The Mineral Development Charge Set-Off Regulations, 1951*

1951 No. 2156

Made - - - - 27th September, 1951

Arrangement of Regulations

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SCHEDULES:

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L.G.P. 1869

The Minister of Local Government and Planning in exercise of the powers conferred on him by section 81 of the Town and Country Planning Act, 1947(a), section 29 of the Mineral Workings Act, 1951(b), and sections 6 and 30 of the last-mentioned Act, and of all other powers enabling him in that behalf hereby with the consent of the Treasury makes the following Regulations:—

Citation

1. These Regulations may be cited as the Mineral Development Charge Set-Off Regulations, 1951.

(a) 10 & 11 Geo. 6. c. 51. (b) 14 & 15 Geo. 6. c. 60.

* These Regulations were approved by Resolution of the House of Lords, 4th December, 1951, and the House of Commons, 3rd December, 1951, in accordance with section 81 (5) of the Town and Country Planning Act, 1947.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them:—

"the Act" means the Town and Country Planning Act, 1947;

"the appointed day" means the day appointed by the Minister to be the appointed day for the purposes of the Act, that is to say the 1st day of July, 1948;

"the Board" means the Central Land Board;

"date of satisfaction" means the date fixed under section 65 of the Act for the issue of stock in satisfaction of Part VI payments;

"development" in relation to minerals means development consisting of the winning and working of the minerals whether by surface or underground workings, the erection, enlargement, improvement, alteration and use of buildings, plant and machinery for the winning and working of the minerals and the carrying out of works for filling excavations made in the winning and working of the minerals, but does not include any such development as is mentioned in paragraph 5 of the Third Schedule to the Act or the erection, enlargement, improvement, alteration or use of buildings, plant or machinery for the processing of minerals;

"development value" in relation to an interest means the development value as ascertained under the Act for the purposes of the scheme to be made under section 58 of the Act, or (in a case to which Regulation 6 of these Regulations applies) such part of that value as may be determined under that Regulation to be attributable to the prospects of development of minerals to which these Regulations apply;

"express planning permission" means planning permission other than permission granted by an order under section 13 of the Act;

"interest" means an interest in fee simple or a leasehold interest as defined by the Act, and includes a right to win or work minerals under a mining lease as so defined;

"the Minister" means the Minister of Local Government and Planning;

"owner" in relation to an interest has the same meaning as it has for the purposes of Part VI of the Act, and includes a person who is treated under section 91 of the Act as the owner; and "own" shall be construed accordingly;

"Part VI payment" in relation to a relevant interest means the payment falling to be made in respect of that interest under the scheme to be made under section 58 of the Act, or (in a case to which Regulation 6 of these Regulations applies) such part of that payment as is equal to the development value of that interest as defined for the purposes of these Regulations;

"planning permission" includes permission which is deemed to be granted by virtue of section 77 of the Act, and such permission shall be deemed for the purposes of these Regulations to have been granted on the appointed day;

"relevant interest" in relation to minerals means an interest in land consisting of or comprising those minerals being an interest in respect of which a claim for a Part VI payment has been or is treated as having been duly made in accordance with the Act, and in the case of which either the conditions specified in paragraphs (*a*) and (*b*) of subsection (1) of section 63 of the Act (which makes provision for the exclusion of small claims for such payments), or those specified in paragraphs (*b*) to (*d*) of

Regulation 4 of the Town and Country Planning (Minerals) Regulations, 1949(a) (which amends the said section 63 in the case of certain mineral claims), are complied with;

"ton" and "tonnage royalty" have the same meaning as in the Mineral Workings Act, 1951;

and other expressions defined in the Act have the same meaning as in the Act.

(2) Any question whether development consisting of the erection, enlargement, improvement, alteration or use of any buildings, plant or machinery, or of buildings, plant or machinery of any class, constitutes in relation to any minerals development within the meaning attributed to that expression in paragraph (1) of this Regulation shall be determined by the Board, whose decision shall (notwithstanding any other provision of these Regulations) be final.

(3) For the purposes of any provision of these Regulations enabling or requiring any action to be taken in consequence of the grant or refusal of planning permission—

(*a*) the decision of a local planning authority on an application for such permission shall be disregarded until the expiration of one month from the receipt by the applicant of notice of the decision of the authority and, if within that period, or before any such action as aforesaid has been taken, notice of an appeal to the Minister is given under section 16 of the Act, until the appeal is disposed of or abandoned;

(*b*) where such an appeal is brought in pursuance of a notice given as aforesaid, and is not abandoned, the decision of the local planning authority shall be disregarded so far as it is reversed or varied on the appeal, and shall, so far as not so reversed or varied, be deemed to have been given at the time when the appeal is disposed of.

(4) In relation to any development of minerals to which these Regulations apply which is carried out when no planning permission for the development is in force, these Regulations shall have effect as if such permission were in force.

(5) References in these Regulations to the compulsory acquisition of an interest shall be construed as including references to the acquisition of an interest by agreement by any authority or person who, under any enactment, have authority or could be authorised to acquire the interest compulsorily by means of a notice to treat; and in relation to any such acquisition references to notice to treat and to the service of notice to treat shall be construed as references to a contract and to the making of a contract.

(6) In relation to any period before the making of a scheme under section 58 of the Act, references in these Regulations to the person entitled to receive a Part VI payment shall be construed as references to the person in whom that right would for the time being be vested under section 64 of the Act if that scheme were in force and contained provisions applying section 29 of the War Damage Act, 1943(b) (which relates to the rights of devisees of land to value payments)—

(*a*) as if for references to an interest, to land which sustains war damage and to a value payment there were substituted respectively references to a relevant interest, to minerals to which these Regulations apply and to a Part VI payment; and

(*b*) as if for the reference to the material time there were substituted a reference to the appointed day,

but contained no other provision for regulating the diversion or devolution of payments thereunder.

(a) S.I. 1949 (No. 1996) I, p. 4035. (b) 6 & 7 Geo. 6. c. 21.

(7) Any reference in these Regulations to any enactment or regulation shall be construed, unless the context otherwise requires, as a reference to that enactment or regulation as amended by or under any subsequent enactment or regulation and, in the case of an enactment contained in the Act which is for the time being modified by regulations made under section 81 of the Act. as a reference to that enactment as so modified.

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

Application of Regulations

3.—(1) Subject to the provisions of this and the next following Regulation, the minerals to which these Regulations apply are minerals in which—

(*a*) a relevant interest subsisted on the appointed day ; and

(*b*) an interest (whether a relevant interest or not) was owned on that day by a person then engaged in the development of minerals.

(2) Where, on the appointed day, an interest in minerals was subject to an enforceable contract of sale (not being a contract for a compulsory acquisition within the meaning of these Regulations), the purchaser and not the vendor shall be deemed for the purposes of this Regulation to have been the owner of that interest on that day, and references in this Regulation to the owner of an interest shall be construed accordingly.

(3) Where the person who on the appointed day was the owner of an interest in any minerals was not himself then engaged in the development of minerals, the Board may direct that in relation to such of those minerals as may be specified in the directions he shall be treated for the purposes of this Regulation as if he had been so engaged, if they are satisfied that it is reasonable to do so—

(*a*) having regard to any development of minerals carried out by him before that day or to the prospects on that day of his becoming engaged in such development ; or

(*b*) having regard to any association subsisting on that day between him and a person who was then engaged in the development of minerals, or between him and a person who could be treated by virtue of sub-paragraph (*a*) of this paragraph as having been so engaged if that person had been the owner of the interest.

