(3) COMPENSATION UNITS

(i) *Liability Enforcement, Scotland.* | (ii) *Satisfaction of Compensation,* p. 514.

(i) LIABILITY ENFORCEMENT, SCOTLAND

The Coal Industry Nationalisation (Liability Enforcement) (Scotland) Regulations, 1948

1948 No. 2307 (S. 187)

Made - - - -	15*th October,* 1948
Laid before Parliament	16*th October,* 1948
Coming into Operation	1*st November,* 1948

9 & 10 Geo. 6. c. 59.

The Minister of Fuel and Power, in exercise of the powers conferred upon him by section twenty-four of the Coal Industry Nationalisation Act, 1946 (in these Regulations referred to respectively as " the Minister " and " the Act ") and of all other powers him enabling, hereby makes the following Regulations:—

Establishment of Tribunal, etc.

1.—(1) There shall be established, as in these Regulations provided, for the purposes of the said section twenty-four in Scotland a tribunal (in these Regulations referred to as " the Tribunal ").

(2) There shall be a panel of members appointed by the Lord President of the Court of Session and known as " the chairmen's panel," and two panels of members appointed by the Secretary of State and respectively known as " the accountants' panel " and " the commercial panel ", comprising:—

(*a*) in the case of the chairmen's panel, advocates or solicitors of not less than seven years standing one of whom will be appointed by the Lord President of the Court of Session to be the administrative chairman;

(*b*) in the case of the accountants' panel, accountants of not less than seven years standing being members of the Society of Accountants in Edinburgh, the Institute of Accountants and Actuaries in Glasgow, the Society of Accountants in Aberdeen, the Institute of Chartered Accountants in England and Wales, the Society of Incorporated Accountants and Auditors and the Association of Certified and Corporate Accountants; and

(*c*) in the case of the commercial panel, persons appearing to the Secretary of State to be qualified as having wide experience in commercial or financial matters.

(3) Any appointment of a member may at any time be revoked by the Lord President of the Court of Session or the Secretary of State, as the case may be, and any member may at any time, by three months' notice in writing under his hand, resign his appointment.

(4) The Tribunal shall, in respect of any application, consist of a chairman (in these Regulations referred to as " the nominated chairman ") from the chairmen's panel, and two other members one each from the accountants' panel and the commercial panel, nominated for the purpose by the administrative chairman.

(5) There shall be a clerk to the Tribunal appointed by the Secretary of State, who shall keep a register (in these Regulations referred to as

" the register ") wherein he shall record such particulars as may be specified in that behalf, and such other officers and staff as the Tribunal, after consultation with the Secretary of State, may appoint.

(6) The remuneration and allowances of the members, clerk, officers and staff of the Tribunal in respect of work of the Tribunal shall be such as the Minister, with the approval of the Treasury, may determine; and shall be met out of fees payable as in these Regulations provided.

Provisions as to directions.

2.—(1) Any company or other person applying to the Tribunal for a direction that that company or person is entitled to protection under the said section twenty-four (in these Regulations referred to as a " direction ") shall lodge with the clerk at the address for the time being specified by the Secretary of State four copies of a written notice in the form set out in Part I of the First Schedule to these Regulations.

(2) With any such notice, or within four days (or such longer period as the Tribunal may allow) from the lodging of any such notice, the applicant shall lodge with the clerk four copies of a statutory declaration made by him in the form set out in Part II of the said Schedule, amplified or modified as may be appropriate, stating in detail the facts relied upon by him in support of his application and accompanied by any such corroborative evidence or other documents, including any reports of auditors or accountants, as may be appropriate.

(3) The clerk shall record in the register particulars of every such application lodged, and of every direction or other decision of the Tribunal at any time made in relation thereto.

(4) On any such application the Tribunal may give a direction, whether on perusal of the documents lodged or after hearing the applicant as it may think fit, or may give such instructions as may seem appropriate for the due determination of the application, and in particular may order that the applicant within a specified period serve notice of his application upon any specified person or persons.

(5) Every person upon whom notice has been served as in the last foregoing paragraph mentioned shall thereafter be a party to the proceedings unless within fourteen days, or such longer period as the Tribunal may allow, from the service thereof that person gives notice to the clerk stating that he does not desire to be heard in those proceedings.

Variation or revocation of directions or conditions.

3.—(1) Any person applying to the Tribunal for variation or revocation of any direction, or of any condition subject to which any direction is for the time being operating, shall lodge with the clerk at the address specified as aforesaid four copies of a written notice in the form set out in Part III of the First Schedule to these Regulations.

