11. VESTING OF ASSETS

The Electricity (Vesting of Assets) Regulations, 1948

1948 No. 239

Made - - - -	*11th February,* 1948
Laid before Parliament	*12th February,* 1948
Coming into Operation	*23rd February,* 1948

Arrangement of Regulations

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Schedule

Notice under section 15 (4) of the Electricity Act, 1947

The Minister of Fuel and Power (in these Regulations referred to as "the Minister") in exercise of the powers conferred on him by sections fourteen, fifteen, seventeen, eighteen, twenty-five, thirty-five and forty-eight of the Electricity Act, 1947 (in these Regulations referred to as "the Act"), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

10 & 11 Geo. 6. c. 54.

PART I

Registration of title of Electricity Boards

Provisions as to registration of title of Electricity Boards.

1.—(1) Every body and person any of whose assets vest in an Electricity Board by virtue of the Act, and every person responsible for keeping any register or book in which any such asset is registered or inscribed, or otherwise concerned with the registration or inscription of any such asset, shall do all such things as are necessary, or as the Electricity Board concerned may direct to be done, for the purpose of securing the due registration or inscription of the title of the Board to that asset, and the delivery to the Board of any document constituting evidence of the said registration or inscription.

(2) The duty imposed under the preceding paragraph shall include a duty to do all such things as are necessary to secure that any dividend or interest payable on that asset on or after the date of the vesting thereof in the Board will be paid to the Board.

(3) A certificate, signed by such person as the Board may authorise for the purpose, that any specified asset is an asset which has vested in that Board by virtue of the Act shall be treated by any person responsible or concerned as aforesaid as evidence that that asset has so vested.

PART II

Provisions as to local authorities

Property held or used by a local authority partly in their capacity as authorised undertakers and partly in other capacities.

2.—(1) This Regulation shall apply to property held or used by any local authority partly in their capacity as authorised undertakers and partly in other capacities; and the expression "the Board" in this Regulation means, in relation to any such property, the Electricity Board in whom it would vest by virtue of the Act if it had been held or used by that authority wholly in their capacity as authorised undertakers.

(2) Where a notice embracing any such property has been duly served in pursuance of paragraph (*b*) of subsection (4) of section fifteen of the Act, the authority and the Board may agree that, on such terms (which may include the payment of money) as may be specified in the agreement, that property shall vest in the Board by virtue of the Act, or shall not so vest.

(3) Where any property to which this Regulation applies vests in the Board by virtue of the Act, the authority and the Board may agree that, on such terms (which may include the payment of money) as may be specified in the agreement, the Board shall grant to the authority any such interest in, or right over or attaching to, or right in respect of the user of, the property as may be agreed; and where any such property does not so vest in the Board, the authority and the Board may agree as aforesaid that the authority shall grant any such interest or right to the Board.

(4) Any question arising between the authority and the Board, whether as to the vesting of any property to which any such notice as aforesaid refers, or as to the granting of any such interest or right as aforesaid, or as to the terms on which the property, interest or right shall vest or be granted, as the case may be, may be referred at the instance of either of them for determination by the Minister of Health.

(5) All property to which any such agreement or determination as aforesaid relates shall vest in the Board by virtue of the Act, or shall not so vest, in accordance therewith; and every interest in, or right over or attaching to, or right in respect of the user of, any such property, which by the terms of any such agreement or determination as aforesaid should be granted, shall be granted in accordance therewith by the Board or by the authority in whom that property is vested.

Post-war refunds in respect of excess profits tax. 9 & 10 Geo. 6. c. 13.

3.—(1) The last preceding Regulation shall not apply:—

(*a*) to any sums held by a local authority which represent the whole or any part of a post-war refund (within the meaning of Part IV of the Finance (No. 2) Act, 1945) paid to the authority in respect of excess profits tax in respect of profits earned by them partly in their capacity as authorised undertakers and partly in other capacities; or

(*b*) to any right to receive any such post-war refund or any part thereof;

and the following provisions of this Regulation shall apply thereto, so however that in the case of any local authority whose undertaking is wholly or mainly carried on in the North of Scotland District there shall be substituted for references in those provisions to the British Electricity Authority references to the North of Scotland Board.