(4) Where, apart from this paragraph, these Regulations would apply to any minerals by reason of the fact that a person engaged in the development of minerals was on the appointed day the owner of an interest therein, the Board may—

(*a*) if it appears to them that the minerals include minerals of any description which the person so engaged was not accustomed to develop before that day, direct that these Regulations shall not apply in relation to the minerals of that description ;

(*b*) if it appears to the Board, having regard to all the circumstances (including the site and extent of any workings carried out before that day) that a part only of the minerals was held on that day for the purposes of the business of the person so engaged, direct that these Regulations shall apply only to that part of the minerals.

(5) Where it appears to the Board that a person who on the appointed day was engaged in the development of minerals was entitled to develop any minerals under a mining lease granted by parol, they may direct that these Regulations shall apply to the whole or any specified part of those

(a) 52 & 53 Vict. c. 63.

minerals; but except as aforesaid these Regulations shall not apply to any minerals by virtue of the subsistence on the appointed day of a mining lease granted by parol.

(6) Where any person who on the appointed day was the owner of an interest in minerals which were then comprised in requisitioned land within the meaning of section 89 of the Act was not on the appointed day engaged in the development of minerals, then if it appears to the Board—

(*a*) that immediately before the beginning of the period of requisition as defined by that section an interest in the minerals was owned by a person who was then so engaged or by a person who, if he had owned such an interest on the appointed day, could be treated under the foregoing provisions of this Regulation as so engaged on that day; and

(*b*) that apart from the requisition such an interest would have been owned on the appointed day by a person who was so engaged on that day or by a person who could be treated under the foregoing provisions of this Regulation as so engaged,

the Board may direct that, in relation to such of those minerals as may be specified in the directions, the person who was the owner of the said interest on the appointed day shall be treated for the purposes of this Regulation as if he had been so engaged on that day.

Exclusion of Regulations in certain cases

4.—(1) Subject to the provisions of this Regulation, where the person entitled to receive a Part VI payment in respect of a relevant interest in any minerals to which (apart from this paragraph) these Regulations would apply is not the owner of that interest, he may at any time within the period prescribed by this Regulation, by notice in writing served on the Board, elect that these Regulations shall not apply to the minerals; and where such a notice is served in respect of any minerals, those minerals shall be deemed not to be or to have been minerals to which these Regulations apply.

(2) In relation to any development of minerals in respect of which an election is made under this Regulation, being development carried out before or within one month after the service by the Board of notice of the election on any person who at the date of the service of the notice under paragraph (1) of this Regulation was engaged in development of the minerals, section 74 of the Act shall have effect as if subsection (3) of that section (which relates to penalties) were omitted.

(3) No notice may be given under paragraph (1) of this Regulation by the person entitled to receive a Part VI payment in respect of a relevant interest in any minerals if the right to receive the payment is severed from the ownership of the relevant interest by virtue of an assignment or disposition of the right to receive the payment or of the interest made inter vivos after the 14th day of February, 1951, without the approval in writing of the Board.

(4) A notice under paragraph (1) of this Regulation may be served—

(*a*) in any case, at any time within the period of six months from the date on which these Regulations come into operation;

(*b*) where the right to receive the Part VI payment is severed from the ownership of the relevant interest in consequence of a disposition taking effect on the death of a person dying before the expiration of that period, at any time within the period of three months after the death,

or within such extended period as the Board may in any particular case allow, upon such terms as to the provision of security for the payment of development charge or otherwise as the Board think fit.

Application to Crown Minerals

5.—(1) Subject to the foregoing provisions of these Regulations, these Regulations shall apply to minerals belonging to His Majesty in right of the Duchy of Lancaster, or to the Duchy of Cornwall, in respect of which arrangements under subsection (2) of section 88 of the Act are in force; and in relation to such minerals references in these Regulations to development charge shall be construed as references to sums payable in pursuance of such arrangements in substitution for development charge.

(2) Except as aforesaid, these Regulations shall not apply to minerals being Crown land within the meaning of section 87 of the Act.

Apportionment of development values

6.—(1) If in the case of a relevant interest the development value as ascertained for the purposes of the claim for a payment under the scheme to be made under section 58 of the Act is partly attributable to the prospects of development other than development of minerals to which these Regulations apply, the Board shall determine in accordance with this Regulation what part of the development value of that interest as ascertained as aforesaid is to be treated for the purposes of these Regulations as attributable to the prospects of development of the minerals to which these Regulations apply.

(2) Subject to the provisions of paragraph (3) of this Regulation, the Board shall determine the sum which would represent the unrestricted value on the appointed day of the interest to which the claim relates, calculated in accordance with the provisions of the Act but as if on that day the land to which the claim extends had been subject to a permanent restriction prohibiting the carrying out of any development other than development of the minerals to which these Regulations apply; and the part of the total development value of the interest as ascertained for the purposes of the claim which is to be treated for the purposes of these Regulations as attributable to the prospects of development of those minerals shall be a sum equal to the difference between the restricted value of the interest as determined for the purposes of the claim and the sum representing the unrestricted value as determined in accordance with this paragraph.

(3) If in the case of any part of the land to which the claim extends, the development value of the interest to which the claim relates would, if that interest extended only to that part of the land, be attributable exclusively to the prospects of development other than development of minerals to which these Regulations apply, paragraph (2) of this Regulation shall have effect subject to the following modifications:—

(*a*) the sum to be determined by the Board thereunder as representing the unrestricted value of the interest shall be the sum which would represent that value, calculated as provided by that paragraph but as if the claim extended only to the remainder of the land; and

(*b*) the reference to the restricted value of the interest as determined for the purposes of the claim shall be construed as a reference to such sum as the Board may determine to represent that value, calculated in accordance with the provisions of the Act but as if the claim extended only to the remainder of the land.

(4) Regulations 12 and 13 of the Claims for Depreciation of Land Values Regulations, 1948(a) (which provide respectively for the determination of development values and for arbitration upon disputes in respect of such determinations) shall have effect as if references therein to the unrestricted

(a) S.I. 1948 (No. 902) I, p. 4105.

value of an interest in land or to the restricted value of such an interest included references to the sum required to be determined under paragraph (2) or paragraph (3) of this Regulation as representing the unrestricted or restricted value of any such interest.

(5) For the purposes of this Regulation, the development value of an interest shall be deemed to be attributable exclusively to the prospects of development other than development of minerals to which these Regulations apply if the land to which the interest extends consists exclusively of land of which the only profitable use is development other than development of such minerals, and to be partly so attributable—

(*a*) if the land to which the interest extends includes such land as well as other land ; or

(*b*) if the development of such minerals comprised in any land to which the interest extends is not the most profitable use of that land.

Retention of Part VI payments

7. Except as provided by these Regulations, the Part VI payments in respect of interests in minerals to which these Regulations apply shall not be satisfied in accordance with the provisions of the Act ; but any such payment shall be withheld until it is set off against development charge or becomes payable in pursuance of the following provisions of these Regulations.

Set-off against development charge

8.—(1) The development charge payable under Part VII of the Act in respect of any development of minerals to which these Regulations apply for which planning permission is or has been in force at any time on or after the 1st day of July, 1951, and before the expiration of the period mentioned in Regulation 16 of these Regulations shall be deemed to be determined by the Board as a capital sum of the amount and payable at the time prescribed by this Regulation.