(2) Every such notice shall specify whether and in what respects a claim is made for variation or revocation; and shall state the grounds on which such claim is based; and shall be accompanied by four copies of such documentary evidence as is relied upon in support thereof.

(3) Copies of any such notice, and of any evidence lodged in support thereof, shall be served by the person lodging the same upon the protected person and upon every other party to the proceedings wherein the direction was made.

(4) The provisions of paragraphs (3), (4) and (5) of the last foregoing regulation shall apply in relation to an application under

this regulation as they apply in relation to an application for a direction, save that the Tribunal shall not determine an application under this regulation without having first heard the applicant and the protected person.

Hearing of parties.

4. An applicant or other party to any proceedings before the Tribunal may only be heard by counsel or solicitor or, if an individual, in person, if a partnership, by a partner, or, if a company, by a duly authorised director or officer of that company.

Attendance and examination of witnesses, and production of documents.

5.—(1) The Tribunal may, on the motion of any party to any proceedings before it or of its own motion, cause a notice in writing to be served on any person requiring him to attend at the time and place set forth in the notice to give evidence, or to produce any books or documents in his custody or under his control which relate to any matter in question in the proceedings:

Provided that:—

(*a*) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and

(*b*) nothing in this regulation shall empower the Tribunal to require any person to produce any book or document, or to answer any question, which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the proceedings were proceedings in a court of law.

(2) The nominated chairman may administer oaths; and the Tribunal may examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statutory declaration made by that person.

(3) Subject to the provisions of this regulation, any person who refuses or wilfully neglects to attend or give evidence in obedience to a notice under paragraph (1) of this regulation, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or document which he may be required to produce by any such notice, shall be guilty of an offence under this regulation, and shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.

Decisions of Tribunal and proof thereof.

6.—(1) Every direction, and every decision of the Tribunal varying or revoking any direction or condition, shall be given in writing signed by the nominated chairman; and the clerk shall cause notice thereof to be inserted in the Edinburgh Gazette.

(2) Particulars in the register relating to any direction or decision of the Tribunal, or a copy of those particulars purporting to be certified by the clerk to be a true copy thereof as recorded in the register, shall be evidence of the terms of that direction or decision.

Fees.

7.—(1) Every applicant for a direction shall, at the time of lodging the notice, evidence and other documents relating to his application, pay the fees appropriate thereto as specified in paragraph one of the Second Schedule to these Regulations; and shall also, for any day in respect of which any fee on hearing as there specified is payable, pay that fee before the sitting of the Tribunal on that day.

(2) Every applicant for variation or revocation of a direction or condition, and every other party to those proceedings, shall pay such fees as are appropriate to be paid by him as specified in paragraph two of the said Schedule:—

(*a*) in the case of a fee payable on any document lodged, at the lodging thereof;

(*b*) in the case of a fee payable on any evidence not lodged with the application notice, before that evidence is presented to the Tribunal;

(*c*) in the case of a fee payable on hearing, before the sitting of the Tribunal on the day in respect of which that fee is payable.

(3) Any person requiring a certified copy of any particulars in the register as mentioned in the last preceding regulation shall pay the fee in respect thereof as specified in paragraph three of the said Schedule.

(4) All fees to be paid shall be taken by the clerk in impressed stamps in accordance with the directions of the Treasury for the time being in force.

Expenses.

8.—(1) Every party to proceedings before the Tribunal shall, unless the Tribunal otherwise directs, pay his own expenses.

(2) The Tribunal may order that any party to any proceedings pay (whether by way of a lump sum or otherwise) the whole or such part as the Tribunal may think fit of the expenses of and incidental to those proceedings incurred by any other party thereto.

(3) In the case of difference as to the amount (not being a lump sum) of any expenses directed to be paid as aforesaid, such expenses shall be taxed by the Auditor of the Court of Session as if the proceedings were proceedings in the Court of Session.

(4) A direction or decision of the Tribunal may, in so far as it relates to expenses, be enforced in like manner as a recorded decree arbitral.

Regulation of procedure.

9. Subject to the provisions of the said section and of these Regulations, the Tribunal may regulate its own procedure; and may decide whether or not any proceedings or any part of any proceedings shall be heard in public.

Defect in appointment.

10. All acts done at any sitting of the Tribunal shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Tribunal, be valid as if that defect had not existed.

Interpretation.

