting shall be on that date.
- (3) The assets described in Parts III and IV respectively of the First Schedule to this Act shall be subject to the like provision as is mentioned in the last preceding subsection, except that, if the party to whom the notice is given (whether the owner or the Board) gives to the other a counter-notice in writing objecting, as respects all or any of the assets to which the original notice relates, to the vesting thereof in the Board, the question whether the assets as to which objection is so made or any of them are so to vest shall be determined by arbitration under this Act, and the date of vesting of such of them as under the arbitrator's award are so to vest shall be as it would have been if the original notice had been given on the date of the award.

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In considering any question which is to be determined by arbitration under this subsection the arbitrator shall have regard to all the circumstances, and in particular, where the exercise of the option in question is by the Board, to the importance to the Board, for the purposes of any activities which they are required or authorised to carry on, of the assets being vested in them, and, where the exercise of the option is by the owner, to the extent to which the severance of the assets in question from other assets of his which are vested or to be vested in the Board affects the usefulness to him of the assets in question.

- (4) Regulations shall be made for enabling the Board to obtain information as to the assets described in Parts II to IV respectively of the First Schedule to this Act requisite for their deciding as to the exercise by them of such options as aforesaid or the giving by them of counter-notices of objection, and for prescribing periods within which notices exercising such options as aforesaid, and counter-notices of objection, must be given, and different periods may be prescribed as to the giving thereof in different circumstances or as to assets of different kinds.
- (5) Where an asset vests in the Board by virtue of the exercise of such an option as aforesaid, the owner thereof shall be deemed, as respects the period of his ownership thereof between the primary vesting date and the date of the vesting thereof, to have held it as an agent of the Board, and shall accordingly be liable to account to the Board for all rents, profits and other income for that period arising therefrom or from the use thereof, and be entitled to be indemnified against all expenses, liabilities and other outgoings for that period incident thereto or to the use thereof.
- (6) The vesting of any assets by virtue of this section shall take effect free from any charge or lien for securing money or money's worth to which they are subject.
- (7) The Minister may by regulations make such provision supplementary to or consequential on the provisions of this section and of the First Schedule to this Act as appears to him to be necessary or expedient, and in particular, but without prejudice to the generality of this subsection, provision may be made by regulations made thereunder—
  - (a) for designating, with effect where so prescribed from the date on which the assets in question vest in the Board, easements and other property and rights that are to vest in the Board with any of the assets vesting in them by virtue of this section ;
  - (b) for designating, with effect as aforesaid, easements and other restrictions, rights and liabilities subject to which, or free from which, any of the said assets are to vest in the Board ;
  - (c) for apportionments consequent on the vesting provided for by this section of interests in respect of which periodical payments are accruing at the date of their vesting ;
  - (d) for apportionments and indemnities consequent on the severance of leasehold interests, or of interests held subject to leases, by reason of the vesting provided for by this section ;
  - (e) for the registration of the title of the Board to assets vesting in them by virtue of this section of a kind subject to provision for the registration of title thereto ;
  - (f) for vesting in the Board the property in and the right to possession of documents of such kinds relating to the title to, or to the management of, things interests in which vest in the Board by virtue of this section, as may be specified in the regulations, for conferring on the Board the right to production

of any other such documents as aforesaid as may be so specified and to delivery of copies thereof, and for requiring persons having possession or control of any such documents as aforesaid to furnish in writing, to such person or authority as may be specified in the regulations, such information with respect to the documents as may be so specified;

- (g) for the modification of provisions of the Coal Acts, 1938 to 1943, which may be necessary or expedient in consequence of the vesting in the Board by virtue of this section of assets previously in the ownership of the Coal Commission.
- (8) Notwithstanding anything in subsection (1) of this section, the Minister may by order exclude from the operation of that subsection an asset described in Part I of the First Schedule to this Act, if an application in that behalf is made to him by the Board not later than the expiration of one year from the primary vesting date and the owner of the asset in question consents.

Where an order under this subsection is made after the primary vesting date, the asset in question, and any easements, property and rights which would otherwise have been vested in the Board therewith, shall be deemed never to have vested in the Board.

## **6 Transfer of interests in patents and designs.**

- (1) The following assets, namely, proprietary interests of colliery concerns and of class A and class B subsidiaries thereof in patents for inventions intended for use or capable of being used for or in connection with colliery production activities as defined in Part I of the First Schedule to this Act, and in copyrights in registered designs intended for application or capable of being applied to articles adapted for use for or in connection with such activities, shall be subject to the following provision, that is to say, the Board and the owner thereof shall each have the option to require that any such assets shall vest in the Board, exercisable by notice in writing given to the other, and unless the party to whom the notice is given (whether the owner or the Board) gives to the other a counter-notice in writing objecting, as respects all or any of the assets to which the original notice relates, to the vesting thereof in the Board, the assets shall vest in the Board on the first day of the month next after that in which the notice is given :

Provided that if the notice is given before the primary vesting date, the vesting shall be on that date.

- (2) Where a counter-notice is given as mentioned in the preceding subsection, the question whether the assets as to which objection is made, or any of them, are to vest in the Board shall be determined by arbitration under this Act.

In considering any question which is to be determined by arbitration under this subsection, the arbitrator shall have regard to the matters to which he is required by subsection (3) of section five of this Act to have regard in considering a question which is to be determined by arbitration thereunder.

- (3) If, upon a reference under the last preceding subsection where the exercise of the option in question is by the Board, the arbitrator is of opinion with respect to any patent or copyright which is the subject of the reference that the Board ought to be enabled to do all or any of the following things in relation to the invention which is the subject of the patent, namely, to make, use, exercise or vend it, or ought to be enabled to apply the design which is the subject of the copyright, as the case may be, but that the proprietary interest in the patent or copyright ought not to vest in the Board, he shall have power by his award to grant to the Board a licence under the patent or

copyright (not being an exclusive licence) on such terms as may be settled by him and specified in the award, being terms appearing to him to be such as would be agreed upon between a willing grantor and a willing grantee.

- (4) An award granting-, a licence under the last preceding subsection shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting the licence which the owner of the proprietary interest in the patent or copyright and all other parties having any interest therein had executed with full capacity so to do, and the award shall operate to take away from any such party any right in relation thereto the exercise whereof would be inconsistent with the exercise of the licence in accordance with and subject to the terms on which it is granted.
- (5) Where the award of the arbitrator under subsection (2) of this section is that a proprietary interest in a patent or copyright is to vest in the Board, the date of its vesting shall be such as it would have been if the original notice had been given on the date of the award.
- (6) Subsections (1), (2) and (5) of this section shall apply to interests of colliery concerns and of class A and class B subsidiaries thereof in such patents and copyrights as are mentioned in the said subsection (1), being interests subsisting by virtue of licences, as they apply to proprietary interests.
- (7) Subsections (4) to (6) of section five of this Act shall apply with requisite modifications for the purposes of this section as they apply for the purposes of the said section five and of the First Schedule to this Act, and subsection (7) of that section shall so apply subject to the further modification that the power thereby conferred shall extend so as to authorise the making of provision for adapting the terms of licences to changes consequent on the passing of this Act in the circumstances in which they will fall to be exercised after the date of a transfer of interests subsisting by virtue thereof.
- (8) In this section the expression " proprietary interest", in relation to a patent, means the interest of a person whose name is for the time being entered or required to be entered in the register of patents as the grantee or proprietor of the patent or as one of two or more grantees or proprietors thereof, and, in relation to a registered design, means the interest of a person whose name is for the time being entered or required to be entered in the register of designs as the proprietor of the design or as one of two or more proprietors thereof.
- (9) Part V of the First Schedule to this Act shall apply (so far as relevant) for the purposes of this section as it applies for the purposes of that Schedule with the substitution, for references to an option notice date, of references to the date on which a notice exercising an option under subsection (1) of this section is given.
- (10) A patentee shall not be deemed to be precluded from making to the Comptroller General of Patents, Designs and Trade Marks a request under section twenty-four of the Patents and Designs Act, 1907, for a patent to be indorsed with the words " licences of right " by reason of a licence having been granted under the patent under this section.

## **7 Transfer of rights and liabilities under contracts.**

- (1) Subject to the provisions of this section, contracts such as are mentioned in the Second Schedule to this Act shall have effect in favour of and against the Board as therein mentioned and to the extent therein mentioned.



- (2) If in the case of any of the provisions of such a contract as is mentioned in the Second Schedule to this Act, being provisions so entered into as to render that Schedule applicable to them subject to the limitations contained in this section and being provisions which were entered into on or after the first day of August, nineteen hundred and forty-five, or which have been varied after that date, the Board are of opinion that that Schedule ought not to apply thereto, either at all or to any particular extent, on the ground that they were not reasonably necessary for the purposes mentioned in paragraph 1 of that Schedule, or that they were entered into with unreasonable want of prudence, the Board may, at any time within twelve months from the date as from which the Board would become subject to liabilities thereunder apart from this provision, give notice to the effect that they are of that opinion to each of the parties to the contract, and if the Board give such a notice, the Second Schedule to this Act shall not apply to the provisions to which the notice relates, either at all or to the extent specified in the notice, as the case may be :

Provided that any of the parties to the contract may, within the prescribed period from the date on which the notice is served and subject as mentioned in the next succeeding subsection, refer the matter to arbitration under this Act, and, if the matter is so referred, the arbitrator shall consider whether or not the provisions in question were reasonably necessary as aforesaid, or were entered into as aforesaid, and shall determine whether, and to what extent, the Second Schedule to this Act is to apply to them.

- (3) In the case of a provision for the rendering of personal services or for the giving of consideration therefor, being a provision which was entered into on or after the first day of August, nineteen hundred and forty-five, or which has been varied after that date, a reference to arbitration as aforesaid shall not be made unless the Minister consents.
- (4) As regards the time of operation of subsection (2) of this section,—
- (a) where the application of the Second Schedule to this Act to a provision of a contract is excluded to any extent by a notice under that subsection without any reference to arbitration as aforesaid, or by the determination of the arbitrator on such a reference, the said Schedule shall be treated as having never applied ;
  - (b) where on such a reference it is determined by the arbitrator, contrary to such a notice, that the said Schedule is to apply to any extent to a provision of a contract, the said Schedule shall be treated as having applied continuously, without regard to the service of the notice ;

and any adjustments required in consequence of the provisions of this subsection shall be ascertained by agreement between the parties to the contract and the Board, or, in default of agreement, by arbitration under this Act, and shall be made accordingly.

- (5) Where by virtue of subsection (2) of this section the Board do not become subject to a liability under a contract to which they would have become subject under the provisions of the Second Schedule to this Act apart from that subsection, the parties to the contract respectively shall be discharged from that liability and from any liability as respects consideration to be given under the contract attributable to that liability.

## **8 Vesting of rights to use of certain property.**

- (1) On the primary vesting date the rights and powers vested in the Coal Commission by section fifteen of the Coal Act, 1938 (which relates to the use as therein mentioned

of underground land) shall vest in the Board by virtue of this section and without further assurance, and accordingly, as from that date references in that section to the Coal Commission shall be construed as references to the Board ; and that section shall extend so as to confer on the Board, in relation to minerals other than coal, being minerals interests in which vest in the Board by virtue of section five of this Act or are otherwise acquired by them, the like rights and powers as respects operations for the like purposes as are mentioned in the said section fifteen.

