STATUTORY INSTRUMENTS

1963 No. 1221

TOWN AND COUNTRY PLANNING, ENGLAND AND WALES

The Town and Country Planning (Minerals) Regulations 1963

Made - - - -	19*th June* 1963
Coming into Operation	11*th July* 1963

The Minister of Housing and Local Government, in exercise of the powers conferred on him by sections 197 and 217 of the Town and Country Planning Act 1962(a), and of all other powers enabling him in that behalf, hereby with the consent of the Treasury makes the following regulations.

PART I

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Town and Country Planning (Minerals) Regulations 1963, and shall come into operation on the day following the day on which the regulations have been approved by a resolution of each House of Parliament.

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

(3) In these regulations unless the context otherwise requires :—

"the Act" means the Town and Country Planning Act 1962;

"excepted minerals" means (*a*) minerals won and worked on land held or occupied with land used for the purposes of agriculture which are reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes, and (*b*) minerals vested in the National Coal Board which are specified land to which the provisions of the Act relating to operational land of statutory undertakers apply by virtue of regulations made under section 204 of the Act;

"mining operations" means the winning and working of minerals other than excepted minerals in, on, or under land, whether by surface or underground working.

(4) In relation to the Isles of Scilly, the reference in regulation 8 of these regulations to 1st July 1948 shall be construed as a reference to 1st August 1949.

(a) 10 & 11 Eliz. 2. c. 38. (b) 52 & 53 Vict. c. 63.

Revocation of existing regulations

2. The Town and Country Planning (Minerals) Regulations 1954(a), except regulation 10, are hereby revoked, without prejudice to their operation for the purposes of any of the savings and transitional provisions of Schedule 14 to the Act.

PART II

ADAPTATIONS AND MODIFICATIONS OF PROVISIONS OF THE ACT

3. In relation to development consisting of mining operations, the provisions of the Act referred to in paragraph 1 of Schedule 8 shall have effect subject to the adaptations and modifications prescribed by this part of these regulations.

4. For the purposes of those provisions, " 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*) section 12(3) (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

(*b*) in the following provisions, namely, section 18(1)(*b*) (as to conditions requiring the discontinuance of a use after a specified period), section 20 (as to permission for the continuance of a use of land already instituted), sections 45(4), 47(5), 50, 51 and 64(2) (as to enforcement notices and uses in contravention thereof) and paragraphs 6 and 16 of Schedule 13 (as to development existing prior to 1st July 1948 and 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.

5. An enforcement notice in respect of non-compliance with any condition or limitation subject to which permission for mining operations was granted may be served under section 45 of the Act at any time within four years after the non-compliance has come to the knowledge of the local planning authority.

6. Section 118(1) of the Act (which provides for the payment of compensation in the event of a revocation or modification of permission to develop) shall have effect subject to the modification that a claim for expenditure or loss shall not be entertained under the subsection in respect of buildings, plant or machinery unless the claimant can prove 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.

PART III

ADAPTATIONS AND MODIFICATIONS OF OTHER PROVISIONS OF THE ACT

7. In relation to interests in land consisting of or comprising minerals, and in relation to claims established (as mentioned in section 89(2) of the Act) wholly or partly in respect of such land, the provisions of the

(a) S.I. 1954/1706 (1954 II, p. 2417)

Act referred to in paragraph 2 of Schedule 8 shall have effect subject to the adaptations and modifications prescribed by this part of these regulations.

8.—(1) Where an established claim relates to an interest in land comprising minerals, and since 1st July 1948 the freehold interest in those minerals or part of them has, by sale or reservation or otherwise, been severed from the freehold interest in the remainder of the land, then if a payment falls to be made under Part VI of the Act or under paragraph 6 of Schedule 14 thereto in respect of an act or event subsequent to the date of the severance, the claim holding, or as the case may be, the unexpended balance of established development value shall first be apportioned between the minerals and the remainder of the land and for this purpose section 91 of the Act shall apply as if the minerals and the remainder of the land were respectively parts of the claim area ; and thereafter for all the purposes of Part VI of the Act, the minerals and the remainder of the land shall be regarded as separate claim areas.

(2) Nothing in section 90 of the Act (which relates to original unexpended balances of established development value) shall be taken to require the aggregation of a claim holding in respect of land consisting only of minerals with any other claim holding relating to the same area, but any claim holding or claim holdings in respect of any such minerals shall in accordance with the provisions of that section constitute a separate unexpended balance of established development value in respect of those minerals.

9. Section 95 of the Act (which provides for the reduction or extinguishment of unexpended balances of established development value) shall have effect in relation to any new development consisting of mining operations in respect of which the Mineral Development Charge Set-Off Regulations 1951(**a**) applied as if a development charge was not and would not have fallen to be determined in respect of those operations after 1st July 1951.

10. In determining under section 107 of the Act whether or to what extent the value of an interest in land is depreciated by a planning decision, no account shall be taken of any depreciation in the value of buildings, plant or machinery in respect of which compensation has been paid, or is or would be payable, under regulation 10 of the Town and Country Planning (Minerals) Regulations 1954.

Given under the official seal of the Minister of Housing and Local Government on 19th June 1963.

(L.S.)

Keith Joseph,
Minister of Housing and Local Government.

We consent

19th June 1963.

John Hill,
Francis F. Pearson,
Two of the Lords Commissioners of Her Majesty's Treasury.

(**a**) S.I. 1951/2156 (1951 II, p. 784).

EXPLANATORY NOTE

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

These regulations contain adaptations and modifications of the provisions of the Town and Country Planning Act 1962 in relation to minerals similar to those made in the provisions of the previous Acts now consolidated. They replace without any amendments of substance the provisions of the Town and Country Planning (Minerals) Regulations 1954 which require to be re-enacted because of the coming into operation of the Act of 1962. The operation of provisions of those regulations not replaced is preserved for cases falling within the transitional provisions of Schedule 14 to the Act by regulation 2, and in the case of regulation 10 of the regulations of 1954 (as amended by the Town and Country Planning (Minerals) (Amendment) Regulations 1957) (S.I. 1957/1358 (1957 II, p. 2573)) by paragraph 44 of that Schedule.

Modifications of sections 50, 51 and 64(2) of the Act made by regulation 4 are consequential on the modifications as to enforcement notices made in the regulations of 1954, but since they affect provisions first introduced by Part II of the Caravan Sites and Control of Development Act 1960 (8 & 9 Eliz. 2. c. 62), were not previously made in those regulations.

As required by the Town and Country Planning Act 1962, section 197(3), these regulations were approved by a resolution of the House of Lords on 10th July 1963 and a resolution of the House of Commons on 8th July 1963.