11.—(1) In these Regulations the following expressions have the meanings hereby assigned to them respectively that is to say:—

" the accountants' panel ", " the chairmen's panel " and " the commercial panel " have the meanings respectively assigned to them by paragraph (2) of regulation one;

" the Act " means the Coal Industry Nationalisation Act, 1946;

" direction " has the meaning assigned to it by paragraph (1) of regulation two;

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

" the nominated chairman " has the meaning assigned to it by paragraph (4) of regulation one;

" protected person " means the company or person protected by virtue of a direction;

" the register " has the meaning assigned to it by paragraph (5) of regulation one;

" the Tribunal " has the meaning assigned to it by paragraph (1) of regulation one.

(2) Expressions to which meanings are assigned by the Act or by these Regulations shall, unless the contrary intention appear, bear the same meanings in any instrument issued under the provisions of these Regulations; and the expression " instrument issued under the provisions of these Regulations " includes any particulars of any direction or decision of the Tribunal recorded in the register and any notice or document lodged, served or delivered by any person under those provisions.

52 & 53 Vict. c. 63. (3) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

12. These Regulations shall come into force on the first day of November nineteen hundred and forty-eight; and may be cited as the Coal Industry Nationalisation (Liability Enforcement) (Scotland) Regulations, 1948.

Dated this fifteenth day of October, 1948.

Hugh Gaitskell,
Minister of Fuel and Power.

FIRST SCHEDULE

Regulation 2(1).

PART I

[Number to be allotted by the clerk.]

APPLICATION FOR DIRECTION

.....
No. of Proceedings

APPLICATION
of
[Name of applicant(s)]
for
a direction under section 24 of the Coal Industry Nationalisation Act, 1946.

[Name, designation, and address of applicant(s)]

HEREBY APPLY to the Tribunal established under section 24 of the Coal Industry Nationalisation Act, 1946, and the Coal Industry Nationalisation (Liability Enforcement) (Scotland) Regulations, 1948, for a direction that the applicant(s) [is] [are] entitled to protection under that section.
THE ADDRESS FOR SERVICE of the applicant(s) is at the office of [the company] [the applicant(s)] [the applicants' solicitors] viz.:—

in the county of

Dated this day of , 194 .

[seal of a limited company. or, in the case of other applicants, the signature of applicants or their solicitors.]

To the
CLERK TO THE TRIBUNAL.

PART II

Regulation 2(2).

(a) *For use in the case of an application by a limited company*

STATUTORY DECLARATION

[Number to be allotted by the clerk.]

..... No. of Proceedings

STATUTORY DECLARATION FOR APPLICANTS

IN

APPLICATION

OF

.....

for

a direction under section 24 of the Coal Industry Nationalisation Act, 1946

I, (*a*) of (*b*)
do solemnly and sincerely declare:

1. I am a director [or as may be] of the above named company and I am duly authorised under the seal of the company to make this Statutory Declaration on their behalf.

The registered office of the company is situate at

True and up to date copies of the Memorandum and Articles of Association of the company are attached hereto and marked

The share capital of the company is divided into and , of which and shares have been issued; the amount of the capital paid up or deemed to be paid up is £ [divided into].

The company [carries on business] [carried on business from to] as at in the county of .

2. The company was immediately before the primary vesting date beneficially entitled to transferred interests within the meaning of section 9 of the Coal Industry Nationalisation Act, 1946, and those interests formed a substantial part of the company's resources. Such particulars of the said interests as can be given, including, in the case of interests falling within Parts II, III and IV of the First Schedule to the said Act, particulars of any steps taken with respect to the exercise of options, are contained in the list attached hereto and marked and are true to the best of my knowledge, information and belief.

Such particulars of assets now remaining to the company as can conveniently be given, excluding any assets interests in which may vest in the National Coal Board by virtue of the exercise of options, are contained in the list attached hereto and marked and are true to the best of my knowledge, information and belief.

3. The company issued [a] debenture[s] as specified with dates in the list attached hereto and marked
[Those] [That] debenture[s] constitute[s] a [floating charge on and] [specific charge on];
copies of [each] debenture[s] are attached hereto and marked

4. To the best of my knowledge, information and belief the total of indebtedness of the company is £ , and the number of creditors is .

True particulars of all debts of the sum of £100 and upwards, showing the amount of each, the name of each creditor and the extent to which any property or assets are charged to secure repayment thereof, are set out in the list attached hereto and marked .

5. To the best of my knowledge, information and belief there are no liabilities for discharge in the future in respect of obligations already incurred other than those set out in the list attached hereto and marked .

6. of in the county of [has] [have] taken the following steps [for the enforcement of a liability of the company to make a payment] [and] [for the enforcement of a security upon property of the company]:—

[Set out details.]

I verily believe that the taking of each of those steps is attributable to the passing of the Coal Industry Nationalisation Act, 1946, or to matters arising in consequence thereof.

The reasons for my belief are as follows:—

[To be stated in full.]

7. I verily believe that the company will, so far as can reasonably be foreseen at the date hereof, be in a position to meet their liabilities as they fall due, or, in the case of liabilities arising in connection with transferred interests, on satisfaction of the company's right to compensation, and to interim income, attributable to those interests by virtue of the Coal Industry Nationalisation Act, 1946.

True copies of the audited accounts of the company for the past six years are attached hereto and marked .

[No proceedings for the winding-up of the company are pending]

[State details if otherwise.]

8. I respectfully submit that it will be for the benefit of the company and of the persons entitled to enforce liabilities of the company or to enforce securities upon the company's property, as a whole, that the enforcement thereof should be controlled, for the following reasons:—

[To be stated in full.]

9. I respectfully submit that [no] [the following] conditions would be appropriate to be made under subsection (2) of section 24 of the Coal Industry Nationalisation Act, 1946 [:—

].

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1835.

Declared at in the county of
this day of , 194 .
Before me
a [Notary Public] [Justice of the Peace] [or as may be]

(*a*) Full names of deponent.
(*b*) Residence and occupation of deponent.

(b) ***For use in the case of an application not made by a limited company***

STATUTORY DECLARATION

[Number to be allotted by the clerk.]

..... No. of Proceedings

STATUTORY DECLARATION FOR APPLICANTS

IN

APPLICATION

OF

.....

for

a direction under section 24 of the Coal Industry Nationalisation Act, 1946

I, (*a*) of (*b*)
do solemnly and sincerely declare:

1. [I am a partner in the firm of
of who carr[y][ied] on a business as]
[I carr[y][ied] on business in my own name as]
.....
at in the county of
[from to].

2. [The firm were] [I was] immediately before the primary vesting date beneficially entitled to transferred interests within the meaning of section 9 of the Coal Industry Nationalisation Act, 1946, and those interests formed a substantial part of [the firm's] [my] resources. Such particulars of the said interests as can be given, including, in the case of interests falling within Parts II, III and IV of the First Schedule to the said Act, particulars of any steps taken with respect to the exercise of options, are contained in the list attached hereto and marked and are true to the best of my knowledge, information and belief.

Such particulars of assets now remaining to [the firm] [me] as can conveniently be given, excluding any assets interests in which may vest in the National Coal Board by virtue of the exercise of options, are contained in the list attached hereto and marked , and are true to the best of my knowledge, information and belief.

3. [The firm] [I] issued [a] debenture[s] as specified with dates in the list attached hereto and marked . [Those] [That] debenture[s] constitute[s] a [floating charge on and] [specific charge on]:
copies of [each] debenture[s] are attached hereto and marked .

4. To the best of my knowledge, information and belief the total of [my] indebtedness [of the firm] is £ , and the number of creditors is

True particulars of all debts of the sum of £100 and upwards, showing the amount of each, the name of each creditor and the extent to which any property or assets are charged to secure repayment thereof, are set out in the list attached hereto and marked .

5. To the best of my knowledge, information and belief there are no liabilities for discharge in the future in respect of obligations already incurred other than those set out in the list attached hereto and marked .

6. of in the county of [has] [have] taken the following steps to enforce payment of sums owed to them as aforesaid:—

[Set out details.]

I verily believe that the taking of each of those steps is attributable to the passing of the Coal Industry Nationalisation Act, 1946, or to matters arising in consequence thereof. The reasons for my belief are as follows:—

[To be stated in full.]

7. I verily believe that [the firm will] [I shall], so far as can reasonably be foreseen at the date hereof, be in a position to meet [their] [my] liabilities as they fall due, or, in the case of liabilities arising in connection with transferred interests, on satisfaction of [the firm's] [my] right to compensation, and to interim income, attributable to those interests by virtue of the Coal Industry Nationalisation Act, 1946.

8. I respectfully submit that it will be for the benefit of [the firm] [myself] and of the persons entitled to enforce liabilities [of theirs] [of mine] or to enforce securities upon [their] [my] property, as a whole, that the enforcement thereof should be controlled, for the following reasons:—

[To be stated in full.]