(2) The amount of the development charge deemed to be determined in pursuance of this Regulation in respect of any such development as is mentioned in paragraph (1) of this Regulation shall be an amount equal to the aggregate of the sums which would represent the development value (as defined for the purposes of these Regulations) of each relevant interest in the minerals if on the appointed day the minerals comprised in that interest had been subject to a permanent restriction prohibiting the carrying out of any development other than—

(*a*) the development to which the permission mentioned in the said paragraph (1) relates ; and

(*b*) any other development in respect of which the development charge is deemed to be determined under this Regulation by virtue of a planning permission in force at any time before the grant of the permission mentioned in the said paragraph (1),

reduced by an amount equal to the development charge deemed to be determined under this Regulation in respect of any such other development.

(3) For the purposes of paragraph (2) of this Regulation no account shall be taken of conditions of a planning permission, other than conditions requiring—

(*a*) that any minerals be left unworked ; or

(*b*) that any development authorised by the permission be discontinued at the expiration of a period ;

and in relation to minerals which on the appointed day were comprised in requisitioned land within the meaning of section 89 of the Act that paragraph

shall have effect as if for the reference to the appointed day there were substituted a reference to the beginning of the period of requisition as defined by that section.

(4) The development charge deemed to be determined as aforesaid in respect of any development of minerals shall be payable on the date of satisfaction or the date on which planning permission for that development is granted, whichever is the later; but where, after the said charge is deemed to have been determined and before it has become payable, planning permission is granted for any development of land comprising the minerals, other than development of the minerals, the amount of the development charge payable in respect of the last-mentioned development shall be calculated as if the charge so deemed to have been determined had been paid.

(5) The development charge deemed to be determined as aforesaid in respect of any development of minerals shall be set off against the Part VI payments in respect of relevant interests in those minerals in proportion to the sums which would represent the development values of those interests respectively as ascertained under paragraph (2) of this Regulation, reduced by so much of the development charge in respect of any such other development as is mentioned in sub-paragraph (*b*) of that paragraph as has been or is to be set off against Part VI payments in respect of those interests respectively; and accordingly—

(*a*) the provisions of Part VI of the Act relating to the satisfaction of Part VI payments (including provisions relating to the payment of interest) shall not apply to any such payment to the extent to which it is set off under this Regulation; and

(*b*) the development charge shall be deemed for all purposes to have been paid to the Board on the date on which it is payable under paragraph (4) of this Regulation (and, where it is so payable after the date on which the planning permission is granted, to have been secured to the satisfaction of the Board as from that date) and the Board shall, if so required, issue their certificate accordingly.

(6) In relation to development for which planning permission is or has been granted only by an order made under section 13 of the Act, the provisions of this Regulation shall have effect subject to the following modifications:—

(*a*) the development charge in respect of any such development shall be payable on the date of satisfaction or on the date on which the permission ceases to be in force, whichever is the later or, if the permission is still in force at the expiration of the period mentioned in Regulation 16 of these Regulations, at the expiration of that period;

(*b*) for the purpose of determining the amount of any such charge, regard shall be had only to development carried out in accordance with the permission before the date on which the charge is payable.

Refusal of planning permission for mineral development

9.—(1) Where planning permission for any development of minerals to which these Regulations apply is or has been refused, at any time after the appointed day and before the expiration of the period mentioned in Regulation 16 of these Regulations, upon application made by the person for the time being entitled to work the minerals, then, subject to the provisions of Regulations 14 and 15 of these Regulations, the Part VI payment in respect of any relevant interest in the minerals shall become payable to the extent prescribed by Regulation 13 of these Regulations.

(2) For the purposes of this Regulation no account shall be taken of a refusal of planning permission for any development for which such permission is subsequently granted at any time before the date of satisfaction.

(3) For the purposes of this Regulation any condition of a planning permission requiring—

(*a*) that any minerals be left unworked ; or

(*b*) that any development authorised by the permission be discontinued at the expiration of a period,

shall be treated as a refusal of planning permission for the development of such minerals as are required to be left unworked or, as the case may be, of such minerals as could not be reasonably expected to be worked within that period ; and the reference in paragraph (2) of this Regulation to development for which planning permission is subsequently granted shall be construed as including a reference to development authorised by the modification or removal of such conditions.

(4) Except as provided by paragraph (3) of this Regulation, no account shall be taken for the purposes of this Regulation of any conditions of a planning permission.

Revocation of planning permission for mineral development

10.—(1) Where planning permission for any development of minerals to which these Regulations apply is or has been revoked at any time on or after the 1st day of July, 1951, and before the date of satisfaction, Regulation 8 of these Regulations shall have effect, in relation to any relevant interest in the minerals, as if the permission had never been in force in respect of development for which the permission is revoked ; and in any such case, and in any case where planning permission for any development of minerals to which these Regulations apply has been revoked before the said 1st day of July, any Part VI payment in respect of a relevant interest in the minerals shall become payable to the extent prescribed by Regulation 13 of these Regulations.

(2) Notwithstanding anything in paragraph (1) of this Regulation, a Part VI payment shall not become payable upon a revocation of planning permission for any development for which such permission is subsequently granted at any time before the date of satisfaction.

(3) Where planning permission for any development of minerals to which these Regulations apply is or has been modified before the date of satisfaction by an order under section 21 of the Act requiring—

(*a*) that any minerals for the development of which the permission was granted be left unworked ; or

(*b*) that any development authorised by the permission be discontinued at the expiration of a period,

this Regulation shall apply as if the order were an order revoking the permission for the development of such minerals as are required to be left unworked or, as the case may be, of such minerals as could not reasonably be expected to be worked within that period.

Compulsory purchase

11.—(1) Where an interest in any minerals to which these Regulations apply is or has been compulsorily acquired in pursuance of a notice to treat served or deemed to be served at any time after the passing of the Act and before the expiration of the period mentioned in Regulation 16 of these

Regulations, the Part VI payment in respect of any relevant interest in the minerals shall become payable to the extent prescribed by Regulation 13 of these Regulations.

(2) Where an interest in minerals to which these Regulations apply is or has been compulsorily acquired as mentioned in paragraph (1) of this Regulation, no account shall be taken for the purposes of these Regulations—

(*a*) of any refusal or revocation of planning permission for the development of those minerals taking place during the period between the service of the notice to treat and the acquisition ; or

(*b*) (except to the extent that development is carried out in accordance therewith during that period) of any grant of such permission taking place during that period ;

and where the notice to treat is served or deemed to be served before the date of satisfaction, no account shall be taken for the purposes of Regulation 8 of these Regulations of any planning permission in force before the date on which the notice to treat is served or deemed to have been served in so far as it authorises development of minerals to which the acquisition extends, other than development carried out before the date of the acquisition, or the date on which possession is taken in pursuance of the notice to treat, whichever is the earlier.

(3) The provisions of this Regulation shall apply in relation to any prohibition of the working of minerals imposed by any order, notice or other instrument under any of the following enactments, that is to say—

Sections 77 to 85 (as originally enacted) of the Railways Clauses Consolidation Act, 1845(**a**), as applied by or under any enactment including a local Act ;

Sections 18 to 27 of the Waterworks Clauses Act, 1847(**b**) as so applied ;

Section 8 of the Mines (Working Facilities and Support) Act, 1923(**c**) ;

Part II of the Mines (Working Facilities and Support) Act, 1923 ;

Part IV of the Third Schedule to the Water Act, 1945(**d**), as applied as aforesaid,

as they apply in relation to the compulsory acquisition of an interest in minerals, and as if for references to the service of a notice to treat there were substituted references to the making or service of the order, notice or instrument.

Minerals proposed to be left unworked

12.—(1) Where the Board are satisfied, upon application made within the period prescribed by this Regulation by the person for the time being entitled to work any minerals to which these Regulations apply (not being minerals in the case of which a Part VI payment has become payable under Regulation 11 of these Regulations), that the applicant does not propose, or is unable, to work those minerals within the period mentioned in Regulation 16 of these Regulations, the Board may order that Regulation 9 of these Regulations shall apply as if planning permission had been refused on such date as may be specified in the order for all development of minerals so specified.

(2) Subject to the provisions of paragraph (3) of this Regulation, an application for an order under this Regulation may be made in respect of any minerals—

(*a*) at any time before express planning permission has been granted for development of those minerals ;

(a) 8 & 9 Vict. c. 20. (b) 10 & 11 Vict. c. 17.
(c) 13 & 14 Geo. 5. c. 20. (d) 8 & 9 Geo. 6. c. 42.

(*b*) within six months after the grant of express planning permission for any such development, or after the date on which these Regulations come into operation, whichever is the later;

or within such extended period as the Board may in any particular case allow.

(3) Except with the leave of the Board, no application shall be made under this Regulation in respect of minerals for the development of which express planning permission is in force unless the application relates to all minerals to which the permission extends and which the applicant has the right to work.

(4) Where an order is made under this Regulation in respect of any minerals for the development of which planning permission is in force—

(*a*) Regulation 8 of these Regulations shall have effect, and shall be deemed always to have had effect, as if that permission had never been in force except in respect of development carried out in accordance therewith before the date specified in the order; and

(*b*) where planning permission has been granted for any other development of land comprising the minerals and the amount of the development charge payable in respect of that development has been determined by the Board having regard to any charge paid or to be paid by set-off under the said Regulation 8 in respect of the permission for development of the minerals, the Board may, notwithstanding anything in section 73 of the Act, vary their determination to such extent as appears to them to be appropriate in consequence of the order.

(5) Nothing in this Regulation shall be construed as enabling a notice of disclaimer under Regulation 14 of these Regulations to be given in respect of a Part VI payment which becomes payable by virtue of this Regulation.

(6) Any reference in these Regulations to the refusal of planning permission or to development for which planning permission is or has been refused shall be construed as including a reference to the making of an order under this Regulation, or to the development of minerals specified in such an order.

Amount payable under Regulations 9 *to* 12

13.—(1) Subject to the provisions of this Regulation, the amount of the Part VI payment in respect of a relevant interest in minerals which is payable under Regulations 9 to 12 of these Regulations on the happening of any such event as is mentioned therein respectively shall be the whole of the payment, reduced—

(*a*) by a sum equal to any development charge which has been set off under these Regulations against the payment in respect of development of minerals comprised in the relevant interest on the appointed day for which planning permission has been in force at any time before the said event;

(*b*) by a sum equal to any part of the payment which has become payable under these Regulations, in consequence of the refusal before the said event of planning permission for any development of minerals so comprised, or of the revocation before the said event of permission for such development;

(*c*) by a sum equal to any part of the payment which has become payable under these Regulations in consequence of the acquisition of any of the minerals so comprised in pursuance of a notice to treat

served or deemed to be served before the said event, or of the imposition before the said event of any such prohibition as is mentioned in paragraph (3) of Regulation 11 of these Regulations on any such minerals ;

(*d*) by a sum equal to any development charge which would be set off under these Regulations against the payment if at the time of the said event planning permission were granted for all development of minerals comprised as aforesaid except—

(i) development in respect of which development charge has been set off as mentioned in sub-paragraph (*a*) of this paragraph ;

(ii) development for which planning permission has been refused or revoked as mentioned in sub-paragraph (*b*) of this paragraph ;

(iii) development of any minerals to which any such acquisition or prohibition as is mentioned in sub-paragraph (*c*) of this paragraph extends ;

(iv) the relevant development as defined by this Regulation.

(2) Where any such event as is mentioned in paragraph (1) of this Regulation takes place before the date of satisfaction, the provisions of this Regulation shall have effect as if for any reference therein to the development charge which has been set off, or to any part of the Part VI payment which has become payable, there were substituted a reference to the charge which will be set off on that date, or to any part of the payment which will become payable on that date, as the case may be.

(3) For the purposes of this Regulation " the relevant development " means, in relation to any such event as is mentioned in paragraph (1) of this Regulation,—

(*a*) where the said event is the refusal or revocation of planning permission, the development for which the permission is refused or revoked ;

(*b*) where the said event is the acquisition of an interest in any minerals or the imposition on any minerals of any such prohibition as is mentioned in paragraph (3) of Regulation 11 of these Regulations, all development of those minerals.

(4) Notwithstanding anything in Regulation 8 of these Regulations, this Regulation shall have effect in relation to development for which planning permission is or has been granted only by an order under section 13 of the Act, as if the development charge in respect of that development were payable at the time when the development is carried out or on the date of satisfaction, whichever is the later.

Disclaimer of payment on first refusal of permission

14.—(1) Where the Part VI payment in respect of a relevant interest in minerals has become payable to any extent under Regulation 9 of these Regulations in consequence of a refusal of planning permission for any development, the person entitled to receive the payment may by notice in writing given to the Board within the period prescribed by this Regulation disclaim the payment ; and subject to the provisions of Regulation 15 of these Regulations, any payment in respect of which such a notice is given shall be withheld accordingly, and (except for the purposes of this Regulation) shall be deemed not to have become payable under the said Regulation 9.

(2) A notice under paragraph (1) of this Regulation may be given at any time within three months after the date of satisfaction or after the date of the refusal of the planning permission, whichever is the later, or within such extended period as the Board may in any particular case allow.

(3) Where a Part VI payment in respect of an interest in minerals which has become payable as aforesaid in consequence of the refusal of planning permission for any development is withheld in pursuance of a notice under paragraph (1) of this Regulation, no such notice may be given in respect of the payment on the occasion of any subsequent refusal of planning permission for any of that development.

(4) Where a Part VI payment has been withheld in pursuance of a notice of disclaimer under this Regulation, the person for the time being entitled to receive the payment so withheld may at any time give notice to the Board withdrawing the disclaimer; and in any such case Regulation 9 of these Regulations shall apply as if the planning permission had been refused on the date of the notice under this paragraph.

(5) If provision is made by the scheme under section 58 of the Act for the diversion of Part VI payments, or any part thereof, to mortgagees or owners of rentcharges, whether by means of the application of section 24 or 25 of the War Damage Act, 1943 or otherwise, the references in this Regulation to the person entitled to receive a Part VI payment shall be construed as references to the person who would be so entitled apart from that provision.

Disclaimer in case of several interests

15.—(1) Where Part VI payments in respect of two or more interests in the same minerals have become payable as mentioned in paragraph (1) of Regulation 14 of these Regulations in consequence of a refusal of planning permission, then, subject to the following provisions of this Regulation,—

(*a*) any notice of disclaimer under paragraph (1) of the said Regulation 14, and any notice withdrawing a disclaimer under paragraph (4) of that Regulation, shall be of no effect unless the like notice is given by all persons entitled to receive Part VI payments becoming payable as aforesaid; and

(*b*) the reference in the said paragraph (4) to the date of the notice under that paragraph shall be construed as a reference to the date of the last such notice.

(2) Where a notice of disclaimer under paragraph (1) of the said Regulation 14 is given by the person entitled to receive a Part VI payment in respect of the interest of the lessee under a mining lease granted before the appointed day, but the like notice is not given by all persons entitled to receive such payments becoming payable as mentioned in that paragraph in consequence of the refusal of planning permission, the Board may, upon application made by the person entitled to receive the first-mentioned payment, direct that the said Regulation 14 shall apply as if the like notice had been given by all persons entitled to receive those payments.

(3) A direction under this Regulation shall be of no effect unless within such period as may be specified therein the applicant pays to any other person entitled to receive a Part VI payment in respect of any interest in the minerals which would become payable as aforesaid apart from the direction—

(*a*) a sum equal to so much of that payment as would have become so payable (exclusive of interest);

(*b*) a sum equal to so much (if any) of the Part VI payment in respect of the interest of the lessee as would have been transferred to that person under section 30 of the Mineral Workings Act, 1951 (as applied by Regulation 23 of these Regulations) if that payment had become payable as aforesaid (exclusive of interest);

(*c*) a sum equal to any interest which would be payable by the Board in respect of the Part VI payments mentioned in sub-paragraphs (*a*) and (*b*)

of this paragraph if those payments were satisfied, to the extent of the sums referred to in those sub-paragraphs, on the date when those sums are paid.

(4) In default of agreement between the parties concerned, any question as to the amount of any payment required to give effect to a direction under this Regulation shall be referred to and determined by the Lands Tribunal.

(5) If after a direction under this Regulation has taken effect in relation to any minerals, the Part VI payment in respect of any interest in those minerals (being an interest in the case of which any sum was paid under sub-paragraph (*a*) of paragraph (3) of this Regulation by the applicant for the direction) becomes payable to any extent under these Regulations, there shall be transferred to the person then entitled to receive the Part VI payment in respect of the interest of the lessee such part of the Part VI payment becoming payable in respect of the first-mentioned interest as is equal to the sum so paid reduced by any part of that payment which has previously been transferred under this paragraph; and any stock to be issued in satisfaction of the said Part VI payment shall, to the extent of the amount to be transferred under this paragraph, be issued to the said person accordingly, together with the proportionate part of any interest payable by the Board in respect of that payment.

(6) Where a direction under this Regulation relates to part only of the minerals comprised in an interest in respect of which the Part VI payment becomes payable as mentioned in paragraph (5) of this Regulation, the references in that paragraph to the Part VI payment becoming payable in respect of that interest shall be construed as references to so much of that payment as would become so payable if that interest extended only to the minerals to which the direction relates, and any necessary apportionment shall be made accordingly.

(7) In the case of minerals in relation to which a direction under this Regulation has taken effect, a notice withdrawing disclaimer under paragraph (4) of Regulation 14 of these Regulations given by the person entitled to receive the Part VI payment in respect of the interest of the lessee shall be valid notwithstanding that the like notice is not given in respect of any other payment to which the direction relates; and any notice so given shall have effect as if it were given also in respect of any such other payment in the case of which any sum was paid under paragraph (3) of this Regulation by the applicant for the direction.

(8) Where a direction is given under this Regulation in relation to any ironstone in the case of which, under section 5 of the Mineral Workings Act, 1951, a contribution to the Minister would be required to be made out of the Part VI payment in respect of any such interest as is mentioned in paragraph (3) of this Regulation if that payment were satisfied as mentioned in that paragraph,—

(*a*) the reference in sub-paragraph (*a*) of the said paragraph (3) to so much of that payment as would have become payable apart from the direction shall be construed as a reference to so much of that payment as would have become so payable after deduction of the said contribution; and

(*b*) if development charge in respect of any development of that ironstone is paid by set-off under Regulation 8 of these Regulations, any right of the lessee under paragraph (*b*) of subsection (2) of section 6 of the said Act to make or recover deductions on account of contributions payable under that section shall be deemed to be waived.

(9) References in paragraphs (1), (2) and (7) of this Regulation to the person entitled to receive a Part VI payment shall be construed in accordance with paragraph (5) of Regulation 14 of these Regulations.

Payment of balance after 20 years from date of satisfaction

16. At the expiration of twenty years from the date of satisfaction any Part VI payment in respect of an interest in minerals to which these Regulations apply shall become payable except so far as it has been or is set off against development charge or has become or becomes payable under any of the foregoing provisions of these Regulations.

Time for satisfaction of Part VI payments

17.—(1) Where under any of these Regulations a Part VI payment becomes payable to any extent in consequence of any event taking place after the date of satisfaction, or upon the expiration of the period mentioned in Regulation 16 of these Regulations, section 65 of the Act shall have effect in relation to the payment, so far as it becomes payable as aforesaid, as if the Treasury had been empowered by the said section 65 to fix, and had fixed as the date of satisfaction the date of that event or the expiration of that period, as the case may be.

(2) Subject to the provisions of the foregoing paragraph, any Part VI payment which becomes payable as aforesaid shall be satisfied in accordance with the provisions of the said section 65.

Effects of satisfaction of Part VI payments, etc.

18.—(1) Where, after the Part VI payment in respect of a relevant interest in minerals to which these Regulations apply has become payable to any extent—

(*a*) in consequence of the refusal of planning permission for any development, or of the revocation of such permission; or

(*b*) in consequence of any such acquisition or prohibition as is mentioned in Regulation 11 of these Regulations,

planning permission is granted for any development for which the permission was refused or revoked, or for any development of minerals to which the acquisition or prohibition relates, as the case may be, Regulation 8 of these Regulations shall not apply and the provisions of the Act relating to development charges shall have effect in relation to the development for which permission is so granted as if the minerals were not minerals to which these Regulations apply.

(2) Where, after the development charge in respect of any development of minerals to which these Regulations apply has been paid by set-off under Regulation 8 of these Regulations, compensation in respect of loss of the prospect of that development has become payable to the owner of an interest in the minerals—

(*a*) under section 22 of the Act, in consequence of the revocation or modification of planning permission for the development; or

(*b*) under subsection (4) of section 51 of the Act, on a compulsory acquisition of the interest; or

(*c*) under any such enactment as is mentioned in paragraph (3) of Regulation 11 of these Regulations, in respect of any such prohibition as is mentioned in that paragraph,

and in any such case any of that development is subsequently carried out, the said Regulation 8 shall not apply and the provisions of the Act relating to development charges shall have effect in relation to the development so carried out as if the minerals were not minerals to which these Regulations apply.

Payments in respect of planning conditions

19.—(1) Where the development charge in respect of any development of minerals to which these Regulations apply has been or falls to be paid by set-off under Regulation 8 of these Regulations, then if the planning permission for that development is subject to conditions other than conditions requiring—

(*a*) that any minerals be left unworked ; or

(*b*) that any development authorised by the permission be discontinued at the expiration of a period,

a payment in respect of the cost of compliance with those conditions of such amount as may be determined by the Board in pursuance of an application under this Regulation shall be made by the Board in accordance with the provisions of this Regulation.

(2) An application for a determination under this Regulation may be made to the Board at any time within six months after—

(*a*) the date of satisfaction ; or

(*b*) the date on which the development authorised by the permission is begun ; or

(*c*) where the conditions are imposed by means of an order under section 21 of the Act, the date of the order,

whichever is the latest, by the person who at the time of the application is entitled to carry out the development so authorised ; and every such application shall contain an estimate of the cost of any works necessary for complying with the conditions, calculated by reference to prices current at the date of the application, and shall be supported by such documents or information as the Board may require.

(3) Subject to the following provisions of this Regulation, the amount of the payment to be made under this Regulation in respect of any conditions shall be such sum (not exceeding the amount of the development charge paid or payable in respect of the development authorised by the permission) as may be estimated by the Board to represent the reasonable cost, calculated as aforesaid, of any works necessary for complying with those conditions ; but no payment shall be made under this Regulation unless the amount so estimated in respect of all conditions of the planning permission exceeds one-tenth of the development charge so paid or payable.

(4) Where it appears to the Board that the development authorised by the planning permission is to be carried out by means of two or more separate working units, and that any conditions of the permission are, or ought reasonably to be treated as being, applicable only to one or more of those units, the Board may direct that the last foregoing paragraph shall have effect as if the planning permission related only to the last mentioned unit or units and as if the development charge paid or payable in respect of the development authorised by the permission were such portion of that charge as the Board may determine to be appropriate in respect of that unit or those units.

(5) Any sums payable by the Board under this Regulation shall be paid at such time or times (not being earlier than the date of satisfaction) and subject to such conditions as the Board may determine, and shall be paid to the person by whom the works are carried out, whether or not he is the owner of a relevant interest in the minerals or is the person on whose application the amount payable was determined ; and before making a payment under this Regulation in respect of the cost of any works necessary for complying with

any condition the Board may, if they think fit, require the local planning authority to inform the Board whether the works have been carried out in accordance with that condition.

(6) Without prejudice to the generality of the last foregoing paragraph, any sums payable under this Regulation in respect of conditions of a planning permission may, where works for complying with that condition are carried out in pursuance of an enforcement notice under section 23 of the Act by the local planning authority or any other person not being the person by whom the development authorised by the permission was carried out, be paid to that authority or other person ; and any sum recoverable from the person by whom the development was carried out by that authority or other person under section 24 of the Act in respect of those works shall be reduced by the sums so paid by the Board.

(7) Where planning permission for any development in relation to which a determination has been made under this Regulation is modified by an order under section 21 of the Act, the determination may be amended by the Board accordingly either upon the application of the person entitled to carry out that development or without application ; but except as aforesaid a determination of the Board under this Regulation shall not be amended.

(8) No account shall be taken for the purposes of this Regulation of any conditions of a planning permission requiring the carrying out of such work as is mentioned in subsection (1) of section 9 of the Mineral Workings Act, 1951, or of any work in respect of which a payment is made under subsection (2) of section 18 of that Act ; and no account shall be taken as aforesaid of the cost of carrying out any other work if and so far as—

(*a*) the work would, in the opinion of the Board, have been carried out apart from conditions of a planning permission in the course of carrying out the development authorised by the permission ; or

(*b*) the applicant for a determination under this Regulation would, apart from conditions of the planning permission, be required to incur the like expenditure for the purpose of complying with any obligation imposed on him by law or by any covenant or contract with respect to the carrying out of the work or the making of payments in lieu of carrying it out.

Contributions to Ironstone Restoration Fund in certain cases

20.—(1) Where, after the development charge in respect of any development of ironstone comprised in land in the ironstone district within the meaning of the Mineral Workings Act, 1951 has been paid by set-off under Regulation 8 of these Regulations, compensation becomes payable to the owner of a relevant interest in the ironstone—

(*a*) under section 22 of the Act, in consequence of the revocation or modification of planning permission for the development ;

(*b*) under subsection (4) of section 51 of the Act, on a compulsory acquisition of an interest in land comprising the ironstone ; or

(*c*) under any such enactment as is mentioned in paragraph (3) of Regulation 11 of these Regulations, in respect of any such prohibition as is mentioned in that paragraph,

a contribution of the amount prescribed by this Regulation shall be made out of that compensation to the Ironstone Restoration Fund established under the said Act of 1951 in accordance with the following provisions of this Regulation.

(2) The amount of the contribution payable under this Regulation out of any compensation shall be calculated in accordance with the formula set out in the First Schedule to these Regulations.

(3) Any sum payable by way of contribution under this Regulation shall be deducted from the compensation from which it is payable, and shall be paid to the Minister by the authority or person by whom that compensation is payable; and the Minister shall pay into the said Fund all sums received by him under this Regulation.

(4) For the purposes of subsection (5) of section 73 of the Act (which requires the Board to make contributions in certain cases towards compensation payable in respect of the revocation or modification of planning permission or on the compulsory acquisition of land) no account shall be taken of any deduction from such compensation made in pursuance of this Regulation.

(5) Any question as to liability to make contributions under this Regulation or as to the amount of such contributions shall be determined by the Lands Tribunal.

Determination of questions

21.—(1) Subject to the provisions of this Regulation, any question as to the amount of a Part VI payment becoming payable under Regulations 9 to 16 of these Regulations shall be determined by the Board.

(2) The Board shall not make a determination under this Regulation unless they have given to the person entitled to receive the payment sixty days' notice of the proposed terms of the determination, and where during that period the said person makes representations in writing to the Board in respect of those terms, until after the Board have considered those representations.

(3) The Board shall not be required to make any determination under this Regulation in respect of a payment under Regulation 9 of these Regulations until the expiration of the period within which notice may be given under Regulation 14 of these Regulations disclaiming the payment.

(4) The Board shall not be required to make a determination under any of these Regulations in respect of minerals to which these Regulations apply after the service of a notice to treat for the compulsory acquisition of an interest therein unless and until the acquisition takes place or the notice to treat ceases to have effect.

(5) If any person to whom notice was given under this Regulation is aggrieved by the determination to which the notice relates, he may appeal to the Lands Tribunal.

(6) The reference in this Regulation to the person entitled to receive a Part VI payment shall be construed in accordance with paragraph (5) of Regulation 14 of these Regulations.

Assignment of Part VI Payments

22. Notwithstanding anything in Regulation 7 of the Claims for Depreciation of Land Values Regulations, 1948 (which provides that an assignment of the right to receive a Part VI payment shall be ineffective unless notice thereof is given to the Board before the 1st day of January, 1953), an assignment of the right to receive a Part VI payment in respect of minerals to

which these Regulations apply shall not be ineffective so far as the payment becomes payable under these Regulations if notice of the assignment is given to the Board within one month after the event giving rise to the payment.

Application of s. 30 of the Mineral Workings Act, 1951

23.—(1) In relation to a mining lease of minerals to which these Regulations apply, being a lease granted before the appointed day, section 30 of the Mineral Workings Act, 1951, shall apply as set out with additions and modifications in the Second Schedule to these Regulations.