- (2) The Board shall be entitled for the purposes mentioned in paragraph 20 of the First Schedule to this Act to use land appearing to the Board to fall within that paragraph pending their decision as to the extent of the land required for those purposes to be acquired by option under section five of this Act and pending the taking effect of such an option when exercised, but subject to an obligation on the Board to pay proper compensation, of an amount to be determined in case of difference by arbitration under this Act, for such use and for any damage sustained in consequence of such use by the owner of any interest in the land used which is not subsequently vested in the Board pursuant to the exercise of such an option :

Provided that the Board shall have the option to make good any such damage to the reasonable satisfaction of the owner of any such interest in lieu of paying compensation for the damage.

- (3) The Board shall be entitled, for the purposes of colliery production activities within the meaning of the First Schedule to this Act, to make, use and exercise the invention which is the subject of a patent a proprietary or other interest in which appears to them to fall within subsection (1) of section six of this Act or subsection (6) thereof, and to apply a registered design in the copyright in which such an interest appears to them so to fall, pending their decision as to the exercise by them of an option under that section with respect to the interest in question and pending the taking effect of such an option when exercised or (in the case of an option with respect to a proprietary interest) the grant of a licence in lieu of the vesting of the interest in them.

The exercise by the Board in any manner or for any purpose of the right conferred on them by this subsection shall, in a case in which the relevant interest in the patent or copyright is not subsequently vested in them pursuant to the exercise of such an option as aforesaid, be subject to an obligation on them to pay proper compensation, of an amount to be determined in case of difference by arbitration under this Act, to any person entitled during any period during which the right is exercised in that manner or for that purpose to authorise the exercise thereof in that manner or for that purpose.

## **9 Ascertainment of assets, rights and liabilities transferred, and determination of questions as to transfer.**

- (1) Regulations shall be made for ascertaining, verifying and recording particulars (whether relating to subject matter, value, ownership or other matters), as may appear to the Minister to be requisite for the purposes of this Act, of the assets, property and rights that vest in the Board by virtue of section five or six of this Act, or of regulations made thereunder, and of contractual rights and liabilities so far as transferred to the Board by virtue of section seven of this Act.
- (2) All the said assets, property, rights and liabilities are in this Act referred to as the " transferred interests " :

Provided that references to the transferred interests do not include references to assets, property, rights or liabilities of the Coal Commission.

- (3) Any question arising in giving effect to the provisions of this Act—
- (a) as to what is or is not included in the assets described in the First Schedule to this Act or in any Part thereof or in section six of this Act, or otherwise as to the construction or effect, so far as regards the vesting of assets, property or rights in the Board, of section five or six of this Act or of regulations made thereunder, or of that Schedule, or
  - (b) as to the existence or extent of any such liability to account or right, to be indemnified as is mentioned in subsection (5) of section five of this Act, or otherwise as to the construction or effect of that subsection, or
  - (c) as to whether a contract is such a contract as is mentioned in the Second Schedule to this Act, or otherwise as to the construction or effect, so far as regards the transfer to the Board of rights or liabilities under contracts, of that Schedule,
- shall be determined by arbitration under this Act.

- (4) Regulations may be made—
- (a) for securing that, when compensation has been made under this Act on the basis that any assets, property, rights or liabilities have vested in or been transferred to the Board or have vested in them free from any charge or lien, restriction, right or liability, or when particulars of transferred interests have been recorded on that basis or other proceedings for the purposes of dealing with transferred interests for compensation have been taken on that basis and the particulars or other proceedings have become conclusive for those purposes, persons shall be estopped from questioning the vesting in or transfer to the Board of the assets property, rights or liabilities, or the vesting thereof in them free from that charge or lien, restriction, right or liability; and
  - (b) otherwise for preventing the assertion, as respects matters dealt with for compensation under this Act, of claims of title made on a basis inconsistent with that on which those matters have been dealt with for that purpose.

*Compensation for transfer of assets.*

**10 Compensation for transfer, and basis for assessment thereof.**

- (1) Compensation shall be made as hereinafter provided in respect of the transfer to the Board of the transferred interests.
- (2) The compensation to be so made shall be ascertained separately as hereinafter provided in respect of—
  - (a) the value of the transferred interests so far as determined as hereinafter provided to be attributable to their usefulness for activities relevant to district wages ascertainment (in this Act referred to as the "coal" industry value" of the transferred interests);
  - (b) the value thereof so far as not falling within the preceding paragraph (in this Act referred to as their "value for subsidiary purposes").
- (3) The aggregate amount of the compensation to be made in respect of the coal industry value of all the transferred interests shall be a sum fixed, in accordance with the terms of reference specified in the agreement made in that behalf before the passing of this Act between the Minister and the Mining Association of Great Britain, by a tribunal constituted as therein specified.

- (4) The said sum shall be apportioned as hereinafter provided as between the districts that are to be valuation districts for the purposes of this Act.
- (5) The transferred interests shall be dealt with for the purposes of compensation in units constituted as hereinafter provided (in this Act referred to as " compensation units "), each of which shall be allocated as hereinafter provided to one of the valuation districts, and the amount of the compensation to be made in respect of a compensation unit which is allocated to any valuation district shall be the aggregate of—
- (a) an amount bearing the same proportion to what is certified as hereinafter provided to be the coal industry value of that unit as the amount apportioned to that district under subsection (4) of this section bears to the aggregate of what is so certified to be the coal industry values of all compensation units allocated to that district in respect of which compensation is to be made ; and
  - (b) an amount equal to what is certified as hereinafter provided to be the value for subsidiary purposes of that unit.

## **11 Allocation of transferred interests to compensation units and to districts, and determination of their status as respects coal industry value.**

- (1) The Minister shall prescribe the districts that are to be valuation districts for the purposes of this Act. The said districts shall be districts corresponding in general with those for which district wages ascertainment were made for the purposes of the adjustment of wages payable in the year nineteen hundred and thirty-nine, and shall be shown on a map to be kept available by the Minister for public inspection in accordance with regulations during usual business hours :

Provided that, if it appears to the Minister to be convenient for valuation purposes so to do, he may create a valuation district corresponding with two or more districts for which such ascertainment were so made taken together, or may create two or more valuation districts corresponding with a single district for which such ascertainment were so made.

- (2) The Minister shall constitute compensation units so as to include in some such unit every transferred interest, and shall allocate each such unit to one or other of the valuation districts :

Provided that the regulations to be made for ascertaining, verifying and recording particulars of the transferred interests may render the inclusion of a transferred interest in such a unit conditional on due and punctual compliance with provisions of the regulations.

- (3) In determining how transferred interests are to be dealt with as regards their arrangement in compensation units, and to what valuation district each compensation unit is to be allocated, the Minister shall have regard to the following requirements, that is to say,—
- (a) the expediency on the one hand of bringing together interests whose value would or might be affected by severance, so far as is practicable consistently with the scheme of district valuation established by this Act;
  - (b) the expediency on the other hand of separating interests of different owners, and of separating interests which are subject to different incidents as respects the ascertainment or satisfaction of compensation ; and
  - (c) convenience and dispatch in valuation ;

and accordingly he shall treat as the normal compensation unit, subject to variation as may be needed for meeting the requirements aforesaid or special circumstances affecting particular interests, a unit consisting of all the transferred interests of a single colliery concern or other owner which are in property situated permanently in, or ordinarily operated from, a single district and which are not subject to different incidents as aforesaid.

- (4) The Minister shall also determine, as to each transferred interest, whether its value is attributable in whole or in part to usefulness for activities relevant to district wages ascertainment, and, if in part, to what extent :

Provided that provision shall be made by regulations for objection to the Minister's determination of any question under this subsection, and, if objection is duly made, for the determination of the question by two accountants being members respectively of firms of independent accountants which have acted for colliery owners and mineworkers respectively on district wages ascertainment, or, failing a determination by agreement of the accountants within a limited period, for determination of the question by arbitration under this Act.

- (5) Determinations under the last preceding subsection as to transferred interests included in compensation units which the Minister has allocated, or proposes to allocate, to any valuation district shall be made by reference to the practice observed in making the district wages ascertainment, for the district corresponding with that valuation district, of results for the period of ascertainment which included the month of June, nineteen hundred and thirty-nine (or, if the said month of June was included in two or more successive periods of ascertainment, for the first of those periods), and, in the case, of a determination as to an interest of a colliery concern dealt with in making those ascertainment, to the practice observed as respects activities of that concern, and in this section—
- (a) the said practice by reference to which such a determination is to be made as to any transferred interest is referred to as " the wages ascertainment practice " ;
  - (b) the expression " activities relevant to district wages ascertainment " means activities treated as comprised in the coal industry under the wages ascertainment practice.
- (6) Notwithstanding that, in general, determinations under subsection (4) of this section are to be made as aforesaid by reference to the wages ascertainment practice, the subsequent provisions of this section shall apply in the cases therein mentioned.
- (7) The fact that figures relating to a particular activity have been brought into computation under the wages ascertainment practice shall not render it an activity relevant to district wages ascertainment under this section where the figures in question constituted an item known under the wages ascertainment practice as a fair transfer price or similar charge and the activity in question was one treated under that practice as excluded from the coal industry.
- (8) Whatever the wages ascertainment practice has been in any case, the value of the following transferred interests shall be treated as not to any extent attributable to usefulness for activities relevant to district wages ascertainment, that is to say—
- (a) interests in stocks of products of colliery production activities and interests in consumable or spare stores within the meaning of the First Schedule to this Act ;
  - (b) freehold interests in minerals other than coal; and

- (c) interests arising under a lease granted in accordance with the provisions of section four of the Coal Act, 1943, or by virtue of a right to such a lease (in this Act referred to as interests under a " former freeholder's lease " ) ;

and, to the extent to which the value of any transferred interest is attributable to a provision relating to undergettings, short workings or similar matters, it shall be treated as not attributable to usefulness for such activities as aforesaid.

## **12 Central Valuation Board, District Valuation Boards and referees.**

- (1) The apportionment of the aggregate amount of the compensation to be made in respect of the coal industry value of all the transferred interests as between valuation districts shall be made by the Central Valuation Board to be constituted under this section.
- (2) The said apportionment shall be made by the Central Valuation Board in accordance with such procedure and by reference to such considerations as may be prescribed.
- (3) The Central Valuation Board shall certify the amount apportioned by them to each valuation district, and section three of the Rules Publication Act, 1893, shall apply to the certificate as it applies to statutory rules.
- (4) Compensation units allocated to the several districts shall be valued by District Valuation Boards, subject to provision to be made by regulations for review of the determinations of those Boards by referees in such cases and in accordance with such provisions as may be prescribed.
- (5) A Central Valuation Board, and such number of District Valuation Boards as appear to the Minister to be required, and a panel of persons to act as referees for the purpose of the review of determinations of District Valuation Boards, shall be constituted in accordance with regulations, and the said Boards and panel shall be furnished with clerks, officers and staff in accordance therewith.

The regulations may make provision for or in connection with any such matters in relation to the said Boards and panel as are mentioned in subsection (7) of section two of this Act in relation to the National Coal Board, for the appointment of a chairman of the said Boards and panel respectively, with or without provision for another to act in his place, and also for or in connection with the dissolution of the said Boards and panel on the completion of their duties.

