CHAPTER 4.

An Act to make temporary provision on account of the emergency arising from the war as to the profits and control of, wages in, and advances in respect of, colliery undertakings, and for purposes connected therewith.

[31st March 1920.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Distribution of profits of undertakings.

1.—(1) In view of the emergency resulting from the exigencies of the war, the profits of the undertakings to which this Act applies (hereinafter referred to as undertakings), arising during the period of the operation of this Act, shall be aggregated, and, after such deduction and addition as are hereinafter mentioned, shall be distributed amongst the several undertakings in manner provided by the First Schedule to this Act :

Provided that—

(i) if the amount of the aggregated profits of all the undertakings, after such deduction and addition, exceeds the aggregate of the total standards of all the undertakings, such part only of that amount as is equal to that aggregate, plus one-tenth part of such excess, shall be so distributable;

(ii) if the amount of the aggregated profits of all the undertakings, after such deduction and addition, is less than a sum equal to nine-tenths of the aggregate of the total standards of all the undertakings, the sum distributable shall be increased by an amount equal to such deficiency, if and so far as such deficiency appears to the Controller, or on appeal is proved to the satisfaction of the Board of Referees appointed under the Finance (No. 2) Act, 1915, to have been caused by any order, regulation, or direction issued by the Controller or by the Board of Trade after the first day of January nineteen hundred and twenty.

5 & 6 Geo. 5. c. 89.

(2) In determining the sum distributable, the following deduction and addition shall be made from and to the aggregated profits :—

(*a*) There shall be deducted from the aggregated profits any sum paid by the Board of Trade or the Controller under the Coal Mines (War Wage Payment) Directions and Supplementary Directions, 1918 and 1919, in respect of the period of the operation of this Act;

(*b*) There shall be added to the aggregated profits any sums collected by the Board of Trade or the Controller under the said directions in respect of the said period.

(3) For the purposes of this Act, "total standards" in relation to any undertaking means the sum of all the standards attributable to the accounting periods or parts of accounting periods falling within the period of the operation of this Act, and "accounting period" means an accounting period under the provisions of the Finance (No. 2) Act, 1915, relating to excess profits duty as amended or explained by any subsequent enactment (which provisions are hereinafter referred to as the Finance Act).

(4) The provisions of this Act shall be taken to be in full satisfaction of all claims for compensation arising in the period of the operation of this Act in respect of the orders of the Board of Trade made under Regulation 9G of the Defence of the Realm Regulations dated the twenty-ninth day of November nineteen hundred and sixteen and the twenty-second day of February nineteen hundred and seventeen, or anything done thereunder.

Provisions for effecting distribution of profits.

2.—(1) For effecting the purposes aforesaid, the following provisions shall have effect :—

(*a*) If the profits of an undertaking for any accounting period or part of an accounting period falling within the period of the operation of this Act—

(i) exceed the standard, the excess shall be assessed on and collected from the owner of the undertaking in manner hereinafter provided, and the amount so payable by the owner is hereinafter referred to as coal levy;

(ii) are less than the standard, or, if there is a loss, such amount as may be required to make up the profit or loss to the amount of the standard shall be paid to the owner of the undertaking by the Controller, and the sum so payable by the Controller is hereinafter referred to as coal award :

(*b*) If the profits of an undertaking arising during the period of the operation of this Act, after taking into account any coal levy paid or coal award received in respect of the undertaking—

(i) exceed the sum apportioned to that undertaking in manner provided in the First Schedule to this Act, the excess shall be payable to the Controller by the owner of the undertaking and shall be recoverable as a debt due to the Crown, and the amount so payable is in this Act referred to as adjustment levy;

(ii) are less than the sum so apportioned, such amount as is required to make good the deficiency shall be paid to the owner of the undertaking by the Controller, and any sum so payable is in this Act referred to as adjustment award.

(2) Coal levy shall be assessed and collected by the Commissioners of Inland Revenue, in like manner as excess profits duty is assessed and collected, and the provisions (including the provisions as to appeals and deposits) of the Finance Act, shall apply accordingly, and the provisions of that Act as to appeals shall apply to amounts of profits and standards, notwithstanding that there may be no liability to excess profits duty or coal levy.