(2) Where any sum representing the whole or a part of a post-war refund has been paid to a local authority before the vesting date and has not been used, or appropriated for use, before the vesting date for

the purposes of the electricity undertaking of the authority, such part of that sum as may be agreed between the local authority and the British Electricity Authority, or, in default of such agreement, be determined by the Minister of Health, to be attributable to the excess profits tax paid by the local authority in respect of profits earned by them in their capacity as authorised undertakers shall, subject to such reduction (if any) as may be just having regard to the provisions of section forty-six of the Finance (No. 2) Act, 1945, vest in the British Electricity Authority, and the remainder thereof shall not so vest.

(3) Where a local authority are entitled to a sum representing the whole or a part of a post-war refund but have not received it before the vesting date, the local authority and the British Electricity Authority may agree, and, in default of such agreement, the Minister of Health may determine, whether the right is to vest by virtue of the Act in the British Electricity Authority or is not so to vest, and the agreement or determination may contain terms as to the apportionment, as between the local authority and the British Electricity Authority, of the sum when paid.

Agreements of a local authority made partly in their capacity as authorised undertakers and partly in other capacities.

4.—(1) This Regulation shall apply to agreements entered into by a local authority partly in their capacity as authorised undertakers and partly in other capacities, including agreements which relate to the employment of officers by the local authority partly for the purposes of their electricity undertaking and partly for other purposes:

Provided that this Regulation shall not apply in any case where the only matters outstanding under the agreement will be disposed of in accordance with section twenty-two of the Act.

(2) In this Regulation the expression " the Board " means, in relation to any such agreement, the Electricity Board in whom rights and liabilities under the agreement would vest by virtue of the Act if the agreement had been entered into by the local authority wholly in their capacity as authorised undertakers:

Provided that, if the agreement relates partly to matters which concern another Electricity Board, the said expression shall include that Board also.

(3) Where any agreement to which this Regulation applies remains to be performed, in whole or in part, after the vesting date, that agreement shall, subject to the provisions of the following paragraphs of this Regulation, have effect, as from the vesting date, as if there were substituted therefor separate agreements—

(*a*) securing for the Board the benefits that would, but for the Act, have been secured for the electricity undertaking of the local authority under the original agreement, either directly or in accordance with arrangements made by the local authority for making benefits under the agreement available to the undertaking, and imposing on the Board the liabilities and obligations, so far as properly attributable to those benefits, that would have been imposed on the local authority by the original agreement; and

(*b*) securing for the local authority all other benefits that would have accrued to them under the original agreement and imposing on them the liabilities and obligations, so far as properly attributable to those benefits, that would have been imposed on them by the original agreement:

Provided that, in the case of an agreement relating to the employment by the local authority of any officer in a capacity which entitled him

to pension rights, that officer shall, while the agreement has effect under this paragraph, be deemed, for the purposes of his pension rights, to be employed whole-time by the body (whether the Board or the local authority) to whom his services are mainly rendered.

(4) The authority and the Board may, with respect to any agreement to which this Regulation applies, on such terms (which may include the payment of money) as may be then specified agree either temporarily or permanently that all rights, liabilities and obligations thereunder shall vest in the Board by virtue of the Act, or that none of them shall so vest; and those terms may include provision that the Board or the authority, as the case may be, in whom the said rights, liabilities and obligations are to vest, shall make available to the other of them any such benefits in relation to the agreement as are respectively mentioned in sub-paragraph (*b*) or sub-paragraph (*a*) of the last preceding paragraph.

(5) Any question arising in relation to any agreement to which this Regulation applies either as to the effect of paragraph (3) or, in pursuance of paragraph (4), as to the vesting of the rights, liabilities and obligations, or the terms on which they shall vest, or shall not vest, may be referred at the instance of any party to the question for determination:—

(*a*) if it is a question between the authority and the Board after they have agreed under paragraph (4) of this Regulation that the rights, liabilities and obligations shall vest, or shall not vest, by such method as may have been agreed, or be agreed, between them;

(*b*) in any other case, by the Minister of Health;

so however that any party to that agreement may, if not a party to the question, make representations thereon before the said determination.