- (6) The Minister shall by regulations assign to the jurisdiction of each District Valuation Board one or more valuation districts, and the valuation of all compensation, units allocated to any such district shall be done by the Board to whose jurisdiction that district is assigned.
- (7) The Minister shall pay—
  - (a) to the members, and to the clerks, officers and other members of the staff, of the Central Valuation Board, of a District Valuation Board, and of the said panel, and to accountants employed for the purpose of determinations under subsection (4) of section eleven of this Act, such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Minister with the approval of the Treasury may determine ; and
  - (b) such expenses incurred by the Central Valuation Board, a District Valuation Board or a referee appointed for the purposes of this section, as the Minister with the approval of the Treasury may determine, and so much of any costs of proceedings falling to be borne by them as he may so determine.

### **13 Determination of values for compensation purposes.**

- (1) As soon as may be after a compensation unit has been allocated to a valuation district, and it has been determined under section eleven of this Act whether and to what extent the value of each transferred interest included therein is attributable to usefulness for activities relevant to district wages ascertainment, the District Valuation Board for the district shall determine the value of the unit and determine how much of that value is coal industry value and how much of it is value for subsidiary purposes.
- (2) For the purposes of the District Valuation Board's determinations and of any review thereof by a referee, particulars of the transferred interests included in the compensation unit as ascertained under the regulations to be made in that behalf shall be transmitted by the Minister to the District Valuation Board, and particulars so transmitted shall be presumed conclusively to be correct, subject only to any provision for rectification thereof which may be made by regulations.
- (3) For the purposes aforesaid the separation of the value of a compensation unit as between its coal industry value and its value for subsidiary purposes shall be made by reference to the determinations of the Minister or of the accountants or arbitrator under subsection (4) of section eleven of this Act, and, if the unit includes two or more transferred interests, to the extent to which the value of the unit appears to the District Valuation Board to be attributable to those interests respectively.
- (4) For the purposes aforesaid the value of a compensation unit shall be taken to be the amount which it might have been expected to realise if this Act had not been passed and it had been sold on the primary vesting date in the open market by a willing seller to a willing buyer, no allowance being made on account of the vesting of the transferred interests comprised in the unit being compulsory :

Provided that provision may be made by regulations requiring the said amount to be estimated on the basis that the purchaser on the assumed sale of the unit would be in a position to use the property in which the transferred interests subsisted with other assets used in association therewith before the transfer, or to be estimated in accordance with other rules prescribed for securing that the said amount shall not be diminished by disregard of any factor appearing to the Minister to be relevant.

- (5) For the purposes of the last preceding subsection, the sale of a compensation unit to be assumed shall be a sale thereof (with all property and rights which are to vest in the Board, by virtue of regulations made under or by virtue of section five or six of this Act, with the transferred interests included in the unit) subject to all matters subject to which those interests are to vest in them, but free from any charge or lien for securing money or money's worth or other matters free from which those interests are to vest in them ; and regard shall be had to all relevant circumstances, and, amongst those circumstances,—
  - (a) to the state of the things in which the transferred interests subsisted at the date of their vesting in the Board ;
  - (b) to all relevant facts known at the time of the determination or review which were in existence on the primary vesting date, notwithstanding that any of them would not have been known at that date ;
  - (c) as respects prospects of utilisation of things in which the transferred interests subsisted, to competition from utilisation of other things ;
  - (d) as respects undergettings, short workings and similar matters, to the prospects of making them up that would have existed if this Act had not been passed ; and

- (e) to such other matters as may be prescribed.

#### **14 Regulations as to compensation proceedings.**

- (1) Provision may be made by regulations generally for giving effect to the provisions of this Act as to dealing with transferred interests for the purpose of compensation and the determination of the amounts of compensation to be made, and the regulations may in particular make provision—
  - (a) for regulating any matters relating to the practice and procedure to be followed in connection with the making of determinations by District Valuation Boards and reviews thereof by referees ;
  - (b) for the use, for the purposes of any proceedings to which they are parties, of the official name of a District Valuation Board, and for enabling any such proceedings to be begun or carried on notwithstanding any change or vacancy in their membership ;
  - (c) for rendering the right to compensation in respect of any compensation unit conditional on due and punctual compliance with provisions of the regulations ;
  - (d) for the mode of selection of a referee from the panel for the purposes of any particular review, and for giving effect to decisions of referees.
- (2) Before making regulations as to the practice and procedure of District Valuation Boards, the Minister shall consult the Central Valuation Board.
- (3) Determinations of the values of compensation units shall be certified to the Minister, and notified to persons concerned, in accordance with regulations made under this section, and provision shall be made thereby for the certification—
  - (a) of any coal industry value of a compensation unit separately from any value thereof for subsidiary purposes ; and
  - (b) of any value thereof for subsidiary purposes so far as attributable to stocks of products of colliery production activities or to consumable or spare stores within the meaning of the First Schedule to this Act separately from any such value thereof attributable to other matters.

#### **15 Payment by the Minister of costs of compensation proceedings.**

- (1) Provision shall be made by regulations for the payment by the Minister, subject to such conditions and limitations as may be prescribed, of costs incurred in, or in connection with, the ascertaining, verifying and recording of particulars of transferred interests, their arrangement in compensation units, the allocation of such units to valuation districts, and the valuation of such units.
- (2) The provision to be made under this section shall include provision for settling the amounts of the costs to be paid, and for determining questions arising in giving effect to the regulations.
- (3) Notwithstanding anything in this section, regulations made for the purposes of subsection (1) of the last preceding section may contain provision imposing liability for payment of costs on persons other than the Minister.
- (4) Provision may be made by regulations as to costs remaining payable to or by a District Valuation Board at its dissolution.



**16 Time limit for questioning regularity of compensation proceedings affecting coal industry value.**

(1) When the District Valuation Board for any valuation district have sent to the Minister certificates stated by them to cover all compensation units allocated to that district in respect of which compensation is to be made and which have any coal industry value, the Minister shall publish in one or more newspapers circulating in the district a notice to the effect that the certification for that district has been completed as to such units, and the notice shall specify a place where the certificates may be seen at all reasonable hours by any person claiming to be concerned.

(2) Subject to the subsequent provisions of this section, as from the expiration of six weeks from the date of publication as mentioned in the preceding subsection of the notice therein mentioned as to any valuation district,—

(a) the compensation units covered by the certificates relating to that district sent to the Minister before that date shall be deemed for the purposes of subsection (5) of section ten of this Act to be all the compensation units allocated to that district in respect of which compensation is to be made and which have any coal industry value ; and

(b) the amounts specified in those certificates respectively shall be deemed for those purposes to have been properly determined, certified and notified ;

and the propriety of satisfaction on the basis of those certificates of the compensation required by virtue of paragraph (a) of the said subsection (5) to be made in respect of compensation units allocated to that district shall not be questioned by prohibition or certiorari or in any other legal proceedings whatsoever.

(3) If, within six weeks from the date of publication as mentioned in subsection (1) of this section of the notice therein mentioned as to any valuation district, any person makes an application to the High Court complaining, on the ground that any requirement of this Act or of regulations made thereunder has not been complied with, either—

(a) of there being, in the case of some compensation unit allocated to that district, no certificate covering it amongst the certificates sent to the Minister before the said date ; or

(b) of any irregularity as to matters affecting the determination, certification or notification of an amount specified in a certificate covering a compensation unit allocated to that district which has been sent to the Minister before the said date ;

the Court may make any such interim order as appears to the Court to be requisite, and, if satisfied upon the hearing of the application that the interests of the applicant have been substantially prejudiced by reason of any requirement of this Act or of regulations made thereunder not having been complied with, may give any such directions as appear to the Court to be requisite for remedying the matter complained of and enabling the giving of a valid certificate as to any compensation unit allocated to the district in question in respect of which compensation ought to be made.

(4) No legal proceedings shall be taken to remedy any alleged non-compliance with any requirement of this Act, or of regulations made thereunder—

(a) as to the inclusion of a transferred interest in some compensation unit, or

(b) as to allocating a compensation unit to some valuation district,

unless the proceedings are commenced before such date as may be prescribed in that behalf for the purpose of enabling the determination of all the compensation units having a coal industry value which ought to be allocated to any valuation district to

be completed in time to prevent any delay in completing the certification of the values of such units for that district.

*Compensation for severance, and refunds of capital outlay.*

**17 Compensation for overhead expenses increase caused by severance.**

- (1) Compensation shall be made in respect of any increase in the proportion of the overhead expenses of the business of a company or other person having assets which included (but did not consist solely of) transferred interests to the volume of the business over which those expenses are spread, in so far as such increase is one due to the severance of those interests from the residue of those assets and not reasonably capable of being avoided or mitigated.
- (2) The amount of the compensation to be made under this section in the case of any business shall be determined by a District Valuation Board designated by the Minister, by reference to the extent of the loss sustained or likely to be sustained at any time during the five years beginning with the primary vesting date in consequence of such increase as aforesaid by the company or other person whose assets are severed, subject to provision to be made by regulations for review of such determinations by referees in such cases and in accordance with such provisions as may be prescribed.
- (3) The provisions of sections fourteen and fifteen of this Act shall apply with requisite modifications to the matters dealt with by the preceding provisions of this section, as they apply to transferred interests and compensation in respect of the transfer thereof.

**18 Refund of capital outlay made since 1st August, 1945.**

- (1) Apart from the compensation to be made under this Act, but subject to such adjustment as is mentioned in subsection (6) of this section, a payment (in this Act referred to as a " capital outlay refund ") shall be made to a colliery concern in a case in which the transferred interests of the concern include an interest in any thing mentioned in the First Schedule to this Act for the provision or improvement of which the concern has, in accordance with the authorisation given by the Minister in that behalf before the passing of this Act, incurred expense on capital account at any time between the first day of August, nineteen hundred and forty-five, and the date of the vesting of that interest in the Board.

In this subsection expense on capital account means expense not allowable as a deduction in computing the profits or gains of the concern for the purposes of the Income Tax Acts.

- (2) A capital outlay refund to be paid in respect of any expense incurred as aforesaid shall be of an amount equal to that expense :

Provided that, if the interest that vests in the Board is an interest in part only of the thing for the provision or improvement of which the expense was incurred, the refund shall be of an amount equal to so much of that expense as was attributable to that part.

- (3) A capital outlay refund shall be in the form of a payment in money made, by the Minister out of sums to be issued to him out of the Consolidated Fund (in this Act referred to as a " money payment ").

- (4) Any question arising between the Minister and a colliery concern whether expense was incurred by the concern as mentioned in subsection (1) of this section, as to the amount of any expense so incurred, or how much of it was attributable as mentioned in the proviso to subsection (2) of this section, shall be determined by arbitration under this Act.
- (5) This section shall be deemed to have come into operation on the first day of August, nineteen hundred and forty-five, and any payment made by the Minister to a colliery concern before the commencement of this Act for refunding expense incurred as mentioned in subsection (1) thereof shall be dealt with as if this section had been in operation at the time when the payment was made and the payment had been made on account of sums due or to become due to the concern thereunder with provision for repayment of any excess of payments so made over the amount of those sums.
- (6) In the application of section thirteen of this Act to a compensation unit which includes an interest of a colliery concern entitled to a capital outlay refund in respect of expense incurred on the provision or improvement of a thing in which that interest subsisted, that interest shall be treated as having a value less than would otherwise have been assigned to it for the purposes of that section by the amount of the refund.
- (7) The preceding provisions of this section shall apply in relation to a subsidiary within the meaning of the First Schedule to this Act of a colliery concern as it applies to such a concern, with the substitution for references to a colliery concern of references to such a subsidiary.

*Satisfaction and disposal of compensation.*

**19 Date when compensation is to be due, and right to interim income to date of satisfaction.**

- (1) Compensation in respect of a transfer of transferred interests or of an overhead expenses increase shall be due on the primary vesting date, subject to determination of the amount thereof.
- (2) For the period between the primary vesting date and the date on which any such compensation is fully satisfied, there shall be a right to interim income, to be satisfied in accordance with the provisions of section twenty-two of this Act.
- (3) Provision may be made by regulations for authorising the partial satisfaction of such compensation before the determination of the amount thereof has been completed.

**20 Recipients of compensation.**

- (1) The person legally entitled to the compensation in respect of a transfer of transferred interests shall be—
  - (a) where the compensation unit includes only transferred interests of a company, and none of those interests was subject to any charge or lien for securing money or money's worth from which it is freed by or by virtue of section five or six of this Act or to any other restriction, right or liability from which it is freed by virtue of regulations made under or by virtue of either of those sections, that company ;

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

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- (b) where the compensation unit includes only transferred interests of a person other than a company, and none of those interests was subject as aforesaid, that person ;
- (c) in other cases, such person as may be designated by regulations for the purpose of safeguarding the rights of persons entitled to beneficial rights in the compensation, and the regulations to be made for the purposes of this paragraph may, without prejudice to the generality thereof, designate, as the person to be legally entitled to the compensation in any such cases falling within this paragraph as may be prescribed, the proper officer of the prescribed court or a trustee or trustees appointed by the Minister:

Provided that, where paragraph (a) of this subsection would apply but for a transferred interest's being subject to a floating charge and the charge will attach to the compensation, the said paragraph (a) shall apply as if the interest had not been subject to the charge.

- (2) Where a compensation unit comprises any transferred interest of a person other than a company or person legally entitled to the compensation under paragraph (a) or (b) of the preceding subsection, or comprises any transferred interest that was subject (otherwise than as mentioned in the proviso to the preceding subsection) to a charge or lien from which it is freed by or by virtue of section five or six of this Act or to any other restriction, right or liability from which it is freed by virtue of regulations made under or by virtue of either of those sections, the compensation shall be held and disposed of in accordance with regulations to be made for securing that the persons whose beneficial interests are affected by the transfer or freeing shall be entitled to such beneficial rights in the compensation as may be appropriate to their respective interests.
- (3) The regulations to be made under the last preceding subsection shall include provision authorising or requiring the Board to make to a person beneficially interested in respect of a restriction, right or liability from which a transferred interest is freed as mentioned in that subsection, and which was of a value to him exceeding the amount of any participation of his in the compensation, a payment in respect of the excess.
- (4) The regulations to be made under section nine of this Act for ascertaining, verifying and recording particulars relating to ownership of the transferred interests, or the regulations to be made under subsection (2) of this section, may render conditional on due and punctual compliance with provisions of those regulations any right to take legal proceedings on the ground of any dealing with compensation in respect of a transfer of transferred interests—
  - (a) as respects the legal title thereto, otherwise than in accordance with subsection (1) of this section or regulations made under that subsection ; or
  - (b) as respects beneficial rights in any such compensation that falls to be dealt with under subsection (2) of this section, otherwise than in accordance with regulations made under that subsection.
- (5) The person entitled to compensation in respect of an overhead expenses increase shall be the company or other person whose assets are severed.

## **21 Mode of satisfaction of compensation.**

- (1) Compensation in respect of a transfer of transferred interests shall be satisfied by the issue of government stock (that is to say, stock the principal whereof and the interest whereon shall be charged on the Consolidated Fund), except that—

- (a) the compensation in respect of a compensation unit which comprises interests arising under a former freeholder's lease shall be satisfied by a money payment;
  - (b) so much of the compensation in respect of any compensation unit as is equal to the value of the unit so far as attributable to stocks of products of colliery production activities, or to consumable or spare stores within the meaning of the First Schedule to this Act, shall be satisfied by a money payment;
  - (c) provision may be made by regulations for the satisfaction of any such compensation in whole or in part by a money payment in other cases, being cases of a kind for which it appears to the Minister to be expedient to make special provision.
- (2) Compensation in respect of an overhead expenses increase shall be satisfied by the issue of government stock, subject to the power conferred by paragraph (c) of the preceding subsection in relation to compensation in respect of a transfer of transferred interests.
- (3) The amount of the government stock to be issued in satisfaction of any amount which is under this Act to be satisfied by the issue of such stock shall be such as, in the opinion of the Treasury, is of a value equal on the date of the issue to the amount to be satisfied, having due regard to market values of other government securities existing at such date.
- (4) The Treasury may by regulations make provision as to the procedure for the issuing of government stock in satisfaction as aforesaid, including provision as to evidence of the amount of stock to be issued in any case, and the person to whom it is to be issued, on which the Banks of England and Ireland respectively are to be authorised or required to act.
- (5) In this Act the expression " stock issued for compensation " means an amount of government stock issued in or towards satisfaction of any amount which is under this Act to be satisfied by the issue of such stock.

## **22 Interim income pending satisfaction of compensation.**

- (1) The right conferred by subsection (2) of section nineteen of this Act to interim income for the period between the primary vesting date and the date of the satisfaction in full of compensation in respect of a transfer of transferred interests, or of an overhead expenses increase, shall be satisfied in accordance with the provisions of this section.
- (2) Subject to the provisions of subsections (3) and (4) of this section as to the revenue payments therein mentioned,—
- (a) the said right conferred by subsection (2) of section nineteen of this Act shall be satisfied, so far as regards interim income for the period between the primary vesting date and the time when any amount of compensation in respect of a transfer of transferred interests or of an overhead expenses increase is satisfied, by making, in addition to the issue of the stock then issued in satisfaction of that amount of compensation or to the making of the money payment then made in satisfaction of that amount of compensation, as the case may be, a money payment of an amount equal to interest for that period on that amount of compensation at such rate or rates as may be prescribed as respects that period or different parts thereof by order of the Treasury ; and

- (b) the provisions of section twenty of this Act as to the legal and beneficial title to compensation shall have effect in relation to additions to compensation under this subsection, with the substitution for references therein to the compensation of references to the additions thereto.
- (3) The following provisions of this subsection shall have effect as to the making to colliery concerns, and to subsidiaries within the meaning of the First Schedule to this Act of such concerns, of payments in respect of each of the two years beginning with the primary vesting date and the first anniversary thereof respectively, that is to say,—
- (a) a colliery concern or such a subsidiary shall be entitled in respect of each of the said two years to a payment of an amount equal to one half of the comparable ascertained revenue of the concern, or of the subsidiary, as the case may be, attributable to activities thereof for which the transferred interests thereof were used or owned ;
- (b) the payments to be made under the last preceding paragraph are in this section referred to as " revenue payments ", and shall be money payments ;
- (c) for the purposes of paragraph (a) of this subsection a concern's or subsidiary's comparable ascertained revenue attributable to activities mentioned in that paragraph shall be taken to be either (as the concern or subsidiary may elect in accordance with regulations) the amount of its profits and gains so attributable, computed on income tax principles subject to such adaptations as may be prescribed, for its last complete accounting period before the first day of July in the year nineteen hundred and forty-six, or the average of the amounts of its profits and gains so attributable and computed for its two complete accounting periods last before the first day of July in the years nineteen hundred and forty-four and nineteen hundred and forty-five respectively (any such amount for any accounting period of more or less than twelve months being adjusted to a twelve months' equivalent thereof) :
- Provided that, if the amount of the profits and gains of a colliery concern attributable and computed as aforesaid for any such accounting period as aforesaid, so far as attributable to such of the activities mentioned in paragraph (a) of this subsection as were activities relevant to district wages ascertainment, is less than an amount equal to four pence per ton on the concern's output of coal disposable commercially for that period, those profits and gains shall be reckoned for the purposes of this subsection as if they had been of the latter amount;
- (d) any question arising under the last preceding paragraph as to what were the profits or gains of a concern or subsidiary, attributable and computed as therein mentioned, for any accounting period, shall be determined in such manner as may be prescribed; and any question arising thereunder as to what was a colliery concern's output of coal disposable commercially for any period shall be determined by reference to the quantities of coal shown by returns for that period certified and furnished to the Minister to have been gotten by the concern and to have been available for sale commercially.
- (4) The provision made by the last preceding subsection shall be deemed, in the case of any colliery concern or of any such subsidiary, to be in substitution for the provisions of subsection (2) of this section, so far as regards additions thereunder for the said two years or any part thereof to compensation for a transfer of transferred interests being compensation attributable to transferred interests of that concern or subsidiary, except as to any excess of the aggregate amount of such additions over the aggregate amount of the revenue payments of that concern or subsidiary.

- (5) The Minister may by regulations make such provision supplementary to or consequential on the provisions of this section as appears to him to be necessary or expedient, and in particular, but without prejudice to the generality of this subsection, provision may be made by regulations made thereunder for making adjustments requisite for giving effect to the last preceding subsection and for making good any underpayment or overpayment to a colliery concern or such a subsidiary which may occur in consequence of the making of additions or revenue payments under this section before all the facts relevant for giving effect to the last preceding subsection have become ascertainable.

### **23 Restrictions on disposal of stock issued for compensation of companies.**

- (1) Stock issued for compensation to a company legally entitled to the compensation by virtue of paragraph (a) of subsection (1) of section twenty of this Act, and any stock issued to the company in exchange therefor under subsection (4) of this section, shall be subject to restrictions as to the disposal thereof to the extent specified in this section.

- (2) Such stock may be disposed of—

- (a) at any time, by way of transfer to holders of debentures issued by the company in satisfaction of rights of theirs as such holders, or to members of the company in satisfaction of rights of theirs to a return of capital or to participation in surplus assets ;
- (b) when the company is being wound up, by way of sale, or in any other manner, for any purpose other than satisfying rights of holders of debentures issued by the company, or of members of the company, as such holders or members ;
- (c) when the company is not being wound up, by way of sale of so much of such stock as it may be requisite to sell for the purpose of satisfying rights of, or obligations of the company to, persons other than holders of debentures issued by the company as such or members of the company as such ;
- (d) when the company is not being wound up, by way of sale of so much of such stock as it may be shown to the satisfaction of the Treasury to be requisite to sell for the purpose of raising an amount of liquid capital which in the opinion of the company is needed for business of the company or of a subsidiary within the meaning of the First Schedule to this Act of the company, or in order to facilitate a development or extension of business to be carried on by the company or such a subsidiary thereof, and which apart from this section the company would be entitled to raise ;

and, when any such stock has been so disposed of, it shall be free from any restriction under this section.

- (3) Except as provided by the last preceding subsection, such stock shall not be sold or otherwise disposed of :

Provided that any illegality by virtue of this subsection of a disposal of stock shall not in anyway affect the title to that stock.