(3) Where under an assessment made before the passing of this Act any sums have been or are paid as excess profits duty, and the sums so paid are, owing to the operation of this Act, in excess of the liability to such duty without taking into account any adjustment levy or adjustment award which may become payable under this Act, the excess shall, pending the final ascertainment of the liability to excess profits duty, be treated as a payment on account of coal levy payable in respect of the accounting period to which the assessment relates, and any sum deposited for the purpose of satisfying excess profits duty or coal mines excess payments shall, if and in so far as such sum has not been applied in payment of excess profits duty or coal mines excess payments, be regarded as deposited for the purpose of satisfying coal levy except to the extent to which such balance of the sum so deposited exceeds the liability to coal levy.

Definition of profits and standards.

3.—(1) For the purposes of this Act, in relation to any undertaking—

(*a*) The profits shall be the amount of the profits of the trade or business as determined or determinable under the Finance Act after any adjustment for increased or decreased capital prescribed in section forty-one of that Act:

Provided that no deduction for coal levy or addition for coal award shall be made in determining the profits to be aggregated under this Act; but for all other purposes any sum paid as coal levy or adjustment levy, or received as coal award or adjustment award, shall be treated respectively as an expense or profit, as the case may be, of the trade or business for the period or part thereof falling within the period of the operation of this Act in respect of which the sum is paid or received; and, in the case of adjustment levy or adjustment award, the sum shall be regarded as having accrued equally over the whole period of the operation of this Act, or the part thereof during which this Act applies to the undertaking:

(*b*) The standard shall be an amount equal to the pre-war standard of profits determined or determinable in accordance with the provisions of the Finance Act: Provided that—

(i) in any case where the standard does not exceed one thousand pounds, there shall be added to the standard five hundred pounds, or, where an undertaking is owned by a firm or by a company or other body corporate which has been treated as a firm for the purposes of the Finance Act, there shall be added to the standard in respect of each partner or director, as the case may be, whose remuneration is included in the profits, for any accounting period or part thereof falling within the period of the operation of this Act three hundred pounds or the remuneration so included, whichever may be the smaller, so however that the standard shall not be increased by such addition to an amount exceeding two thousand pounds;

(ii) in any case where the standard exceeds one thousand pounds the foregoing proviso shall apply, subject to this qualification, that the total amount of the addition under that proviso shall be reduced by the amount by which the standard exceeds one thousand pounds;

(iii) if the standard is a standard for a period of less than a year, the sums mentioned in the foregoing provisoes shall be proportionately reduced.

(2) Where part only of an accounting period falls within the period of the operation of this Act, the profits of that accounting period shall be apportioned in accordance with the number of months or fractions of months which fall within that period, and the standard in relation to that part of the accounting period shall be proportionately reduced, and the profits of an undertaking arising during the period of the operation of this Act shall be the sum of the profits of the accounting periods or period falling wholly within that period and of the proportion so ascertained as aforesaid of the profits of accounting periods or period falling partly within the period of the operation of this Act.

(3) Where an undertaking forms part only of a trade or business, the profits and standard of the undertaking shall, for the purposes of this Act, be respectively so much of the profits and standard of the trade or business determined as aforesaid as appears to the Commissioners of Inland Revenue to be properly attributable to the undertaking.

Prohibition against parting with

4.—(1) No assets employed in any undertaking shall be removed or disposed of without the consent of the Controller, except in the ordinary course of business.

assets, paying dividends, &c.

(2) No profits shall be distributed or withdrawn in respect of any undertaking and no loans, whether secured or unsecured, shall be raised, repaid or varied as to any of their conditions without the consent of the Controller:

Provided that this provision shall not deprive any person of any right to require the repayment of money owing to him.

Provision as to wages.

5.—(1) The extra wages which have, as from the ninth day of January nineteen hundred and nineteen, been paid by owners of undertakings to colliery workers employed in or at pit-heads of coal mines, that is to say:—

(*a*) in the case of persons of the age of sixteen or upwards, two shillings; and

(*b*) in the case of persons below that age, one shilling,

per shift or day worked, or regarded as having been worked for the purposes of calculating their ordinary wages, shall continue to be paid; and if and so far as such extra wages have been or are paid in respect of any period since the thirty-first day of March nineteen hundred and nineteen shall be charged as expenses in determining the profits of the undertaking.

(2) Where the Controller has advanced any sums to the owner of an undertaking to meet such increase in wages as aforesaid, the owner shall account to the Controller for the amount advanced, and the advance shall, if and so far as it exceeds the amount of such extra wages as aforesaid which have been paid by the owner to colliery workers in respect of the period ended on the thirty-first day of March nineteen hundred and nineteen, be repaid by the owner to the Controller, and the sums received by way of repayment shall be paid into the Exchequer.