(6) During the currency of any agreement or determination in pursuance of paragraph (4) that all rights, liabilities and obligations under an agreement shall vest in the Board by virtue of the Act, or that none of them shall so vest, whether or not any benefits are to be made available as there mentioned, paragraph (3) of this Regulation shall not apply to that agreement, but the said agreement shall have effect, and any such benefits be made available, as has been so agreed or determined.

Easements, etc., to be granted over certain land.

5.—(1) If any Electricity Board in whom land of any local authority is vested are of opinion that any easement or other right over or attaching to other land of that authority is required to enable the land which is so vested to be used for the purposes of the Board, that Board may, before the expiry of twelve months from the date of the vesting of that land, give notice in writing to the authority and to every other person concerned specifying the easement or right which in the opinion of the Board is so required.

(2) There shall be delivered with every such notice as aforesaid such maps or plans as are requisite to identify clearly the location of any land to which the specified easement or right relates.

(3) Any question arising as to whether, or to what extent, any easement or right is required by the Board for the purpose aforesaid, or as to the terms on which it shall be conferred, shall in default of agreement be determined by arbitration under the Act; and any such easement or right as may be agreed or determined to be required as aforesaid shall vest in the Board on such terms (which may include the payment of money) as may be so agreed or determined.

Severance of leases.

6.—(1) Where any local authority were lessees of land of which part only was used by them in their capacity as authorised undertakers, the interest of the authority in the lease shall, in so far as the land vests in any Electricity Board by virtue of the Act, be severed as from the date of that vesting; and the provisions of this Regulation shall have effect in relation thereto.

(2) If the lease does not reserve separate rents for the several parts of the land, the rent reserved by the lease shall be apportioned, and the amounts thereof to be apportioned respectively to those parts of the land which have, and which have not, vested in that Board shall, in default of agreement between the lessor, the Board and the authority, be determined by arbitration under the Act.

(3) As from the date of the severance, no liability (whether to the lessor or to any other person) shall attach respectively to the Board and to the authority, or to their respective successors in title, in respect of any apportioned rent, or the breach of any covenant, agreement, or condition in the said lease, relating respectively to land which has not, and which has, vested in the Board.

(4) The authority shall be deemed to have given to the Board an acknowledgment in writing of the right of the Board to production of the lease and of all relevant documents, and to delivery of copies thereof; and section sixty-four of the Law of Property Act, 1925, shall apply on the basis that that acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

15 & 16 Geo. 5. c. 20.

(5) The authority shall, not later than the date of vesting of the land (or such other date as the Board may permit), deliver to the Board a statement setting out full particulars of the ownership of the land, of the date of the lease and every relevant document, of the names, addresses and descriptions of the parties thereto, and of the effect thereof; and shall, in such manner and within such time as the Board may reasonably require, furnish all such supplementary information in relation to the interest vested in the Board as the Board may reasonably require.

(6) Any expenses reasonably incurred by the authority in complying with the last preceding paragraph, or with any requirement made thereunder, shall be paid by the Board; and the High Court shall have power on the application of the authority, being aggrieved by a refusal by the Board to pay any expenses, to give such directions as to the matter in question as appear to the Court to be just.

Apportionments and indemnities.

7.—(1) In the case of an agreement to which sub-paragraph (*a*) of paragraph (3) of Regulation four applies, or, where a lease is severed in pursuance of the last preceding Regulation, of that part of the lease which relates to land vesting in an Electricity Board, the provisions of this Regulation shall have effect.

(2) If any periodical payment, being a fixed or certain periodical payment, was accruing at the date of substitution of separate agreements or of severance of the original lease, as the case may be, (in this Regulation referred to as "the relevant date") that payment shall be deemed to have accrued from day to day and shall be apportioned as at the relevant date accordingly.