- (4) The Treasury may by regulations make provision—

- (a) for the issue of stock which on the issue thereof will be subject to restrictions under this section in the form of stock that is by the terms of issue thereof inalienable, so however that the regulations shall also provide for rendering any stock issued for compensation which is for the time being held in that form, and which is to be disposed of in accordance with subsection (2) of this

section, exchangeable for a like amount of government stock having in all other respects the like incidents as the inalienable stock, but transferable in the ordinary manner appropriate to government stock of the class in question, and the regulations shall also provide for rendering all such stock so exchangeable at a date to be fixed by the Treasury as being the date when the purposes of this section have been substantially satisfied ;

- (b) for arranging, where it is proposed to satisfy rights of holders of debentures issued by a company, or of members of a company, and to use for that purpose stock to be issued for compensation or stock to be issued in exchange under the preceding paragraph, for the issue thereof direct to them ;
  - (c) for rendering it obligatory on such holders or members to accept stock issued for compensation or stock issued in exchange under paragraph (a) of this subsection in satisfaction of rights which they would otherwise have as such holders or members to payments in cash, on the basis of the market value of the stock at the date of transfer or issue to them, subject to any provision for proceeding on the basis of its market value at an earlier date which may be requisite in connection with the making of arrangements for distribution amongst a number of persons or classes of persons.
- (5) The Treasury may by regulations make provision for the application of this section, subject to such adaptations as may be prescribed, to stock issued for compensation to which a company is not legally entitled as mentioned in subsection (1) of this section, but in which the company is entitled to beneficial rights.

## **24 Interim protection of persons having assets transferred against enforcement of liabilities.**

- (1) If, on application made to it by any company or other person, the tribunal to be established for the purposes of this section is satisfied—
- (a) that the applicant is an owner of transferred interests and that those transferred interests formed a substantial part of the applicant's resources ;
  - (b) that steps have been taken for the enforcement of a liability of the applicant to make a payment, or for the enforcement of a security upon property of the applicant, and that the taking of those steps is attributable to the passing of this Act or to matters arising in consequence thereof;
  - (c) that the applicant will be in a position, so far as can reasonably be foreseen, to meet his liabilities as they fall due, or in the case of liabilities arising in connection with transferred interests, on satisfaction of a right of his to compensation attributable to those interests or to interim income ; and
  - (d) that it will be for the benefit of the applicant and of the persons entitled to enforce liabilities of his, or to enforce securities upon his property, as a whole, that the enforcement thereof should be controlled ;

the tribunal may direct that the applicant shall be entitled to protection under this section.

- (2) Whilst a direction under this section is in force none of the rights or remedies for the exercise of which leave is required under section one of the Courts (Emergency Powers) Act, 1943, shall be exercised against the applicant or his property (whether or not that Act remains in force for the time being), except with the leave of the appropriate court within the meaning of that Act.



- (3) The tribunal may, at the time of giving a direction under this section or thereafter at any time whilst the direction remains in force, specify, and from time to time vary or revoke, conditions subject to which the direction is to operate for the time being (including, without prejudice to the generality of this provision, conditions requiring, or prohibiting, or limiting the amount of, payments to any particular creditors or class of creditors, or, where the applicant is a company, prohibiting, or limiting the amount of, dividends to be paid by the company), and on breach of any such condition the direction shall cease to be in force.
- (4) The tribunal may at any time revoke a direction under this section, and any such direction not previously revoked shall cease to be in force at the expiration of six months from the date when the compensation for the transferred interests of the applicant is fully satisfied.
- (5) The tribunal may, and shall if so required by the appropriate court, furnish for the assistance of that court on any application made to it for leave to exercise any of the rights or remedies mentioned in subsection (2) of this section a report of the tribunal's reasons for giving a direction under this section or for the imposition of conditions under subsection (3) of this section and generally as to the circumstances relevant to the direction.
- (6) Provision shall be made by regulations for the establishment of a tribunal for the purposes of this section, having as its chairman a barrister or solicitor of not less than seven years' standing, and having included amongst the members thereof an accountant having the prescribed qualifications and a person having wide experience in commercial or financial matters, and the regulations may, without prejudice to the generality of this subsection, include provision—
  - (a) for the charging of fees for meeting the cost of remuneration or allowances to members of the tribunal and its expenses;
  - (b) for regulating any matters relating to the practice and procedure of the tribunal, including provision as to parties and their representation ;
  - (c) for awarding costs of proceedings before the tribunal, determining the amount thereof and the enforcement of awards thereof ;and, subject to the provisions of any such regulations, the tribunal shall have power to regulate its own procedure.

**25 Adjustments as between classes of debenture and shareholders of companies having assets transferred.**

- (1) Provision shall be made by regulations for due regard being had, as between classes of debenture holders, or of members, or of both, of a company being an owner of transferred interests, to what their relative expectations of income yield from their respective interests in the company would have been if this Act had not been passed, and for that purpose the regulations shall provide facilities for adjusting the respective interests of such classes in the company's assets as affected by the substitution of the compensation under this Act for the transferred interests of the company so as to give effect, so far as may be, on the one hand to the said expectations and on the other hand to the rights of priority conferred on such classes respectively by the debentures and the memorandum and articles of association of the company.
- (2) The said provision shall include facilities for the taking effect of schemes for such adjustment if assented to within a prescribed period by such majorities as may be prescribed, on the basis of subsection (2) of section one hundred and fifty-three of

the Companies Act, 1929, of the members of each of the classes concerned and either not objected to by any member of a class concerned or, if so objected to, approved by a tribunal to be established under the regulations, and in default of schemes so taking effect, for the giving of directions for such adjustment by the tribunal to be so established on application as may be prescribed of the company or of members of a class concerned.

- (3) Subsection (6) of the last preceding section shall have effect in relation to the tribunal to be established for the purposes of this section.

*Financial provisions.*

**26 Advances by the Minister to the Board.**

For the purpose of enabling the Board to defray expenditure properly chargeable to capital account, including the provision of working capital, the Minister may make advances to the Board of sums not exceeding in the aggregate—

- (a) in the case of sums advanced at any time within five years from the commencement of this Act, one hundred and fifty million pounds ;
- (b) in the case of sums advanced during any subsequent period, such amount as Parliament may hereafter determine.

**27 Temporary borrowing powers of the Board.**

The Board may, with the consent of the Minister, or in accordance with the terms of any general authority given by him, borrow temporarily by way of overdraft or otherwise such sums as they may require for meeting their obligations and discharging their functions under this Act :

Provided that the aggregate of amounts outstanding in respect of sums so borrowed shall not at any time exceed ten million pounds.

**28 Payments to the Minister by the Board.**

- (1) The Board shall make to the Minister, at such times and in such manner as he may, with the approval of the Treasury, direct,—
- (a) payments, of such amounts as he may so direct, by way of recouping the Crown expenses and liabilities incurred by virtue of the provisions of sections ten, seventeen, eighteen, twenty-two, thirty-two and forty-four of this Act;
  - (b) payments of interest on advances to the Board under section twenty-six of this Act as such rate as he may so direct, and payments, of such amounts as he may so direct, in or towards repayment of such advances.
- (2) Sums received by the Minister under this section shall be paid into the Exchequer, and shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say,—
- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit;
  - (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this provision, have fallen to be paid out of the permanent annual charge for the National Debt.

- (3) The Minister shall lay before each House of Parliament a statement of any payments due from the Board under this section which are not duly paid to him as required thereunder.

**29 Reserve fund of the Board.**

- (1) The Board shall establish a reserve fund.
- (2) The management of the said fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Board may determine :

Provided that—

- (a) no part of the said fund shall be applied otherwise than for purposes of the Board ; and
- (b) the power of the Minister to give directions to the Board shall extend to the giving to them, with the approval of the Treasury, of directions as to any matter relating to the establishment or management of the said fund, the carrying of sums to the credit thereof, or the application thereof, notwithstanding that the directions may be of a specific character.

**30 Application of surplus revenues of the Board.**

Any excess of the Board's revenues for any financial year of the Board over their outgoings for that year properly chargeable to revenue account (including, without prejudice to the generality of that expression, provisions in respect of their obligations under the two last preceding sections) shall be applied for such purposes as the Board may determine :

Provided that—

- (a) no part of any such excess shall be applied otherwise than for purposes of the Board ; and
- (b) the power of the Minister to give directions to the Board shall extend to the giving to them, with the approval of the Treasury, of directions as to the application of any such excess, notwithstanding that the directions may be of a specific character.

**31 Board's accounts and audit thereof.**

- (1) The Board shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year of the Board a statement of accounts in such form as the Minister may direct, being a form which shall conform with the best commercial standards and which shall distinguish the colliery activities and each of the main ancillary activities of the Board.
- (2) The accounts of the Board shall be audited by auditors to be appointed annually by the Minister.
- (3) So soon as the accounts of the Board have been audited, they shall send a copy of the statement of accounts referred to in subsection (1) of this section to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Board.

- (4) The Minister shall lay a copy of every such statement and report before each House of Parliament.

### **32 Issue of stock in exchange for Coal Commission Stock.**

- (1) The Treasury shall have power to issue to the National Debt Commissioners such an amount of government stock of such value on the date of issue thereof as is requisite for fulfilling any agreement made between them for the exchange of Coal Commission Stock for stock of His Majesty's Government in the United Kingdom.
- (2) The Treasury may cancel any Coal Commission Stock surrendered to them in pursuance of any such agreement.

### **33 General provisions as to stock.**

- (1) Stock issued for compensation, stock issued in exchange under subsection (4) of section twenty-three of this Act, and stock issued for the purposes of the exchange provided for by the last preceding section, shall bear such rate of interest, and be subject to such conditions as to repayment, redemption and other matters (including provision for a sinking fund), as the Treasury may determine.
- (2) Any expenses incurred in connection with the issue or repayment of such stock shall be charged on and issued out of the Consolidated Fund.
- (3) The Treasury may, for the purpose of providing any sums required by them in order to redeem such stock, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act.
- (4) Interest on such stock shall be paid out of the permanent annual charge for the National Debt.
- (5) There shall be paid to the Banks of England and Ireland respectively, out of the Consolidated Fund, such sum in respect of the management of such stock in any financial year as may be agreed upon between the Treasury and those Banks respectively.
- (6) Section forty-seven of the Finance Act, 1942 (which empowers the Treasury to make regulations as respects the transfer and registration of stock and registered bonds of the descriptions specified in Part I of the Eleventh Schedule to that Act), and any regulations made under that section which are in force immediately before the passing of this Act, shall have effect as if such stock (other than inalienable stock) were included among the stocks mentioned in the said Part I and among the stocks to which the said regulations apply.
- (7) Such stock shall be subject to the provisions of the National Debt Act, 1870, so far as is consistent with the tenor of this Act.
- (8) Paragraphs 3, 4 and 5 of the Second Schedule to the National Loans Act, 1939 (which applies certain enactments to securities issued under that Act), shall have effect as if references to securities so issued included references to such stock.

**34 Issues out of the Consolidated Fund for money payments and for advances to the Board.**

- (1) The Treasury may issue to the Minister out of the Consolidated Fund such sums as are necessary to enable him to make money payments, and advances to the Board, under this Act.
- (2) For the purpose of providing sums (or any part of sums) to be issued under the preceding subsection, or of providing for the replacement of all or any part of sums so issued, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act.

**35 Account of Minister's receipts.**

- (1) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct, an account of sums received by him under section twenty-eight of this Act, and of sums issued to and received by him under subsection (1) of the last preceding section, and of the disposal by him of those sums respectively.
- (2) Any account prepared under this section shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before each House of Parliament.

*Savings, and provisions consequential on nationalisation.*

**36 Savings as to certain coal, etc..**

- (1) Paragraph (a) of subsection (1) of section one of this Act shall not render unlawful the digging or carrying away of coal that is necessary to be dug or carried away in the course of activities other than colliery activities, and interests of persons other than the Coal Commission in any such coal, or in a mine of coal used immediately before the primary vesting date exclusively or mainly in the course of such other activities, shall be excepted from the vesting provided for by section five of this Act.
- (2) A licence may be granted by the Board, either unconditionally or subject to any conditions specified in the licence, and either irrevocably or subject to revocation as therein specified, for the working and getting of—
  - (a) coal comprised in a mine within the meaning of the Coal Mines Act, 1911, with respect to which the Board are satisfied that the number of persons to be employed therein below ground is at no time likely to exceed, or greatly to exceed, thirty ; or
  - (b) coal present amongst other minerals that appears to the Board to be of so small value that the working thereof is unlikely to be undertaken otherwise than as ancillary to the working of those other minerals ;

and paragraph (a) of subsection (1) of section one of this Act shall not render unlawful any working or getting of coal for which a licence is in force under this subsection in accordance with the terms of the licence.

- (3) A licence under the last preceding subsection may be granted either generally or with effect only as to working and getting by a particular person or as to particular coal or subject to other limitations, and the conditions which may be specified in such a licence may include (without prejudice to the generality of the power to impose conditions conferred by that subsection) conditions requiring the rendering of a payment in the nature of rent and conditions for controlling the sale or supply of coal gotten as respects price, the person to whom it may be sold or supplied, or other matters.
- (4) Nothing in this Act shall affect any power exercisable by virtue of any of the Defence (General) Regulations, 1939.

### **37 Provisions as to superannuation, etc., rights.**

- (1) Regulations shall be made for all or any of the following purposes relating to pensions, gratuities and other like benefits, that is to say,—
- (a) for providing for such benefits in favour of persons who have been in the Board's employment, or in favour of other persons by reference to the employment of such persons ;
  - (b) for providing for such benefits in favour of persons who have been in employment in or in connection with coal industry activities or transferred allied activities but have not been taken into the service of the Board, or in favour of other persons by reference to the employment of such persons ;
  - (c) for the establishment and administration of schemes or other arrangements and of funds for the purposes of the preceding paragraphs, for the continuance, amendment or revocation of existing schemes or other arrangements relating to the like purposes (whether subsisting by virtue of trust, contract or otherwise) and of trust deeds, rules or other instruments made for the purposes thereof, for the transfer in whole or in part or extinguishment of liabilities under any such existing schemes or arrangements, and for the transfer in whole or in part, or winding up, of funds held for the purposes of any such existing schemes or arrangements, so however that nothing in this paragraph shall be construed as authorising diversion of any such funds to purposes other than those of the preceding paragraphs.
- (2) In the case of persons, whether taken into the service of the Board or not, who have been in employment in or in connection with coal industry activities or transferred allied activities before the primary or other relevant vesting date, the regulations to be made for the purposes of the preceding subsection shall be so framed as to secure that, where either—
- (a) a right to, or an expectation of accrue (whether as of right or under customary practice) of, any particular benefits in favour of any such person, or in favour of another person by reference to his employment, ceases or is prejudiced by reason of his ceasing in consequence of the passing of this Act to be employed by his previous employer or to be employed in the activities aforesaid, or
  - (b) any such person has retired from employment as aforesaid before the primary or other relevant vesting date, and he, or another person by reference to his employment, has been in receipt of benefits granted in respect of his employment, whether as of right or under customary practice,
- the same benefits, or substituted benefits not less advantageous, shall be provided for under the regulations :

Provided that this subsection shall have effect subject to such limitations as may be prescribed for meeting cases in which any such rights, expectations or benefits may have been created or granted, otherwise than in the ordinary course, in connection with any provision made by this Act or with any anticipation of the making of any such provision.

- (3) Regulations made for the purposes of this section may be made so as to have effect from a date earlier than that on which they are made.
- (4) Liabilities (whether of obligation or under customary practice) in relation to pensions, gratuities and other like benefits, of a kind subsisting under such existing schemes or arrangements as aforesaid in connection with the carrying on of any coal industry activities or transferred allied activities, shall be taken into account in the valuation of compensation units comprising transferred interests owned, or in things used, for such activities, and the amount referred to in subsection (4) of section thirteen of this Act which a compensation unit might have been expected to realise on the assumed sale therein referred to shall be estimated on the basis that the purchaser would be in the like position as the owner of the transferred interests comprised in the unit as respects such liabilities and as respects resort to any transferred funds held for the purposes of such existing schemes or arrangements.

### **38 Transfer to the Board of property and functions of the Coal Commission, other than interests in coal.**

- (1) On the primary vesting date these shall vest in the Board, by virtue of this subsection and without further assurance,—
  - (a) all interests of the Coal Commission not vested in the Board by virtue of section five of this Act in land or other fixed property within the meaning of the First Schedule to this Act, and all interests of theirs in movable property within the meaning of that Schedule ; and
  - (b) the property in, and the right to possession of, all records and other documents the property in which and the right to possession of which are vested in the Coal Commission by subsection (2) of section fourteen of the Coal Act, 1938.
- (2) As from the primary vesting date, a contract to which the Coal Commission is a party shall have effect in favour of and against the Board as if the Board had been a party thereto instead of the Commission.
- (3) On the primary vesting date there shall be transferred to the Board all the functions of the Coal Commission—
  - (a) under the Coal (Registration of Ownership) Act, 1937, with respect to the payment of costs incurred in giving effect to the provisions of that Act, and
  - (b) under the Coal Act, 1938, with respect to the payment of compensation in respect of holdings within the meaning of that Act, apportionments provided for by section eleven of that Act consequent on severance of interests, and the payment of costs required by that Act to be paid by them,

and accordingly, as from that date, references to the Coal Commission in subsection (6) of section one of, and Part II of the Second Schedule to, the said Act of 1937, and in the following provisions of the said Act of 1938, namely, sections six, seven and eleven, subsection (1) of section fourteen, section thirty-nine, Parts III, IV and V of the Third Schedule and paragraph 6 of the Fifth Schedule shall, so far only as may be

necessary in consequence of the transfer of those functions, be construed as references to the Board.

- (4) At such time as the Treasury direct the Coal Commission's reserve fund shall be wound up and the investments and cash of which it consists shall be transferred by the Commission to the Board, who shall carry them to the credit of the reserve fund established by them under section twenty-nine of this Act.
- (5) The Minister may by order dissolve the Coal Commission, and any such order may contain such incidental or supplementary provisions as appear to the Minister to be necessary or expedient in connection with or in consequence of the dissolution.

### **39 Abolition of coal advisory committee under 10 & 11 Geo. 5, c. 50. s. 4.**

On the primary vesting date section four of the Mining Industry Act, 1920, shall cease to have effect in so far as it requires the Minister to appoint a committee for the purpose of giving him advice and assistance on matters connected with his powers and duties under that Act relating to coal and the coal industry.

### **40 Provisions as to the Miners' Welfare Commission.**

- (1) The Miners' Welfare Commission (in this section referred to as " the Commission ") shall, instead of consisting of ten persons appointed by the Minister as provided by subsection (1) of section two of the Mining Industry (Welfare Fund) Act, 1939, consist of a chairman and nine other members appointed by the Minister, and all persons who hold office as members of the Commission at the commencement of this Act shall vacate office, without prejudice however to their eligibility, for reappointment under this section.
- (2) If the Minister is satisfied that a member of the Commission is unable or unfit to discharge all or any of the functions of a member, the Minister may declare his office as a member of the Commission to be vacant and shall notify the fact in such manner as the Minister thinks fit, and thereupon his office shall become vacant.
- (3) The power of the Commission, under sub-paragraph (ii) of paragraph (b) of subsection (4) of the said section two, to pay out of the Miners' Welfare Fund to the officers, agents and servants of the Commission salaries and remuneration, and, on the retirement or death of any of them, pensions and gratuities to them or their personal representatives or to their dependants, shall be exercised subject to the approval of the Minister.
- (4) No sum shall be appropriated by the Commission under paragraph (b) of subsection (2) of section three of the Mining Industry (Welfare Fund) Act, 1934, for the purpose of promoting research into methods of improving the health and safety of workers in or about coal mines out of sums paid into the Miners' Welfare Fund under subsection (2) of section twenty of the Mining Industry Act, 1920, as respects the output of coal mines during the year nineteen hundred and forty-six or any subsequent year.
- (5) The Commission shall have power to act as agent Of the Board with respect to any matter relating to the health or welfare of persons in the employment of the Board notwithstanding any limitation or restriction imposed by the Mining Industry Acts, 1920 to 1943 :



Provided that nothing in this subsection shall be construed as empowering the Commission to appropriate sums standing to the credit of the Miners' Welfare Fund otherwise than in accordance with the provisions of those Acts.

- (6) The Minister may give to the Commission directions of a general character with respect to the exercise and performance of their functions, and the Commission shall give effect to any such directions.

#### **41 Power to vary trusts of property provided out of the Miners' Welfare Fund.**

- (1) Where trusts have been declared on which property representing an application of money standing to the credit of the Miners' Welfare Fund is to be held, and it appears to the Minister that purposes specified in subsection (1) of section twenty of the Mining Industry Act, 1920, would be better secured by a variation of the trusts, either as respects that property or as respects other property held on the same trusts or both, he may, subject to the provisions of this section, make provision for that variation by an order made by him.
- (2) The Minister shall not make an order under this section as respects any property until he is satisfied that the substance of the proposed variation has been put before a meeting open to all persons for whose benefit in particular that property is held under the subsisting trusts and has been approved by a majority of such of those persons as were present at the meeting.
- (3) Trusts as varied by an order under this section may be varied by a subsequent order made thereunder.
- (4) Subsection (4) of section twenty-nine of the Settled Land Act, 1925 (which relates to the sending to the Charity Commissioners, for record, of assurances of land to charitable uses) shall apply to an order under this section that relates to land, or to personal estate to be laid out in the purchase of land, as it applies to the instruments mentioned in that subsection.

#### **42 Duty of the Minister to prosecute safety and health research, and winding up of research endowment fund.**

- (1) It shall be the duty of the Minister to secure the prosecution of research into methods of advancing the safety and promoting the health of persons employed in or about coal mines, either by himself engaging therein or by assisting others to engage therein, or partly in the one way and partly in the other.
- (2) Any expenses incurred by the Minister under the preceding subsection shall be defrayed out of moneys provided by Parliament.
- (3) The trust declared by a deed executed on the nineteenth day of April, nineteen hundred and twenty-six, by Ernest Arthur Gowers, Permanent Under-Secretary for Mines, and Ernest Julian Foley, Senior Assistant Under-Secretary, both of the Mines Department of the Board of Trade, to apply the income of the Mining Research (Safety and Health) Endowment Fund in or towards defraying the expenses of and incidental to the work of research into the causes of mining dangers (including dangers to health) and the means for preventing such dangers carried on under the direction of the Safety in Mines Research Board, shall be determined, and—
  - (a) all property subject to the trust, and all property held by the trustees together with such property, shall, by virtue of this paragraph, vest in the Minister ;

- (b) the Minister shall, at such time as the Treasury direct, sell and convert into money so much of the property so vesting as does not consist of cash, and shall pay into the Exchequer the proceeds of sale and so much of the property so vesting as consists of cash ; and
  - (c) the Minister shall pay into the Exchequer income of the property so vesting which accrues before the sale thereof under the last preceding paragraph.
- (4) As respects an amount of stock of any description vested in the Minister by virtue of the last preceding subsection, the Bank of England shall make, in the register relating to stock of that description kept by them under the Government Stock Regulations, 1943, such alterations as are requisite in consequence of the enactment of paragraph (a) of that subsection.