(3) The decision of the Controller as to the classes of colliery workers who are entitled to the increased wage under this section shall be final.

Power to make advances.

6. Where the Controller considers that, for the purpose of enabling the output of a coal mine to be maintained, or for any other purpose, it is necessary or expedient so to do, he may, out of sums standing to the credit of the account established under this Act, on the application of the owner, make advances to the owner of an undertaking upon such terms and conditions as the Controller may think fit, with the assent of the Treasury, and any such advance shall be a first charge upon the assets of the undertaking in priority to any mortgage or other charge thereon, and shall be recoverable as a debt due to the Crown, and any sums received by way of repayment or interest shall be paid into the account established under this Act.

Accounts and audit.

7.—(1) Sums collected by the Commissioners of Inland Revenue under this Act shall be paid into such account as the Controller may direct, and there shall, except as otherwise expressly provided, be paid into and out of that account any sums received or payable by the Controller under this Act.

(2) There shall also be credited or debited to the said account any sum finally standing to the credit or debit of the account of the Controller's receipts and payments under the Coal Mines (War Wage Payment) Directions and Supplementary Directions, 1918 to 1919, in respect of the period from the thirtieth day of June nineteen hundred and eighteen to the thirty-first day of March nineteen hundred and nineteen.

(3) There shall also be debited to the said account such amount as may be necessary to meet the administrative expenses of the Board of Trade constituted for the purpose of the control of the coal industry incurred during the period of the operation of this Act, and any payment made by the Controller with the consent of the Treasury as a consequence of action taken during that period in respect of the coal industry under Regulation 2JJ of the Defence of the Realm Regulations.

(4) Payments into and out of the said account shall be made, and all other matters relating to the administration of that account and to the money standing to the credit of the account shall be regulated in such manner as the Treasury may direct.

(5) If at any time the sums standing to the credit of the account are insufficient to meet the payments to be made thereout, the Treasury may, out of moneys provided by Parliament, pay into the account such sums as may be required for the purpose, but any sums so paid shall be treated as temporary advances and shall be repaid to the Exchequer with interest as soon as there are funds in the account available for the purpose.

(6) At the end of every financial year accounts of the payments into and the expenditure defrayed out of the said account shall be made up in such form and with such particulars as may be directed by the Treasury, and shall be audited by the Comptroller and Auditor-General, and shall be laid before Parliament with a report thereon.

Offences.

8.—(1) If any person contravenes or fails to comply with any of the provisions of this Act or of any orders or directions given by the Board of Trade or the Controller thereunder, or where any such order or direction is given subject to any condition fails to comply with that condition, he shall be guilty of an offence against this Act.

(2) A person guilty of an offence against this Act shall, on summary conviction, be liable to a fine not exceeding one hundred pounds, and in the case of a continuing offence to a further fine of ten pounds for each day during which the offence continues.

(3) Where any such offence as aforesaid is committed by a company, every director and manager of the company who knowingly authorises or permits the default, shall be liable to the same penalties as the company.

Termination of coal mines control agreement. 7 & 8 Geo. 5. c. 56.

9. Subject to the provisions of Part I. of the Second Schedule to this Act the agreement confirmed by the Coal Mines Control Agreement (Confirmation) Act, 1918, shall cease to have effect, and shall be deemed to have ceased to have had effect as from the first day of April nineteen hundred and nineteen, and that Act shall be repealed as from the same date:

Provided that the provisions of the said agreement relating to the closing of mines, information and accounts, apportionments, and secrecy, as set out and modified in Part II. of the Second Schedule to this Act shall have effect as if enacted in this Act.

Interpretation.

10.—(1) This Act shall apply to all concerns in Great Britain which consist of or comprise coal mines, and where a coal mine forms part only of such a concern this Act shall apply to the whole concern except such parts thereof as may, immediately before the passing of this Act, be excluded from the operation of the Coal Mines Control Agreement (Confirmation) Act, 1918, and the expression "undertaking" in this Act means any such concern except any part so excluded:

Provided that the Controller may exclude from the operation of this Act any undertaking the whole output of coal from which is not likely to exceed five thousand tons in the year ending on the thirty-first day of March nineteen hundred and twenty.