9. I respectfully submit that [no] [the following] conditions would be appropriate to be made under subsection (2) of section 24 of the Coal Industry Nationalisation Act, 1946 [:—

].

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1835.

Declared at in the county of
this day of , 194 .
Before me
a [Notary Public] [Justice of the Peace] [or as may be]

(*a*) Full names of deponent.
(*b*) Residence and occupation of deponent.

PART III

Regulation 3(1).

APPLICATION FOR VARIATION OR REVOCATION

..... [Number to be allotted by the clerk.]
No. of Proceedings

APPLICATION
OF
[name of applicant[s]]
for
[variation] [revocation] of a [direction] [condition]
given in favour of
[names of the protected persons]

[The Company Limited whose registered office is situate at in the county of]
[of in the county of]
[a firm]

HEREBY APPLY to the Tribunal established under section 24 of the Coal Industry Nationalisation Act, 1946, and the Coal Industry Nationalisation (Liability Enforcement) (Scotland) Regulations, 1948, for [variation] [revocation] of a [condition subject to which a] direction of the Tribunal given the day of , 194 . in the above-named matter [is operating] in so far as such [direction] [condition] (*a*)

ON THE GROUNDS (*b*)

[And SUBMIT that the condition aforesaid should be varied in manner following that is to say:—]

THE ADDRESS FOR SERVICE of the applicant(s) is at the office of [the applicant(s)] [the applicants' solicitors], viz.:—

in the county of

Dated this day of , 194 .

[Signature of the applicants or their solicitors].

To the
CLERK TO THE TRIBUNAL

(*a*) Set out details of direction or condition complained of.

(*b*) Grounds to be numbered and particulars given.

SECOND SCHEDULE

Regulation 7.

FEES

1. Application for direction:

Fee on lodging application notice:—

(*a*) by a limited company whose paid up capital exceeds £250,000	£50
(*b*) by any other company or by any partnership or individual	£40
Fee on evidence and exhibits (exclusive of duplicate copies) lodged with application notice	6s. per sheet of 250 words
Fee on hearing (to be paid by the applicant), for each day or part of a day, after the first	£45

2. Application for variation or revocation of direction or condition:—

Fee on filing application notice	£50
Fee on evidence and exhibits (exclusive of duplicate copies) lodged with application notice, or used during hearing	3s. per sheet of 250 words
Fee on hearing (to be paid by the applicant) for each day, or part of a day, after the first	£45
3. Certified copies of entries in the register	9d. per sheet of 250 words

EXPLANATORY NOTE

(*This Note is not part of these Regulations, but is intended to indicate their general purport.*)

1. Section 24 of the Coal Industry Nationalisation Act, 1946, provides that where a direction of the tribunal established under that section is in force granting protection under the section to owners of transferred interests, certain rights and remedies may be exercised only with the leave of the court mentioned in the section. These Regulations establish a tribunal for Scotland corresponding to that already set up for England and Wales by the Coal Industry Nationalisation (Liability Enforcement) (England and Wales) Regulations, 1947(**a**).

2. The Regulations deal with the constitution and proceedings of the tribunal and with the payment of fees and expenses.

(ii) SATISFACTION OF COMPENSATION

The Coal Industry Nationalisation (Satisfaction of Compensation) Regulations, 1948

1948 No. 1703

Made - - - -	*22nd July*, 1948
Laid before Parliament	*22nd July*, 1948
Coming into Operation	*30th July*, 1948

9 & 10 Geo. 6. c. 59.

The Minister of Fuel and Power in exercise of the powers conferred upon him by section twenty-two of the Coal Industry Nationalisation Act, 1946, and of all other powers him enabling, hereby makes the following Regulations:—

Modification of Coal Industry Nationalisation (Satisfaction of Compensation) Regulations, 1947.

1. The Coal Industry Nationalisation (Satisfaction of Compensation) Regulations, 1947(**b**), shall have effect subject to the modification that the following paragraphs shall be substituted for paragraphs (2) and (3) of Regulation eighteen, that is to say:—

" (2) Where:—

(*a*) the concern or subsidiary began to carry on any distinct activity for the first time after the beginning of the accounting period, or, in a case in which an election has been made

(**a**) S.R. & O. 1947 (No. 1552) I, p. 302.
(**b**) S.R. & O. 1947 (No. 1946) I, p. 278.