(3) If any periodical payment, being a payment calculated on a quantitative basis, was accruing at the relevant date, that payment shall be calculated on the relevant basis up to that date and shall (subject

to the provisions of the next following paragraph) be the amount apportioned to that date.

(4) If, in relation to any such payment as is mentioned in the last preceding paragraph, provision was also made for a minimum periodical amount being paid in respect thereof, the amount accruing at the relevant date shall be calculated on a day to day basis to that date; and the amount of that payment apportioned to that date shall be whichever of the amounts calculated respectively in accordance with the last preceding paragraph and with this paragraph is the greater.

(5) Where any periodical payment (whether or not a minimum payment) has been made in advance in respect of the period in which the relevant date occurs, that payment shall be apportioned as between that part of the period which ended and that part which began on that date.

(6) Any sum apportioned in pursuance of the last preceding paragraph in respect of that part of the said period which began on the relevant date shall, if it was not before the relevant date debited or credited by the local authority concerned in the accounts of that authority in their capacity as authorised undertakers, be deemed to have been paid by or to the authority, as the case may be, on behalf of the Electricity Board concerned.

(7) Any question which may arise in giving effect to this Regulation, or as to the giving of any requisite and reasonable indemnity in relation to the severance of any lease or the substitution of any agreement, shall, in default of agreement between all the parties concerned, be determined by arbitration under the Act.

Form of notice under section 15 (4) of the Act.

8. Any notice given by a local authority or Electricity Board in pursuance of subsection (4) of section fifteen of the Act shall be in the form set out in the Schedule to these Regulations; and shall show all requisite information in relation to any matters mentioned in that Schedule; and shall be signed by a person authorised in that behalf.

Part III

Provisions as to composite companies

Application of Part II.

9.—(1) Save in so far as otherwise provided in this Regulation, the provisions of Part II of these Regulations shall, with the requisite modifications, apply in relation to a composite company to whom section seventeen of the Act applies as they apply in relation to a local authority.

(2) For any reference in paragraph (4) of Regulation two or paragraph (5) of Regulation four, in relation to a question arising, to determination by the Minister of Health there shall be substituted a reference to arbitration under the Act; and any question whether any rights, liabilities or obligations were acquired or incurred, or any agreement was entered into, by a composite company partly in their capacity as authorised undertakers and partly in other capacities shall be determined by arbitration under the Act.

Cash and investments.

10.—(1) Cash and investments of any composite company shall, subject to due provision for any sum certified in pursuance of paragraph (*b*) of subsection (11) of section twenty-seven of the Act, be apportioned between the company and the British Electricity Authority in such shares as may be agreed between the company and the Authority

or, in default of agreement, determined by the Minister; and any cash or investments apportioned to the Authority shall be transferred to the Authority by the company before the expiry of three months from the date of agreement or determination as aforesaid.

(2) In the preceding paragraph the expressions " cash " and " investments " include respectively any income accruing thereon before the date of apportionment.

(3) Where any liability has been incurred by a composite company partly in their capacity as authorised undertakers and partly in other capacities, the liability, if and in so far as it remains outstanding on the vesting date, shall be apportioned between the company and the Electricity Board in whom the liability would vest if it had been incurred by the company wholly in their capacity as authorised undertakers, in such shares as may be agreed between the company and the Board or, in default of agreement, determined by the Minister, and, if the liability is secured by a mortgage or other incumbrance on any property of the composite company, the mortgage or incumbrance shall have effect as if it created—

(*a*) a charge on such of that property as vests by virtue of the Act in the Electricity Board, being a charge securing so much of the said liability as is apportioned to that Board; and

(*b*) a charge on the remainder of that property securing so much of the liability as is apportioned to the company:

Provided that the Electricity Board and the company may, with the consent of the creditor, agree that, in lieu of the apportionment, the whole liability shall remain the liability of the company or become the liability of the Electricity Board, with such financial adjustments as between the Board and the company as may be agreed between them, and in that case the liability shall vest in the Board or, as the case may be, shall remain vested in the company, in accordance with the agreement.

