STATUTORY INSTRUMENTS

1976 No. 405

COMMUNITY LAND

The Community Land (Operational Land of the National Coal Board) Order 1976

Made - - -	*15th March* 1976
Laid before Parliament	*15th March* 1976
Coming into Operation	*6th April* 1976

The Secretary of State for the Environment, in relation to England, the Secretary of State for Scotland, in relation to Scotland, and the Secretary of State for Wales, in relation to Wales, together, in each case, with the Secretary of State for Energy (being the appropriate Minister in relation to the National Coal Board(**a**)), in exercise of the powers conferred on them by sections 5(3) and 53(2) of the Community Land Act 1975(**b**) and of all other powers enabling them in that behalf, hereby order as follows:—

Citation and Commencement

1. This order may be cited as the Community Land (Operational Land of the National Coal Board) Order 1976, and shall come into operation on 6th April 1976.

Interpretation

2.—(1) In this order, subject to paragraph (2) below, unless the context otherwise requires—

"the Act" means the Community Land Act 1975;

"the Act of 1946" means the Coal Industry Nationalisation Act 1946(**c**);

"the Board" means the National Coal Board;

"coal industry activities" and "colliery activities" have the meanings assigned to those expressions by section 63 of the Act of 1946.

(2) For the purposes of this order none of the activities mentioned in Schedule 1 to the Act of 1946 shall be regarded as subject to the provisions of paragraph 22(2) of that Schedule.

(3) The Interpretation Act 1889(**d**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

3. In relation to the Board, "operational land" means land (including mines) of the following classes:—

(*a*) unworked coal, or any space excavated underground for the purposes of colliery activities;

(a) S.I. 1976/198. (1976 I, p. 497). (b) 1975 c. 77. (c) 1946 c. 59. (d) 1889 c. 63.

(*b*) unworked minerals other than coal, being minerals which cannot be economically worked except in association with the working of coal, or which cannot be economically brought to the surface except by the use of a mine of coal vested in the Board;

(*c*) surface land in the immediate vicinity of a shaft or adit for the winning or working of coal, being either land on which any of the activities mentioned in Parts I, II and III of Schedule 1 to the Act of 1946 (except paragraphs 13 and 14 thereof) are ordinarily carried on, or land in which an interest is held for the purpose of any of those activities and which, in respect of its nature and situation, is comparable rather with land on which those activities are carried on than with land in general;

(*d*) other surface land, being either land on which coal industry activities are ordinarily carried on, or land in which an interest is held for the purpose of those activities and which, in respect of its nature and situation, is comparable rather with land on which those activities are carried on than with land in general, but excluding in either case shops and offices not adjacent to any other surface land which is operational land by virtue of this order:

Provided that land of class (*c*) shall include any dwellinghouse at a colliery, in which an employee is required by the terms of his employment to reside for the purpose of enabling him properly to perform his duties.

John Silkin,
Minister for Planning and Local Government,
Department of the Environment.

Signed by authority of the Secretary of State,

26th February 1976.

William Ross,
Secretary of State for Scotland.

1st March 1976.

John Morris,
Secretary of State for Wales.

3rd March 1976.

Tony Benn,
Secretary of State for Energy.

15th March 1976.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The operational land of statutory undertakers is treated differently from other land for some of the purposes of the Community Land Act 1975. The duty which the Secretary of State may, under section 18 of the Act, impose on an authority—this is a duty to acquire all land needed for the relevant development designated by that order—cannot be imposed on the operational land of statutory undertakers (see section 18(4)(*d*)). Similarly, the provisions of sections 19 to 22 of the Act ("suspension" of certain planning permissions) do not apply to planning permissions granted in respect of operational land of statutory undertakers, or land which would be operational land if it were used or held by statutory undertakers for the purposes covered by the planning permission.

This Order defines "operational land" of the National Coal Board for the purposes of the Community Land Act 1975. The definition is similar to that used for the purposes of the Town and Country Planning Act 1971 (c.78) (see the Town and Country Planning (National Coal Board) Regulations 1974, S.I. 1974/1006). The equivalent Scottish enactments are the Town and Country Planning (Scotland) Act 1972 (c. 52) and the Town and Country Planning (National Coal Board) (Scotland) Regulations 1975, S.I. 1975/1280.

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