TOWN AND COUNTRY PLANNING, ENGLAND

1953 No. 820

The Town and Country Planning (Minerals) Regulations, 1953

Made - - - -	*14th April*, 1953
Coming into Operation	*14th May*, 1953

The Minister of Housing and Local Government in exercise of the powers conferred on him by Sections 81 (1) and 111 of the Town and Country Planning Act, 1947(a), and Section 2 (2) of the Town and Country Planning (Amendment) Act, 1951(b) and of all other powers enabling him in that behalf, hereby with the consent of the Treasury makes the following Regulations.

Interpretation, Citation, and Revocations

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

(2) In these Regulations—

(*a*) "the Act" means the Town and Country Planning Act, 1947, as amended by the Town and Country Planning (Amendment) Act, 1951;

(*b*) "the Regulations of 1948" and "the Regulations of 1949" mean respectively the Town and Country Planning (Minerals) Regulations, 1948(d) and the Town and Country Planning (Minerals) Regulations, 1949(e);

and other expressions defined in the Regulations of 1948 have the same meanings as in those Regulations.

(3) These Regulations may be cited as the Town and Country Planning (Minerals) Regulations, 1953, and these Regulations, the Regulations of 1948 and the Regulations of 1949, may be cited together as the Town and Country Planning (Minerals) Regulations, 1948 to 1953.

(4) Paragraphs (1) and (3) of Regulation 3 and Regulations 9 and 10 of the Regulations of 1948 and the Schedule to those Regulations are hereby revoked, and any subsisting claim under the said Regulation 10 shall be treated as a claim under Regulation 5 of these Regulations.

Adaptations and modifications of the Act

2. In relation to development consisting of the winning and working of minerals the provisions of the Act shall have effect subject to the further adaptations and modifications prescribed by the following Regulations.

3. For the purposes of the Act, "use" in relation to the development of land does not include the use of land by the carrying out of mining operations:

Provided that—

(*a*) subsection (3) of Section 12 (as to the circumstances in which the deposit of refuse or waste materials on land involves a material change in the use thereof) shall operate in relation to the deposit of refuse or waste materials in the course of mining operations, and

(a) 10 & 11 Geo. 6. c. 51. (b) 14 & 15 Geo. 6. c. 19. (c) 52 & 53 Vict. c. 63.
(d) S.I. 1948/1521; Rev. XXII, p. 810; 1948 I, p. 4191.
(e) S.I. 1949/1996; 1949 I, p. 4035.

(*b*) in the following provisions of the Act, namely, subsection (2) (*b*) of Section 14 (as to conditions requiring the discontinuance of a use after a specified period), subsections (1) and (2) of Section 18 (as to permission for the continuance of a use of land already instituted), subsections (2) and (3) of Section 23 (as to enforcement notices), subsection (3) of Section 24 (as to the use of land in contravention of an enforcement notice), subsection (2) of Section 72 (as to the determination of development charge in respect of the use of land for a limited period), and Section 76 (as to existing development authorised subject to conditions), references to the use of land shall include the carrying out of mining operations and references to the continuance or discontinuance of a use of land shall include the continuance or discontinuance of mining operations.

4. An enforcement notice in respect of a breach of any condition subject to which permission to win and work minerals was granted may be served under Section 23 of the Act at any time within four years after the breach has come to the knowledge of the local planning authority.

5. Where mining operations have been carried out in any land on or after the 7th day of January, 1937, and at any time an application is made under Part III of the Act, or is treated as having been so made, for permission to resume or continue any such operations in adjoining land, Section 79 of the Act (which provides for compensation for abortive expenditure on refusal of permission for certain development authorised before the appointed day) shall apply as if the operations in respect of the resumption or continuance of which the application is made, or is treated as having been made, were buildings or works begun or contracted for before the appointed day but subject to the following modifications:—

(i) the reference in paragraph (*a*) of subsection (1) to permission granted by an interim development order shall include a reference to such a permission granted on or after the 22nd day of July, 1943;

(ii) the reference in paragraph (*c*) of that subsection to expenditure in carrying out work which is rendered abortive shall include a reference to loss in respect of buildings, plant and machinery required for the purposes of the said mining operations or of their continuance under a development order or for the purpose of processing minerals thereby got but a claim for expenditure or loss in respect of buildings, plant and machinery shall not be entertained unless the claimant proves that he is unable to use such buildings, plant or machinery or (as the case may be) to use them except at the loss claimed and for this purpose the Lands Tribunal may give directions that such claim be severed from the remainder of the claim and be dealt with at such later date as may be fixed by the Tribunal either in such directions or subsequently on application by either party; and

(iii) no compensation shall be payable in respect of—

(*a*) work which was carried out at a time when permission required under the Act or obtainable under any enactment relating to town and country planning repealed by the Act was not in force in relation to such work or was not in force in relation to the said mining operations or their continuance; or

(*b*) work which involved a breach of a condition imposed on the grant of any such permission as is referred to in subparagraph (*a*), or was

in excess of that required for the carrying out or continuance of the said mining operations in accordance with such permission or for the processing of minerals thereby got.

Dated this 14th day of April, 1953.

Given under the official seal of the Minister of Housing and Local Government.

(L.S.)

Harold Macmillan,
Minister of Housing and Local Government.

We consent.

Herbert Butcher,
T. G. D. Galbraith,
Two of the Lords Commissioners of Her Majesty's Treasury.

EXPLANATORY NOTE

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

These Regulations replace with amendments certain provisions of the Town and Country Planning (Minerals) Regulations, 1948, which prescribed adaptations and modifications to which the Town and Country Planning Act, 1947, was to be subject in relation to development consisting of the winning and working of minerals. The amendments are as follows:—

(1) The modifications in relation to the expression "use" are altered so that (*a*) permission for the continuance of mining operations may be granted under Section 18 of the Act, (*b*) conditions as to the continuance of mining operations may be enforced under Section 76 of the Act, and (*c*) deposits of refuse or waste material in the course of mining operations involve a material change of use under Section 12 of the Act. (Regulation 3, replacing Regulation 3 (1) of the Regulations of 1948.)

(2) Enforcement Notices under Section 23 of the Act for breach of condition may be served within four years of the discovery of the breach, even though the breach in question may not have involved any mining operations. (Regulation 4, replacing Regulation 3 (3) of the Regulations of 1948.)

(3) The adaptation of the provisions for compensation contained in Section 79 of the Act to cases where permission to resume or continue mining operations is refused or granted subject to conditions, is amended so as to enable all cases where there has been a suspension of operations in progress on or after 7th January, 1937, to be considered and to exclude compensation in respect of work not authorised under current planning legislation. (Regulation 5, replacing Regulation 10 of the Regulations of 1948.)

These Regulations also revoke Regulation 9 of the Regulations of 1948, and the Schedule to those Regulations dealing with the modification of mining leases, in view of the statutory provisions on this subject in Section 30 of the Mineral Workings Act, 1951, and the repeal of Section 81 (3) of the Town and Country Planning Act, 1947, by that Act.