STATUTORY INSTRUMENTS

1971 No. 756

TOWN AND COUNTRY PLANNING, ENGLAND AND WALES

The Town and Country Planning (Minerals) Regulations 1971

Made - - -	*25th March* 1971
Laid before Parliament	*2nd April* 1971
Coming into Operation	*5th May* 1971

The Secretary of State for the Environment, in exercise of his powers under sections 197 and 217 of the Town and Country Planning Act 1962(a) as amended by section 106 of and Schedule 9 to the Town and Country Planning Act 1968(b), and of all other powers enabling him in that behalf, hereby with the consent of the Treasury makes the following regulations:—

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

1.—(1) These regulations may be cited as the Town and Country Planning (Minerals) Regulations 1971, 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(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

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

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

"the Act of 1968" means the Town and Country Planning Act 1968;

"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 any of the provisions of the Act of 1962 and of the Act of 1968 relating to operational land of statutory undertakers apply by virtue of regulations made under section 204 of the Act of 1962;

"mining operations" means the winning and working of minerals other

(a) 1962 c. 38. (b) 1968 c. 72. (c) 1889 c. 63.

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 9 of these regulations to 1st July 1948 shall be construed as a reference to 1st August 1949.

PART II

ADAPTATIONS AND MODIFICATIONS OF PROVISIONS OF THE ACTS OF 1962 AND 1968 RELATING TO DEVELOPMENT

2. In relation to development consisting of mining operations, the provisions of the Act of 1962 referred to in paragraph 1 of Schedule 8 thereto (as amended by the Act of 1968) and the provisions of the Act of 1968 shall have effect subject to the adaptations and modifications prescribed by this part of these regulations.

3. 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) of the Act of 1962 (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 of the Act of 1962, 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 47(5), 50 and 51 (as to enforcement notices and uses in contravention thereof), and paragraphs 6 and 16 of Schedule 13 (as to development existing prior to the 1st July 1948 and authorised subject to conditions) and in the following provisions of the Act of 1968, namely, sections 15(6) and 16(5) (as to enforcement notices) and section 65(4) (as to duration of planning permissions) references to the use of land or the purpose for which land may be used 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 non-compliance with any condition or limitation subject to which permission for mining operations was granted may be served under section 15 of the Act of 1968 at any time within four years after the non-compliance has come to the knowledge of the local planning authority.

5. Section 118(1) of the Act of 1962 (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.

6. Section 65(1) of the Act of 1968 (which provides for a limit of duration of planning permissions granted before the commencement of the section) shall

have effect in relation to permissions for mining operations subject to the substitution of the period of ten years for the period of five years therein prescribed.

7. Section 67(1) of the Act of 1968 (which defines the date on which development shall be taken to be begun for the purposes of sections 65 and 66 of the Act) shall have effect subject to the modification that development consisting of mining operations shall be taken to be begun on the earliest date on which any of the mining operations to which the relevant grant of planning permission relates begin to be carried out.

PART III

Adaptations and Modifications of other Provisions of the Act of 1962

8. 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 of 1962) wholly or partly in respect of such land, the provisions of the Act of 1962 referred to in paragraph 2 of Schedule 8 thereto shall have effect subject to the adaptations and modifications prescribed by this part of these regulations.

9.—(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 of 1962 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 of 1962 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 of 1962 the minerals and the remainder of the land shall be regarded as separate claim areas.

(2) Nothing in section 90 of the Act of 1962 (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.

10. Section 95 of the Act of 1962 (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.

11. In determining under section 107 of the Act of 1962 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**(b)**.

(a) S.I. 1951/2156 (1951 II, p. 784). (b) S.I. 1954/1706 (1954 II, p. 2417).

PART IV

Revocation of Existing Regulations

12. The Town and Country Planning (Minerals) Regulations 1963**(a)** are hereby revoked, without prejudice to their operation in respect of any interest affected, notice given, claim made, act done or requirement imposed in accordance with such regulations, which shall continue to have effect as if the same were affected, given, made, done or imposed under these regulations.

Peter Walker,
Secretary of State for the Environment

23rd March 1971

We consent to these regulations

25th March 1971

Bernard Weatherill,
H. S. P. Monro,
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This Note is not part of the regulations.)

These regulations, which revoke the Town and Country Planning (Minerals) Regulations 1963, contain adaptations and modifications of certain of the provisions of the Town and Country Planning Act 1962 and the Town and Country Planning Act 1968 in relation to minerals. They re-enact the provisions of the 1963 regulations without amendment except that references to provisions of the Act of 1968 have, where necessary, been substituted for references to provisions of the Act of 1962 which have been repealed and re-enacted in that Act. In addition, certain provisions of the Act of 1968 which are new and which relate to the duration of planning permissions have been adapted and modified in relation to minerals, as indicated in regulations 3(b), 6 and 7.

The regulations come into operation on 5th May 1971.

(a) S.I. 1963/1221 (1963 II, p. 2029).

SI 1971/ 756
ISBN 0-11-010756-X