#### **43 Amendments of working facilities enactments.**

- (1) As from the primary vesting date, no order shall be made under section two of the Mines (Working Facilities and Support) Act, 1923 (which relates to the granting of rights in the case of a failure or refusal of lessors of mines within the meaning of that Act to concur in an adjustment of boundaries) on the ground of any failure or refusal on the part of the Board.
- (2) As from the primary vesting date, no application made with respect to coal under subsection (2) of section thirteen of the Mining Industry Act, 1926 (which enables the Railway and Canal Commission to grant a right to work coal and certain other minerals freed from restrictions contained in a mining lease within the meaning of the Mines (Working Facilities and Support) Act, 1923, or otherwise binding on the person entitled to work them, or to work coal and certain other minerals on other terms and conditions), being an application made otherwise than by the Board, shall be referred by the Minister to the Railway and Canal Commission unless the Board have given notice in writing to the Minister that they have no power to grant the right, or any of the rights, for which the application is made.
- (3) As from the primary vesting date, subsection (2) of section ten of the Mines (Working Facilities and Support) Act, 1923 (which requires the Minister and any other Government Department and the Coal Commission to give to the Railway and Canal Commission such assistance as that Commission may require for the purposes of their duties under Part I of that Act) shall have effect with the substitution, for the words " The Minister of Fuel and Power and any other Government Department and the Coal Commission ", of the words " The Minister of Fuel and Power and any other Government Department and the National Coal Board ".
- (4) A right to search and bore for coal may be conferred on the Board under, and in accordance with the provisions of, Part I of the Mines (Working Facilities and Support) Act, 1923, and accordingly sections four, five, six and nine of that Act shall have effect as if references therein to working minerals (other than such references in subsection (2) of the said section five) included references to searching and boring for coal.

#### **44 Winding-up of coal-selling schemes, and of S. Yorks. Mines Drainage Committee.**

- (1) The provisions of Part I of the Third Schedule to this Act shall have effect with respect to the vesting in the Board of assets of bodies administering schemes under Part I

of the Coal Mines Act, 1930, the making of compensation in respect of the vesting of such assets in the Board, the effect of such contracts to which any such body or a selling agent appointed by any such body is a party as are mentioned in that Part of that Schedule, the winding up of the affairs of those bodies and the consequential matters therein mentioned.

- (2) The provisions of Part II of the Third Schedule to this Act shall have effect with respect to the vesting in the Board of assets, rights and liabilities of the South Yorkshire Mines Drainage Committee constituted by the South Yorkshire Mines Drainage Scheme, 1929, made under section eighteen of the Mining Industry Act, 1920, the dissolution of that Committee and the transitional matters mentioned in that Part of that Schedule.
- (3) The provisions of Part III of the Third Schedule to this Act shall have effect for the purpose of supplementing the provisions of Parts I and II thereof.

**45 Provisions as to Doncaster Drainage District and certain dock, etc., undertakings.**

- (1) His Majesty may by Order in Council make such provision as appears to him to be requisite or expedient, in consequence of the passing of this Act, for—
  - (a) modifying or discharging rights conferred and obligations imposed by the Doncaster Area Drainage Act, 1929, or the Doncaster Area Drainage Act, 1933, on mine-owners working or proposing to work minerals under any lands situated within the Doncaster Drainage District or on the Catchment Board of the River Ouse (Yorks) Catchment Area or the Catchment Board of the River Trent Catchment Area, or for substituting other rights and obligations in lieu of all or any of the rights and obligations so conferred and imposed ;
  - (b) varying the constitutions of the said Catchment Boards.
- (2) His Majesty may by Order in Council make such provision as appears to him to be requisite or expedient, in consequence of the passing of this Act, with respect to the Blyth Harbour Commissioners, the Upper Mersey Navigation Commissioners, the Commissioners of the Port or Harbour of Newport and the Tyne Improvement Commission, and any other body carrying on a dock, harbour, canal or inland navigation undertaking under authorisation conferred by an Act or by an order or scheme made under, or confirmed by, an Act, being an Act, or an order or scheme, as the case may be, which provides for the representation on the body of the interests of persons of a class of which the Board are members.
- (3) An Order in Council under either of the preceding subsections may make provision for any incidental or supplementary matters for which it appears to His Majesty in Council to be requisite or expedient for the purposes of the Order to provide, and for any requisite amendment or repeal (in the case of an Order under subsection (1)) of any provision of the Doncaster Area Drainage Act, 1929, or the Doncaster Area Drainage Act, 1933, and (in the case of an Order under subsection (2)) of any provision of any Act, order or scheme regulating the constitution of any such body as is mentioned in that subsection.
- (4) The draft of any Order in Council proposed to be made under subsection (1) or (2) of this section shall not be submitted to His Majesty until it has lain before each House of Parliament for a period of forty days, and if within that period either House of Parliament resolves that the draft be not submitted to His Majesty, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.

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

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In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (5) An Order in Council under subsection (1) or (2) of this section may be varied or revoked by a subsequent Order in Council thereunder.

*Miscellaneous provisions as to the Board.*

**46 Duty of the Board as to establishment of machinery for settlement of terms and conditions of employment, etc..**

- (1) It shall be the duty of the Board to enter into consultation with organisations appearing to them to represent substantial proportions of the persons in the employment of the Board, or of any class of such persons, as to the Board's concluding with those organisations agreements providing for the establishment and maintenance of joint machinery for—
- (a) the settlement by negotiation of terms and conditions of employment, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements; and
  - (b) consultation on—
    - (i) questions relating to the safety, health or welfare of such persons ;
    - (ii) the organisation and conduct of the operations in which such persons are employed and other matters of mutual interest to the Board and such persons arising out of the exercise and performance by the Board of their functions.
- (2) The Board shall deposit with the Minister and the Minister of Labour and National Service copies of any such agreement as aforesaid entered into by the Board and of any instrument varying the terms of any such agreement.

**47 Board not to be exempt from taxation, etc..**

Nothing in this Act shall be deemed to exempt the Board from liability for any tax, duty, rate, levy, or other charge whatsoever, whether general or local.

**48 Transfer of liability for subsidence from colliery concerns to the Board.**

- (1) Liabilities to which, apart from this section, colliery concerns would be subject either—
- (a) for breaches of rights of support, being breaches arising from acts or omissions done or occurring in the course of colliery activities, or
  - (b) to pay compensation for, or to make good, by virtue of terms or conditions on or subject to which rights to withdraw support are exercisable, damage arising from acts or omissions so done or occurring, or
  - (c) to contribute, under section seventy-nine A of the provisions substituted by Part II of the Mines (Working Facilities and Support) Act, 1923, for sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, towards expenses properly incurred by a railway company in making good damage so arising,

shall, in any case where the cause of action in respect of the breach of the right of support accrues, or the damage to be compensated or made good by virtue of the said terms or conditions arises, or the execution by the railway company of works for making good the damage is begun, as the case may be, on or after the primary vesting date, be enforceable against the Board as if the acts or omissions in question had been those of the Board and not of those concerns.

- (2) The Board shall indemnify colliery concerns against expense reasonably incurred by them in disposing of claims in respect of such liabilities as are mentioned in the preceding subsection but are not thereby rendered enforceable against the Board, being expense falling due for discharge on or after the primary vesting date:

Provided that provision may be made by regulations for rendering the right to indemnity under this subsection subject to conditions as to the giving of notices of claims and the furnishing of information with respect thereto, the making of settlements, payments or admissions, the conduct and control of the defence in proceedings, subrogation, and such other matters as may be prescribed, and such conditions may extend to things done or omitted before the date on which the regulations are made.

#### **49 Provisions as to liability of the Board in actions, etc..**

- (1) The Public Authorities Protection Act, 1893, and section twenty-one of the Limitation Act, 1939, shall not apply to any action, prosecution or proceeding against the Board, or for or in respect of any act, neglect or default done or committed by a servant or agent of the Board in his capacity as a servant or agent of theirs.
- (2) In their application to any such action as aforesaid sections two and three of the Limitation Act, 1939 (which relate to the limitation of actions of contract and tort, and certain other actions) shall have effect with the substitution for references therein to six years of references to three years.
- (3) No right adverse to the title of the Board to any coal or mine of coal shall be capable of being acquired under the Limitation Act, 1939.
- (4) For the avoidance of doubt it is hereby declared that the authorisations conferred on the Board by section one of this Act, whilst discharging them in the exercise and performance of the functions therein mentioned from limitations to which they might otherwise have been subject arising from the law relating to the capacity of statutory corporations, are not to be construed as authorising disregard of any enactment or any act or omission unlawful on any other ground.

#### **50 The Board not to be required to insure against workmen's compensation liabilities.**

Section one of the Workmen's Compensation (Coal Mines) Act, 1934 (which prohibits the owner of a coal mine from employing workmen for the purposes of the undertaking carried on at that mine unless there is in force either a contract of insurance insuring him against all liability under the Workmen's Compensation Act, 1925, in respect of the employment of workmen by him or any other person for those purposes or a compensation trust for securing the discharge of all his liability as aforesaid) shall not apply to the Board.

**51 Documents of the Board to be public records.**

- (1) Documents belonging to the Board shall be deemed, for the purposes of the Public Record Office Acts, 1838 to 1898, to be public records under the charge and superintendence of the Master of the Rolls.
- (2) The power conferred on the Master of the Rolls by section one of the Public Record Office Act, 1877, to make rules respecting the disposal of documents which are deposited in or can be removed to the Public Record Office, shall, in relation to documents belonging to the Board, be exercisable subject to the approval of the chairman of the Board in addition to that of the Treasury.

**52 Right to inspection and copies of the Board's plans of workings.**

Plans in the possession of the Board of workings of coal shall be open during usual business hours to the inspection of any person on payment of such fee as may be prescribed, and any person shall, on payment of such fee as may be prescribed, be entitled to be furnished by the Board with a copy of, or of any part of, any such plan.

**53 Availability of transferred documents and staff for compensation proceedings and windings-up.**

It shall be the duty of the Board—

- (a) to afford, without payment, to a person who had an interest in things in which transferred interests subsisted, such facilities as he may reasonably require, in prosecuting any claim of his to compensation under this Act or winding up affairs of his in consequence of the passing of this Act, for the examination of, and the taking of copies of or extracts from, documents relating to the title to, or to the management of, those things, being documents the property in which, and the right to possession of which, have vested in the Board by virtue of paragraph (f) of subsection (7) of section five of this Act ; and
- (b) so far as may be reasonably necessary in order to enable that person effectually to avail himself of the right conferred by the preceding paragraph and to prosecute his claim or wind up affairs of his as aforesaid, to enter into arrangements for his having, for such period as may be reasonably necessary for that purpose, the services of any person in the employment of the Board who has been in the employment of the first-mentioned person.

**54 Annual report of the Board.**

- (1) The Board shall, as soon as possible after the end of each financial year of the Board make to the Minister a report on the exercise and performance by them of their functions during that year and on their policy and programmes, and the Minister shall lay a copy of every such report before each House of Parliament.
- (2) The report for any year shall set out any direction given by the Minister to the Board during that year unless the Minister has notified to the Board his opinion that it is against the national interest so to do.