This paragraph shall not apply to liabilities under any agreement if any obligations (other than the payment of money) remain to be performed under the agreement after the vesting date.

PART IV

Provisions as to non-statutory undertakings

Application of Part II.

11.—(1) Save in so far as otherwise provided in this Regulation, the provisions of Part II of these Regulations shall, with the requisite modifications, apply in relation to any person to whom section forty-eight of the Act applies (in this Regulation referred to as " the undertakers ") as they apply in relation to a local authority.

(2) There shall be substituted for any reference:—

(*a*) to the vesting date, a reference to the date of transfer determined in relation to the undertakers in pursuance of the Act;

(*b*) in relation to a question arising, in paragraph (4) of Regulation two or paragraph (5) of Regulation four, to determination by the Minister of Health, a reference to arbitration under the Act.

(3) Any question whether any rights, liabilities or obligations were acquired or incurred, or any agreement was entered into, by the undertakers partly for the purposes of the undertaking and partly for other purposes shall be determined by arbitration under the Act.

Payment of compensation to mortgagees, etc.

12.—(1) Where property vested under the said section forty-eight in any Electricity Board was, immediately before the date of transfer, subject to any mortgage or other incumbrance, the compensation, or the part of the compensation, attributable to that property shall be paid to the mortgagee or incumbrancer; and shall be held and disposed of by him in like manner as if it had been money arising under a power of sale conferred by that mortgage or incumbrance.

(2) Any question which may arise in giving effect to this Regulation shall, in default of agreement, be determined by arbitration under the Act.

Part V

Miscellaneous and General

Period within which disclaimer of agreements, etc., may be referred to arbitration.

13. Where any Electricity Board have in pursuance of section eighteen of the Act given to any person notice of disclaimer of an agreement or lease made or varied on or after the nineteenth day of November, nineteen hundred and forty-five, by a body to whom Part II of the Act applies, the period within which that person (being a party to the agreement or lease) may refer to arbitration under the Act the question whether the said agreement or lease or variation was reasonably necessary for the purposes of the activities of the said body, or was made with unreasonable lack of prudence, shall be one month from the date of service upon him of that notice.

Supplementary provisions in relation to awards.

14.—(1) Where any question is referred for determination in pursuance of these Regulations to the Minister of Health, a statement of the material facts not in dispute shall be agreed between all parties to the question and submitted by the party by whom that question is referred; any party may in that statement indicate that his agreement extends only to such of the facts set out therein as he then specifies.

(2) Subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held by the Minister of Health for the purpose of his determination of any question referred to him in pursuance of these Regulations. 23 & 24 Geo. 5. c. 51.

(3) Any award made by the Minister, the Minister of Health, or the arbitration tribunal under these Regulations may include directions for the preparation and execution of any instrument requisite for giving full effect to the award; and every such direction shall be complied with by every person to whom it is given.

Power to extend time.

15. Where any period or date is specified in these Regulations as the period within which, or the date by which, any act or thing is to be done by any person, the Minister may, on written application made to him in that behalf, notwithstanding that that period has expired or that date has passed, extend that period or fix a later date for the doing of that act or thing in any case in which he is satisfied that there has been reasonable ground for not doing, or for not having done, that act or thing within that period or by that date, as the case may be.

Interpretation.

16.—(1) 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 every acknowledgment, agreement, award, notice, statement and proposal for or draft of an agreement made, delivered, given or served, as the case may be, under those provisions.

52 & 53 Vict. c. 63.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Application to Scotland.

17.—(1) The provisions of this Regulation shall have effect for the purpose of the application of these Regulations to Scotland.

(2) (*a*) Any reference to a rent reserved by a lease shall be construed as a reference to a rent payable under or stipulated for a lease;

(*b*) there shall be substituted for any reference to the Minister of Health a reference to the Secretary of State, and for any reference to the High Court, a reference to the Court of Session;

(*c*) for any reference to the Local Government Act, 1933, and to subsections (2) to (5) of section two hundred and ninety thereof, there shall be substituted a reference to the Local Government (Scotland) Act, 1947, and to subsections (2) to (9) of section three hundred and fifty-five thereof;

10 & 11 Geo. 6. c. 43.