(2) In this Act the expression "Controller" means the person for the time being appointed by the Board of Trade to exercise on behalf of the Board the powers of taking possession of coal mines and giving directions as to the management or user thereof under the Defence of the Realm Regulations, and in the event of there being no such person appointed, shall mean the Board of Trade.

Short title and duration.

11.—(1) This Act may be cited as the Coal Mines (Emergency) Act, 1920.

(2) This Act shall be deemed to have had effect as from the first day of April nineteen hundred and nineteen and shall continue in force until the thirty-first day of August nineteen hundred and twenty (which period is in this Act referred to as the period of the operation of this Act): Provided that this limitation on the duration of this Act shall not affect the operation of sections seven to ten thereof, and that the expiry of this Act shall not—

(*a*) affect the previous operation thereof or of anything duly done or suffered thereunder; or

(*b*) affect any right, privilege, exemption, obligation, or liability acquired, accrued, or incurred thereunder (including the assessment and collection of coal levy); or

(*c*) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against this Act; or

(*d*) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if this Act had not expired.

SCHEDULES.

Sections 1 and 2.

FIRST SCHEDULE.

APPORTIONMENT OF DISTRIBUTABLE SUM AMONGST UNDERTAKINGS.

1. If the sum distributable does not exceed the aggregate of the total standards of all the undertakings, that sum shall be apportioned amongst the several undertakings in accordance with the proportion which the total standards of each undertaking bears to the aggregate of the total standards of all the undertakings.

2. If the sum distributable exceeds the aggregate of the total standards of all the undertakings—

(*a*) such part thereof as is equal to that aggregate shall be apportioned in manner provided by paragraph 1;

(*b*) the balance shall be apportioned in manner provided by paragraph 3.

3.—(*a*) One-half of the balance shall be apportioned amongst the several undertakings in accordance with the proportion which the output as hereinafter defined of each undertaking bears to the aggregate output of all the undertakings.

(*b*) One-half of the balance shall be apportioned amongst those undertakings the profits of which, as determined for the purposes of aggregation under this Act but with the addition (for this purpose only) of ten shillings in respect of every ton of coal sold during the period of the continuance of this Act for household and domestic purposes or for the manufacture of gas or electricity for household and domestic purposes, at the price prescribed by the Coal (Pit's Mouth) Prices Order and Direction, 1919, exceed the respective total standards thereof in accordance with the proportion which the excess in respect of each undertaking bears to the total of such excesses.

4. The decision of the Controller as to the amount distributable and the apportionment thereof shall, except as otherwise expressly provided, be final.

5. In this Schedule " output " means the tonnage of coal raised and weighed at the pithead during the period of the operation of this Act.

Section 9

SECOND SCHEDULE.

PART I.

PROVISIONS SUBJECT TO WHICH COAL MINES CONTROL AGREEMENT TO BE DETERMINED.

1. The determination of the agreement confirmed by the Coal Mines Control Agreement (Confirmation) Act, 1918, shall not affect any right or liability which may have accrued before the date of the determination thereof.

2. Any sums payable under the said agreement after the passing of this Act shall, subject to paragraphs 3 and 4, be paid into or out of the account established under the Coal Mines Control Agreement (Confirmation) Act, 1918, which shall continue to be kept until all the sums so payable have been paid.

3. Any sums collected as coal mines excess payments under the said agreement in respect of any accounting period ended after the thirty-first day of March nineteen hundred and nineteen shall be regarded as payments on account of coal levy except to the extent to which such coal mines excess payments relate to the profits apportioned for the period up to and including the thirty-first day of March nineteen hundred and nineteen, in accordance with the number of months or fractions of months falling outside the period of the operation of this Act.

4. Any sum paid by the Controller under clause four of the said agreement in respect of any accounting period ended after the thirty-first day of March nineteen hundred and nineteen shall be regarded as a payment on account of coal award or adjustment award except to the extent to which such payment relates to the profits apportioned up to and including the thirty-first day of March nineteen hundred and nineteen, in accordance with the number of months or fractions of months falling outside the period of the operation of this Act; and if no coal award or adjustment award is due in respect of such period or the amount so paid exceeds the coal award or adjustment award, such payment or excess or the part thereof which is attributable to such period, shall be repaid to the Controller and shall be recoverable as a debt due to the Crown.

PART II.

PROVISIONS OF THE COAL MINES CONTROL AGREEMENT RE-ENACTED WITH MODIFICATIONS.