(2) If in the case of any such mining lease as aforesaid the Lands Tribunal are satisfied, upon application by the lessee—

(*a*) that the lessee is liable to make payments under the lease by virtue of which he will become entitled to work any of the minerals comprised in the lease free of tonnage royalty ; and

(*b*) that if at the time when any such payment falls due the Part VI payment in respect of the interest of the lessee were satisfied upon a refusal or revocation of planning permission for the development of all minerals comprised in the lease and then unworked, the amount of the reduction authorised by paragraphs (*a*) and (*b*) of subsection (5) of the said section 30 (as applied by this Regulation) from any part of the Part VI payment to be transferred under that section would exceed the amount of the payment so to be transferred,

the Tribunal may by order authorise the lessee to deduct from the said payments under the lease such sums as appear to the Tribunal to be sufficient to make good the excess.

(3) Any sums deducted in pursuance of an order under this Regulation shall, in accordance with such directions as may be given by the Tribunal, be paid into court; and the Tribunal may, upon making an order under subsection (7) of the said section 30 (as applied as aforesaid), or upon application made at any time by any of the parties interested, direct that the whole or any part of the sums so paid into court be paid to the person entitled to the lease or the reversion expectant on the lease, or to the person entitled to receive a Part VI payment in respect of the lease or reversion, according as may be just having regard to the circumstances.

(4) References in these Regulations to the person entitled to receive a Part VI payment shall not include references to a person who is entitled by reason only of the fact that any part of a Part VI payment is to be transferred to him under the said section 30 (as applied as aforesaid).

Notices

24. Section 105 of the Act (which relates to the service of notices under the Act) shall with the necessary modifications apply to notices served under these Regulations.

Application to Isles of Scilly

25. In the application of these Regulations to the Isles of Scilly, for references to the appointed day there shall be substituted references to the 1st day of August, 1949.

SCHEDULES

FIRST SCHEDULE

FORMULA FOR ASCERTAINING CONTRIBUTIONS UNDER REGULATION 20

1. Let *a* be a sum equal to such part of the compensation mentioned in Regulation 20 of these Regulations as is attributable to loss of the prospect of winning and working ironstone by opencast operations:

2. Let *b* be the number of pence in the average tonnage royalty which would be payable per ton under a mining lease of that ironstone granted immediately before the 7th day of January, 1947, by a willing lessor to a willing lessee, it being assumed—

(*a*) that the ironstone is to be got by opencast operations;

(*b*) that no premium is given on the grant of the lease;

(*c*) that the lease contains such covenants by both parties (including covenants for payment of dead rent or for restoration after working) as are customary in the district:

3. The amount of the contribution is $\frac{9a}{8b}$.

SECOND SCHEDULE

MINERAL WORKINGS ACT, 1951, S. 30, AS MODIFIED

30.—(1) If in the case of any minerals to which the Mineral Development Charge Set-Off Regulations, 1951, apply, being minerals comprised in a mining lease granted before the appointed day—

(*a*) a Part VI payment within the meaning of those regulations in respect of the interest of the lessee or the interest expectant on the determination of the lease becomes payable to any extent in pursuance of those regulations; or

(*b*) after the development charge in respect of any development has been paid by set-off under those regulations, compensation in respect of loss of the prospect of carrying out that development becomes payable to the person entitled to such an interest—

(i) under section twenty-two of the principal Act, or under that section as amended by regulations made under section eighty-one of that Act, in consequence of the revocation or modification of planning permission for that development; or

(ii) under any enactment other than the principal Act, in consequence of the imposition of any prohibition or restriction in respect of that development,

the Lands Tribunal may, upon application made to them within the prescribed period after the event giving rise to the said Part VI payment or compensation, by order modify the provisions of the lease in relation to the minerals in respect of which the Part VI payment or compensation is paid so far as may be required in order to secure that the sums payable thereunder by the lessee in respect of any period after the said event or after such later date as the Tribunal may determine to be just having regard to the circumstances do not exceed such sums as in the opinion of the Tribunal would be fair and reasonable as between the parties if the lease had been granted on the appointed day for the term then unexpired and otherwise upon the terms and subject to the covenants and conditions contained therein.

(2) In determining for the purposes of subsection (1) of this section the sums which would be payable under a lease granted on the appointed day as mentioned in that subsection—

(*a*) no account shall be taken of any value attributable to the grant of planning permission for development of the minerals or to the prospect of such permission being granted;

(*b*) regard shall be had to any liability of the lessee to make payments (other than tonnage royalties) under the lease in excess of the value of the minerals which, if the said event had not occurred, he could reasonably have been expected to have worked after the date of that event.

(3) Where an order is made under this section in respect of a mining lease, any sums paid under the lease by the lessee in respect of any period before the making of the order shall, to the extent that they exceed the sums payable in accordance with the lease as modified by the order, be recoverable as money had and received by the person to whom it was paid to the use of the plaintiff.

(4) In determining the development value of any interest in land for the purpose of the scheme to be made under section fifty-eight of the principal Act or the amount of any such compensation as is mentioned in subsection (1) of this section, no account shall be taken of the provisions of this section; but where the Part VI payment or compensation payable as mentioned in subsection (1) of this section in respect of the interest of the lessee is attributable, either wholly or in part, to obligations on the part of the lessee which are or may be discharged by an order under this section, there shall be transferred to the person entitled to receive a Part VI payment in respect of the interest expectant on the determination of the lease, or who would be so entitled if such a payment fell to be made, such part of the first-mentioned payment or compensation as is prescribed by the following provisions of this section.

(5) The amount to be transferred in pursuance of this section out of the Part VI payment in respect of the interest of a lessee shall be such part of that payment as is equal to the development value of that interest so far as attributable to obligations on the part of the lessee which are or may be discharged by an order under this section, reduced, in the case of a lease of ironstone comprised in land in the ironstone district—

(*a*) by a sum which bears to the contribution payable under subsection (3) of section six of this Act out of that payment the same proportion as the amount ascertained under the foregoing provisions of this subsection bears to the whole of that payment; and

(*b*) where by virtue of payments made under the lease on or after the first day of July, nineteen hundred and fifty-one and before the event giving rise to the said Part VI payment, the lessee is entitled to work any minerals free of tonnage royalty, by a sum equal to any additional contribution which would be payable under subsection (3) of the said section six in respect of the interest of the lessee if he had been so entitled on the appointed day.

(6) The amount to be transferred in pursuance of this section out of the compensation payable in respect of the interest of a lessee shall be such part of that compensation as is attributable to obligations on the part of the lessee which are or may be discharged by an order under this section, reduced, in the case of a lease of ironstone comprised in land in the ironstone district—

(*a*) by a sum which bears to the contribution payable to the fund out of the said compensation in accordance with regulation 20 of the Mineral Development Charge Set-Off Regulations, 1951, the same proportion as the amount ascertained under the foregoing provisions of this subsection bears to the whole of the said compensation; and

(*b*) where by virtue of payments made under the lease on or after the first day of July, nineteen hundred and fifty-one and before the event giving rise to the compensation, the lessee is entitled to work any minerals free of tonnage royalty, by a sum which bears to the whole of the said contribution the same proportion as the compensation, so far as attributable to loss of the prospect of working those minerals, bears to the whole of the compensation.

(7) In default of agreement between the parties concerned, any question as to the amount to be transferred in pursuance of this section out of any Part VI payment or compensation shall be referred to and determined by the Lands Tribunal.