(*d*) the expression "easement" means servitude; the expression "mortgage" includes a heritable security; the expression "disclaim" includes abandon, and the expression "disclaimer" shall be construed accordingly.

(3) Paragraph (4) of Regulation six shall have effect as if for the words from "an acknowledgment in writing" to the end of the paragraph there were substituted the words "an undertaking to produce the lease and all relevant documents to the Board (on a proper receipt and undertaking to re-deliver) for the purpose of enabling the Board to maintain and defend their rights in respect of those parts of the land which have vested in them."

Commencement and citation.

18. These Regulations shall come into force on the twenty-third day of February, nineteen hundred and forty-eight, and may be cited as the Electricity (Vesting of Assets) Regulations, 1948.

Dated this eleventh day of February, 1948.

Hugh Gaitskell,
Minister of Fuel and Power.

SCHEDULE

Regulation 8.

ELECTRICITY ACT, 1947

ELECTRICITY (VESTING OF ASSETS) REGULATIONS, 1948

Notice under Section 15(4) of the above-mentioned Act [as applied by Section 17(4) or 48(8) of that Act]

To the ..... (*a*) and
to ..... (*aa*)
.....
..... (*b*)

HEREBY GIVE NOTICE that the following question[s] [has] [have] arisen between them and the party last above mentioned, that is to say(*c*):—

1. Under ..... [and] ..... (*d*)
   Whether .....
   [or, if not, whether] ..... (*e*)

2. Under ..... [and] ..... (*d*)
   Whether .....
   [or, if not, whether] ..... (*e*)

3. Under ..... [and] ..... (*d*)
   Whether .....
   [or, if not, whether] ..... (*e*)

4. Under ..... [and] ..... (*d*)
   Whether .....
   [or, if not, whether] ..... (*e*)

Dated ..... 1948.

..... (*f*)

(*a*) See Sections 17(4) and 48(8) and (14) of the Act.

(*aa*) Insert the name of the other party to the question[s].

(*b*) Insert the name of the party giving the notice, and the address to which communications should be sent.

(*c*) One numbered section should be used for each distinct holding of property; in the event of more than four sections being required, use additional sheets.

(*d*) Specify the provisions of the Act or of the Regulations.

(*e*) Specify the question or questions, and identify the property or lease to which [it] [they] relate[s].

(*f*) See Regulation 8 of the Electricity (Vesting of Assets) Regulations, 1948.

EXPLANATORY NOTE

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

1. These Regulations contain supplementary provisions regarding the vesting of property etc. in Electricity Boards.

2. Part I deals with registration of title.

3. Part II deals with local authorities, and in particular with property and rights the interest in which was acquired partly in their capacity as authorised undertakers and partly in other capacities;

(*a*) provision is made for determining whether property, rights, liabilities and obligations so acquired shall or shall not vest under the Act; rights over such property may be granted to the other party;

(*b*) provision is also made for leases to be severed, and for new provisions to be substituted in agreements made by the authority partly in that capacity and partly in other capacities;

(*c*) easements may be granted to an Electricity Board over other land of the local authority.

4. Parts III and IV deal with composite companies and non-statutory undertakings; similar provisions to those in Part II are applied, together with additional provisions, in each case, in accordance with the terms of the Act.

5. In Part V, Regulation 13 prescribes one month as the period within which the disclaimer of agreements or leases may be referred to arbitration.

EMPLOYMENT AND TRAINING

1. *Finance.*

2. *Youth Employment Service*, p. 921.

1. FINANCE

The Employment and Training (Payment of Travelling Expenses) Regulations, 1948

1948 No. 1668

Made - - - -	19*th July*, 1948
Laid before Parliament	19*th July*, 1948
Coming into Operation	24*th July*, 1948

M.N.I. 145.

The Minister of National Insurance, with the consent of the Treasury, in exercise of the powers conferred by subsection (2) of section 5 of the