*General.*

**55 Payment of certain expenses of the Minister out of moneys provided by Parliament.**

There shall be paid out of moneys provided by Parliament any expenses incurred by the Minister in—

- (a) the payment of remuneration, allowances, expenses and costs which he is required to pay by virtue of subsection (6) of section four and subsection (7) of section twelve of this Act ;
- (b) the payment of costs which he is required to pay by virtue of section fifteen of this Act;
- (c) defraying any expenses incurred by him with the consent of the Treasury in connection with reviews by referees of determinations of District Valuation Boards ;
- (d) the payment of any costs failing to be borne by him of any proceedings under this Act in which he appears before a court, a District Valuation Board, a referee, an arbitrator, or accountants employed for the purposes of determinations under subsection (4) of section eleven of this Act.

**56 Restriction on disclosure of information.**

- (1) No information relating to any individual business, being information which has been obtained by, or on behalf of, any person for the purposes of functions of his under this Act, shall, without the previous consent in writing of the owner for the time being of that business, be published or disclosed otherwise than in connection with the execution, or for the purposes of, this Act or of any regulation having effect by virtue of this Act.
- (2) Nothing in the preceding subsection shall apply to any publication or disclosure of any information made for the purposes of any legal proceedings (including arbitrations) pursuant to this Act, or of any criminal proceedings which may be taken whether pursuant to this Act or otherwise, or for the purposes of any report of any such proceedings as aforesaid.
- (3) If any person publishes or discloses any information in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

**57 Use for purposes of this Act of information obtained under Coal Act, 1938.**

Section fifty-three of the Coal Act, 1938 (which prohibits, subject to certain exceptions, the disclosure of information obtained by virtue of section fourteen of that Act) shall not apply to a disclosure of information made in connection with the execution, or for the purposes of, this Act or of any regulation having effect by virtue of this Act.

**58 Penalties for giving false information, etc..**

If any person—

- (a) being required under regulations made under this Act to produce any document, or without being so required but for the purpose of obtaining for himself or any other person any compensation, interim income or capital outlay refund under this Act, with intent to deceive produces any document which he knows to be false in a material particular ; or
- (b) being required under regulations so made to furnish any information, or without being so required but for the purpose aforesaid, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular;

he shall be guilty of an offence and liable on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

**59 Provisions as to prosecutions, and as to offences by corporations.**

- (1) Proceedings for an offence against this Act or regulations made thereunder shall not, in England, be instituted except by or with the consent of the Minister or by the Director of Public Prosecutions.
- (2) Where an offence against this Act or regulations made thereunder has been committed by a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

**60 Service of notices, etc..**

Any notice or other document required or authorised to be given, made, delivered or served under this Act or regulations made thereunder may be given, made, delivered or served either—

- (a) by delivering it to the person to whom it is to be given, made or delivered, or on whom it is to be served; or
- (b) by leaving it at the usual or last known place of abode of that person ; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode ; or
- (d) in the case of an incorporated company or body, the Central Valuation Board or a District Valuation Board, by delivering it to the secretary or clerk of the company, body or Board at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company, body or Board at that office ; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person to whom it should be given, made or delivered, or on whom it should be served, as being a person having any interest in land, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates, and delivering it to some person on the



premises or, if there is no person on the premises to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part of the premises.

## **61 Arbitration under this Act.**

- (1) For the purposes of the determination of any question as to which this Act or any regulation made thereunder provides that it is to be determined by arbitration under this Act, a panel of persons to act as arbitrators shall be appointed by the Lord Chancellor, and the Lord Chancellor shall nominate two members of the panel as chairman thereof and as deputy chairman respectively.
- (2) Any such question as aforesaid shall be determined by the arbitration of such member of the panel as the chairman, or, in the event of the chairman's being temporarily absent or unable to act, the deputy chairman, may select,

## **62 Provisions as to regulations.**

- (1) Regulations made (whether by the Minister or by the Treasury) for the purposes of any provision of this Act (in this section referred to, in relation to the regulations in question, as " the authorising enactment ") may, in addition to providing for any matters specified in the authorising enactment, provide—
  - (a) for imposing limits of time within which things to be done for the purposes of the regulations must be done, with or without power to any authority therein specified to extend limits imposed ;
  - (b) for punishing persons offending against provisions of the regulations ;
  - (c) for the determination of questions of fact or of law which may arise in giving effect to the regulations, and as to evidence for that purpose, and for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including provision as to parties and their representation and provision for the right to appear and be heard (as well in court proceedings as otherwise) of the Minister, District Valuation Boards, referees, or other authorities, and as to awarding costs of proceedings for the determination of such questions, determining the amount thereof and the enforcement of awards thereof;
  - (d) for amending or repealing enactments inconsistent with the provision to be made for the purposes of the authorising enactment, and for applying enactments with or without modification ; and
  - (e) for any incidental or supplementary matters for which it appears to the Minister to be necessary or expedient for the purposes of the authorising enactment to provide :

Provided that any punishment imposed by virtue of paragraph (b) of this subsection shall not exceed that provided for by section fifty-eight of this Act or, in the case of a fine imposed in respect of each day on which a person is in default, five pounds.

- (2) Regulations made (whether by the Minister or by the Treasury) under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which any such regulations are laid before it resolves that the regulations be annulled, the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

- (3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made (whether by the Minister or by the Treasury) under this Act shall be deemed not to be, or to contain, statutory rules to which that section applies.

### **63 Interpretation.**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

" coal " means bituminous coal, cannel coal and anthracite ;

" coal industry activities " means colliery production, electricity, transport, sales and welfare activities, as denned in Part I of the First Schedule to this Act, and the activities incidental thereto mentioned in paragraph 7 of that Schedule ;

" coal industry value " has the meaning assigned to it by paragraph (a) of subsection (2) of section ten of this Act ;

" colliery activities " means searching or boring for, winning, working or getting, coal, bringing it to the surface, treating it and rendering it saleable, and includes depositing spoil arising from working coal or from any other of the activities mentioned in this definition ;

" colliery concern " means a company whose business includes, or at any time on or after the first day of January, nineteen hundred and forty-six, included, the working of coal (excluding working undertaken for the purpose of digging or carrying away coal in the course of activities other than colliery activities, and working undertaken only as ancillary to the working of minerals other than coal), and any other person whose business includes, or at any such time included, such working of coal as aforesaid ;

" Consolidated Fund " means the Consolidated Fund of the United Kingdom, and includes the growing produce thereof ;

" district wages ascertainments " means the periodical ascertainments of the results of the coal industry in accordance with which the wages of mineworkers have been regulated under agreements in that behalf entered into between colliery owners and mineworkers ;

" documents " includes plans, sections, records of survey and similar things ;

" financial year of the Board " means a period of twelve months ending with a day to be prescribed, so however that the first financial year of the Board shall be the period beginning with the passing of this Act and ending with the first occurrence of the prescribed day, and, in case of any alteration of the prescribed day, the duration of the financial year of the Board as to which the alteration is first to have effect shall be shortened or extended as may be prescribed, by not more than six months, so as to end on the new prescribed day ;

" former freeholder's lease " has the meaning assigned to it by subsection (8) of section eleven of this Act;

" functions " includes both duties and powers ;

" mine of coal " means a space occupied by unworked coal or excavated underground for the purposes of colliery activities, and includes a shaft or adit made for those purposes, a coal quarry and opencast workings of coal;

" the Miners' Welfare Fund " means the fund constituted by subsection (1) of section twenty of the Mining Industry Act, 1920 ;

" the Minister " means the Minister of Fuel and Power ;

" money payment " has the meaning assigned to it by subsection (3) of section eighteen of this Act;

" prescribed " means prescribed by regulations ;

" primary vesting date " has the meaning assigned to it by subsection (1) of section five of this Act ;

" regulations " means regulations made by the Minister ;

" stock issued for compensation " has the meaning assigned to it by subsection (5) of section twenty-one of this Act ;

" transferred allied activities " means such activities as are—

(a) of a kind referred to in Part II or III of the First Schedule to this Act in relation to the vesting in the Board by option of interests as being interests in things used, available for use or required for certain activities, or as being owned for certain activities, and

(b) of a kind for which interests that in fact so vest were owned at the date of the vesting or for which things wherein those interests then subsisted were then used,

and that expression includes also activities in connection with farms interests in which in fact so vest, and such activities as are mentioned in subparagraph (2) of paragraph 21 of that Schedule ;

" transferred interests " has the meaning assigned to it by section nine of this Act;

" utilities " means electricity, gas, water, steam, compressed air and hydraulic power ;

" value for subsidiary purposes " has the meaning assigned to it by paragraph (b) of subsection (2) of section ten of this Act.

- (2) The working of coal by an individual by virtue of the grant of a gale in the Forest of Dean or in any other part of the hundred of St. Briavels in the County of Gloucester shall not be deemed, for the purposes of this Act, to constitute him a colliery concern.
- (3) References in this Act to activities of any kind (whether or not described by that word) shall be construed as limited to activities of that kind carried on in Great Britain, but not so as to exclude, in the case of selling or supplying, selling or supplying for export or selling or supplying imported goods in Great Britain.
- (4) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

## **64 Application to Scotland.**

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

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

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- (2) For any reference to the High Court there shall be substituted a reference to the Court of Session ; the expression " easement " means servitude; the expression " leasehold interest " means the interest of a lessee in property subject to a lease, and for any reference to section one of the Courts (Emergency Powers) Act, 1943, there shall be substituted a reference to section one of the Courts (Emergency Powers) (Scotland) Act, 1939 "
- (3) The assets vested in the Board by virtue of section five of this Act shall, so far as consisting of feudal property, include any right of superiority therein other than that of the Crown.
- (4) Subsection (7) of section five of this Act shall have effect as if there were added at the end thereof the following paragraph :
  - “(h) for the completion of the title of the Board to heritable property vesting in them by virtue of this section by the execution and recording in the General Register of Sasines of conveyances of or instruments relating to such property”.
- (5) Regulations under section twenty-four or twenty-five of this Act shall provide for the establishment of separate tribunals for Scotland, and subsection (6) of the said section twenty-four shall apply to the tribunal to be established for Scotland for the purposes of that section or of section twenty-five with the substitution of a reference to an advocate for the reference to a barrister.
- (6) Subsection (4) of section forty-one of this Act shall not apply to orders relating to land in Scotland or to personal estate to be laid out in the purchase of such land.
- (7) Section forty-eight of this Act shall have effect as if in paragraph (c) of subsection (1) thereof for the reference to section seventy-nine A of the provisions therein mentioned there were substituted a reference to section seventy-two A of the provisions substituted by Part II of the Mines (Working Facilities and Support) Act, 1923, as that Part applies to Scotland for sections seventy-one to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845.
- (8) Section forty-nine shall have effect as if in subsection (3), for the words " under the Limitation Act, 1939", there were substituted the words " by prescriptive possession ".
- (9) Documents belonging to the Board shall for the purposes of subsection (1) of section five of the Public Records (Scotland) Act, 1937, be deemed to be records belonging to His Majesty.
- (10) Section sixty-one shall have effect with the substitution for any reference to the Lord Chancellor of a reference to the Secretary of State.

## **65 Short title, extent and repeal.**

- (1) This Act may be cited as the Coal Industry Nationalisation Act, 1946.
- (2) This Act shall not extend to Northern Ireland.
- (3) The enactments mentioned in the first and second columns of the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule as from the primary vesting date, and paragraph (5) of regulation fifty-five AA of the Defence (General) Regulations, 1939, and regulation sixty B of those Regulations are hereby revoked as from that date.