(8) Where the amount to be transferred in pursuance of this section out of any Part VI payment or compensation has been agreed upon or determined by the Lands Tribunal, then—

(*a*) if notice of the agreement or determination is given to the Central Land Board, or to the authority or person liable to pay the compensation, as the case may be, before the payment or compensation has been paid, the stock to be issued in satisfaction of the payment, or the money to be paid in respect of the compensation, as the case may be, shall, to the extent of the said amount, be issued or paid to the person to whom it is to be transferred, together with the proportionate part of any interest payable in respect of the Part VI payment or compensation ;

(*b*) in any other case, the person to whom the said amount is to be transferred may, subject to the following provisions of this section, recover from the person to whom the stock was issued or the compensation paid, as the case may be, a sum equal to the amount of the Part VI payment or compensation to be transferred, together with the proportionate part of any such interest as aforesaid.

(9) Where, in pursuance of provisions of the scheme under section fifty-eight of the principal Act or of the Fourth Schedule to that Act, any person who has received such stock or compensation as is mentioned in paragraph (*b*) of subsection (8) of this section has transferred or paid to any other person any part of that stock or compensation, any sum recoverable under the said paragraph (*b*) shall, to the extent of the amount so transferred or paid, be recoverable from the person to whom, instead of from the person by whom, the said stock or compensation was so transferred or paid.

(10) Subsections (1) to (3) of this section shall apply where a Part VI payment would become payable but for a direction under regulation 15 of the Mineral Development Charge Set-Off Regulations, 1951, as if the payment had become payable ; and where a sum equal to so much of any such payment as would be transferred under this section if the payment had become payable has been paid under that regulation, no such transfer shall be made out of that payment under this section if and when the payment becomes payable in pursuance of the said Regulations.

(11) An order under this section may, with the consent of the appropriate authority as defined by section eighty-seven of the principal Act, be made in respect of a mining lease comprising any minerals belonging to His Majesty in right of the Duchy of Lancaster, or to the Duchy of Cornwall, being minerals in respect of which arrangements under subsection (2) of section eighty-eight of that Act are in force.

(12) The provisions of this section shall apply in relation to an order made under Part I of the Mines (Working Facilities and Support) Act, 1923, as they apply in relation to a mining lease, but as if for references to the Lands Tribunal there were substituted references to the High Court.

Dated this twenty-seventh day of September, 1951.

Given under the Official Seal of the Minister of Local Government and Planning.

(L.S.)

Hugh Dalton,
Minister of Local Government and Planning.

We consent.

R. J. Taylor,
W. A. Wilkins,
Two of the Lords Commissioners of His Majesty's Treasury.

EXPLANATORY NOTE

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

The main object of these Regulations is to secure that the payments to be made for loss of development value under Part VI of the Town and Country Planning Act, 1947, in the case of certain minerals are set off against development charge payable on the working of the minerals. The minerals concerned (referred to hereafter as "near-ripe" minerals) are those which have been the subject of a claim qualifying for a payment under Part VI of the Act and were held on the 1st July, 1948, by a person then engaged in getting minerals for purposes other than the cultivation of his own land. In certain marginal cases the Central Land Board has power to include other minerals in the "near-ripe" category or exclude minerals from that category (Regulation 3); and a limited right to contract out of the Regulations is given by Regulation 4 where the title to the minerals has been separated from the title to the claim under Part VI in respect of them. Crown minerals (other than those belonging to the Duchies of Lancaster and Cornwall) are excluded from the Regulations (Regulation 5). Where the development value, for the purposes of a Part VI claim, of land which comprises "near-ripe" minerals is partly attributable to the prospects of other development, Regulation 6 provides for the necessary apportionment.

Regulations 7 and 8 contain the set-off provisions which are on the basis that in the case of near-ripe minerals the Part VI payment will be 100 per cent. of the development value (section 29 (2) of the Mineral Workings Act, 1951), and the development charge will amount to the same figure. Where more than one claim for a Part VI payment is made in respect of the same minerals (e.g. in the case of a mining lease) the charge will be set off against both payments; and where the development attracting the charge extends to part only of the minerals comprised in a claim, the charge will absorb an apportioned part only of the payment or payments (Regulation 8 (2)). Regulations 9 to 13 and 18 deal with cases in which, owing to a refusal or revocation of planning permission, a compulsory acquisition or some other reason, "near-ripe" minerals are left unworked. In such cases, if the Part VI payment has not previously been absorbed in the payment of development charge, the Part VI claim (or the appropriate part of it) will be paid out and the arrangement for set-off of development charge ended, though on the first occasion of a refusal of planning permission, there is a right to disclaim the payment and keep the minerals within the set-off provisions (Regulations 14 and 15). Under Regulation 16, any part of a Part VI claim in respect of "near-ripe" minerals which has not within twenty years of the satisfaction of the other claims under Part VI of the Act been either paid under the Regulations or set off against development charge in respect of the minerals, becomes payable at the end of that period. Regulation 17 makes the necessary adjustment in the date for the issue of stock in satisfaction of payments under Part VI becoming due later than the date provided for by Section 65 of the Act.

Regulation 19 deals with cases where planning permission for the working of "near-ripe" minerals is granted subject to conditions (which are disregarded in assessing the amount of development charge for set-off purposes). Where such conditions involve substantial additional expense the Regulation requires the Central Land Board to make payments in respect of the cost of complying with the conditions.

Regulation 20, which is included in accordance with section 6 (4) of the Mineral Workings Act, 1951, provides for diverting into the Ironstone Restoration Fund established under that Act a proportion of any compensation which may be received by an owner of "near-ripe" ironstone after development charge has been paid by set-off under the Regulations, where that compensation is paid on a revocation or modification of the relevant planning permission, on a compulsory purchase of land comprising the ironstone, or on the imposition of certain statutory restrictions on the working of the ironstone. The amount of the contribution to the Fund in these cases is to be ascertained under the formula contained in the First Schedule to the Regulations, which corresponds with the formula applied by the Second Schedule to the Act of 1951 where the contribution to the Fund is taken out of the Part VI payment itself.

The remainder of the Regulations, except Regulation 23, contain consequential provisions. Regulation 23 and the Second Schedule to the Regulations are included in pursuance of section 30 (6) of the Mineral Workings Act, 1951. Under these provisions the power conferred by that section to vary mining leases entered into before the appointed day will become available where "near-ripe" minerals comprised in such a lease cease to be within the set-off provisions of the Regulations.

The Town and Country Planning (Construction and Improvement of Private Streets) Regulations, 1951

1951 No. 2224

Made - - - -	17*th December*, 1951
Laid before Parliament	18*th December*, 1951
Coming into Operation	7*th January*, 1952

HLG 2230

The Minister of Housing and Local Government in pursuance of the powers given to him by Sections 48, 111, and 114 (8) of the Town and Country Planning Act, 1947(a), and of all other powers enabling him in that behalf hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Town and Country Planning (Construction and Improvement of Private Streets) Regulations, 1951, and shall come into force on the seventh day of January, 1952.

(2) In these Regulations, unless the context otherwise requires:—

"the Act" means the Town and Country Planning Act, 1947;

"the street" means the land declared under sub-section (2) of Section 48 of the Act to be a private street in any particular case;

"the private street works code" means such of the enactments referred to in sub-section (3) or sub-section (7) of Section 48 of the Act, or, as respects land in the administrative County of London, such of the enactments referred to in sub-section (8) of Section 114 thereof, as apply to the street by virtue of the said sub-section (3);

"the street works authority" means the authority empowered by the private street works code, as adapted by these Regulations, to execute street works in the street and to do anything else in connection therewith including the recovery of expenses in respect of such works.

(a) 10 & 11 Geo. 6. c. 51.