1.—(1) If the owner of an undertaking intends to close or abandon the whole or any part thereof, he shall give to the Controller not less than sixty days' notice of his intention, and, if before the expiration of the notice, the Controller directs that the undertaking or such part

thereof shall not be closed or abandoned, the undertaking shall continue to be carried on in accordance with the directions of the Controller.

(2) If no such directions as aforesaid are given by the Controller, the undertaking or such part thereof as aforesaid shall, unless otherwise agreed between the Controller and the owner, be closed or abandoned at the expiration of the notice or at the earliest date at which the owner has power to close or abandon it under the conditions of his tenure.

2.—(1) The owner of every undertaking shall keep and furnish to the Controller at such times and in such form as the Controller may determine such cost accounts, trading accounts, and balance sheets and other accounts and records as the Controller may require, audited and verified in such manner as he may direct, and, where an undertaking forms part only of a trade or business, entirely separate accounts of the undertaking shall be kept, and the price charged on departmental transactions between the undertaking and any other portion of the trade or business shall be on a commercial basis, and such as may from time to time be fixed by the Controller, whose decision shall be final; and, where coal has been or is sold or delivered from an undertaking to a concern in which any owner, partner, or person engaged in the management or direction of the undertaking is directly or indirectly interested, the price to be brought into the accounts of the undertaking in respect of that coal shall be such as may from time to time be fixed by the Controller having regard to market price, and the decision of the Controller shall be final.

(2) The Controller or any person appointed by him in that behalf may require the owner of any undertaking, and any director, manager, or officer of the undertaking to furnish any information which may be reasonably required by the Controller for the purposes of this Act, and may inspect and take copies of any books, plans, records, and documents relating to the undertaking, and every such owner, director, manager, and officer shall furnish to the Controller or any person appointed by him all such information as aforesaid, and shall produce all such books, plans, records, and documents as may be in his possession or under his control, and shall afford to such person all reasonable facilities for inspecting the same.

(3) If any person knowingly gives any information which is false in any material particular, he shall be guilty of an offence against this Act.

3. The Commissioners of Inland Revenue may make available to the Controller any information acquired by them for the purposes of income tax or excess profits duty or otherwise which the Controller may desire for the purposes of this Act:

4.—(1) Subject to the provisions of the Coal Industry Commission Act, 1919, any information obtained under the last two preceding paragraphs shall be treated as confidential, and shall be used only for the purposes of His Majesty's Government or any department thereof, and no person who obtains any such information shall disclose or make use of any such information for any other purpose:

Provided that the Controller shall publish as soon as may be in respect of the three months ended on the thirty-first day of March nineteen hundred and twenty, and each succeeding three months, statistical summaries of output and of the costs of production, proceeds,

and profits of the coal-mining industry as a whole, and for the various districts, notwithstanding anything in this schedule or that such summaries may be compiled from information obtained under paragraph 2 thereof.

(2) Any person who may obtain any information which by virtue of this section is to be treated as confidential shall be required to make a declaration of secrecy in such form as may be prescribed by the Board of Trade, and, subject as aforesaid, any person who has made such a declaration shall, for the purposes of section eighty-nine of the Income Tax Act, 1918, and the declarations made thereunder, be treated in relation to the disclosure of information under the last preceding paragraph of this Act as if he was a person sworn to the due execution of the said Act.

5. Where an undertaking is subject to the Coal Mines Control Agreement (Confirmation) Act, 1918, during part only of an accounting period, the profits standard or the special standard, as the case may require, and the guaranteed standard, and any other sums brought into account in calculating the sums retainable under clause 3 or payable under clause 4 of the said agreement, shall, for the purposes of applying that agreement to such part of such accounting period, be proportionately reduced, and the profits for that period shall be apportioned between the parts of the period before and after the date of the termination of the said agreement in proportion to the number of months or fractions of months in those parts, respectively.

CHAPTER 5.

An Act to continue temporarily certain emergency enactments and regulations, and to make provision with respect to the expiration or revocation of emergency enactments and instruments made thereunder.

[31st March 1920.

WHEREAS the enactments mentioned in the first column of the First Schedule to this Act are subject to the limitations mentioned in the second column of that schedule, and it is expedient that they should be extended in the manner hereinafter appearing:

And whereas the Defence of the Realm Regulations will expire at the termination of the present war, and it is expedient that certain of those regulations should continue in force thereafter:

And whereas it is expedient to make provision as to the effect of the expiry of enactments and other instruments which will expire on, or on the expiration of an interval after, the termination of the present war:

Now, therefore, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: