

Provided that the Board may remit the whole or any part of such penalty having regard to the extent that, in the opinion of the Board, the breach has not injured and prejudiced the interests of the other Owners."

48. Clause 81 shall have effect as if—

(a) it were renumbered "92";

(b) the references were to Clauses 85, 87, 88, 89, 90 and 91 of the Scheme instead of to Clauses 76, 78, 79 and 80; and

(c) in the proviso thereto the reference were to Clause 94 of the Scheme instead of to Clause 83.

49. Clause 82 shall have effect as if—

(a) it were renumbered "93"; and

(b) for the words "the provisions of Clauses 37, 44 or 55" there were substituted the words "any provision".

50. Clause 83 shall be renumbered 94.

51. Clause 84 shall be omitted.

52. For Clauses 85 to 92 inclusive there shall be substituted the following Clauses, that is to say:—

"95.—(1) The Independent Chairman of the Coal Mines Minimum Wages Board for the District or his nominee shall be the arbitrator to whom any dispute arising in connection with the Scheme in the District may be referred. Such nominee shall not be a person who is financially interested in the ownership or working of any coal mine or any concern comprising a coal mine situate in the District or any person who is acting in a secretarial or advisory capacity to any Association or other body for regulating the production supply or sale of coal and in any case a person who has at any time been professionally employed by or on behalf of an Owner in respect of any coal mine shall not be eligible to act as arbitrator in any reference to which such Owner is a party. If in the case of any dispute the arbitrator thus nominated is not acceptable to the Owner concerned, the appointment of an arbitrator for such particular dispute shall be referred to the County Court Judge for Gloucestershire and his decision in the matter of nominating such arbitrator shall be final.

(2) Any owner who is aggrieved (hereafter in the Scheme referred to as "the complainant") by any act or omission of the Board or of any other persons in respect of their functions under the Scheme shall be entitled to refer the matter for decision to an arbitrator to be appointed pursuant to the preceding sub-clause.

(3) Upon receipt of a notice requiring that any matter be referred to arbitration the Board shall forthwith refer the matter to the arbitrator appointed in pursuance of sub-clause (1) of this Clause, the arbitrator shall forthwith give such directions for the conduct of the arbitration as he may think fit and after hearing any party to the arbitration who desires to appear and be heard shall make his award.

(4) Where the annual standard tonnages of coal or the annual basic tonnages of all the coal mines are referred to the arbitrator

under the provisions of Clause 42 or Clause 48 of the Scheme—

(a) every Owner shall be deemed to have referred to arbitration the said standard tonnage or basic tonnage of his coal mine as the case may be and to be a party to the arbitration; and

(b) if the arbitrator considers that the said standard tonnage or basic tonnage of any coal mine as the case may be should be diminished, he shall before making his award give notice of his decision to the Owner thereof and that Owner may submit any further evidence or reasons why such tonnage should not be diminished.

(5) Pending the award of an arbitrator, on any reference to arbitration under the Scheme, the decision of the Board in the matter under dispute shall be operative subject to the provisions of Clause 92 of the Scheme.

(6) Where any determination or other decision of the Board is a subject of reference hereunder, the award of the arbitrator shall, unless he otherwise directs, be operative in respect of such determination or other decision as from the date on which the determination or other decision was intended by the Board to be operative.

(7) The expenses of the Board in connection with any arbitration under the Scheme, or under the Central Scheme, shall be payable out of the District Fund.

Dissolution.

96.—(1) In the event of the Scheme ceasing to have effect under Part I of the Act whether owing to the expiration of that Part of the Act or to action of the Board of Trade under sub-section (7) of Section 5 of the Act, the Trustees shall collect all moneys due or belonging to the Board, including any sum at the debit of the Reserve Account of any Owner, and convert into money any property of the Board, and shall discharge all liabilities of the Board, including any balance at the credit of the Reserve Account of any Owner.

(2) If the assets of the Board are greater than their liabilities they shall distribute the surplus, amongst the Owners in the proportion, as nearly as possible, to the total contributions made by each of those Owners under Clauses 66 and 67 of the Scheme:

Provided that, if it is agreed to continue the Scheme as a voluntary arrangement it shall be lawful for the Trustees to transfer the property of the Board (including any moneys and investments of the District Fund) to the Trustees under such voluntary arrangement, subject, however, to the payment to those Owners who do not enter into the said voluntary arrangement of such sums (if any) as would be payable to them if the Scheme were finally wound up under the provisions of this Clause in lieu of being continued as a voluntary arrangement."

53. Clause 93 shall have effect as if—

(a) it were renumbered "97"; and

(b) the references were to Clauses 66 and 67 of the Scheme instead of to Clauses 65 and 66.

54. Clause 94 shall be renumbered 98.