EXPLANATORY NOTE

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

These Regulations replace the Town and Country Planning (Erection of Industrial Buildings) (Scotland) Regulations, 1948 (S.I. 1948 No. 1313 (S. 98)) with the addition only of a proviso that a Board of Trade certificate that a particular development can be carried out consistently with the proper distribution of industry shall not be required in support of an application to develop land by the extension of an industrial building which (when extended) will cover an area of more than 5,000 square feet and have a floor space exceeding 5,000 square feet of which the aggregate of the floor space of that extension and every previous extension thereof carried out after the 1st July, 1948, and within three years of that application will not take up more than 5,000 square feet.

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5. MINERALS

The Town and Country Planning (Minerals) (Scotland) Regulations, 1949*

1949 No. 2015 (S. 141)

Made - - - - 14th July, 1949

In exercise of the powers conferred on me by subsection (1) of section 78 and section 107 of the Town and Country Planning (Scotland) Act, 1947(a), and all other powers enabling me in that behalf, I hereby, with the consent of the Treasury, make the following regulations:—

1. These regulations may be cited as the Town and Country Planning (Minerals) (Scotland) Regulations, 1949.

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them—

"the Act" means the Town and Country Planning (Scotland) Act, 1947, as adapted and modified by the Town and Country Planning (Minerals) (Scotland) Regulations, 1948(b);

"the Claims Regulations" means the Claims for Depreciation of Land Values (Scotland) Regulations, 1948 and 1949(c);

"claim" has the meaning assigned to it by the Claims Regulations;

"mining operations" means the winning and working of minerals in, on or under land, whether by surface or underground working, other than such minerals as are mentioned in paragraphs 3 and 4 of Part II of the Third Schedule to the Act and other than minerals vested in the National Coal Board, and "mineral undertaker" means any person engaged in mining operations;

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* These Regulations were approved by Resolution of the House of Commons, 24th October, 1949, and the House of Lords, 26th October, 1949, in accordance with section 78(5) of the Town and Country Planning (Scotland) Act, 1947.

(a) 10 & 11 Geo. 6. c. 53. (b) S.I. 1948 (No. 1525) I, p. 4334.

(c) S.I. 1948 (No. 907) I, p. 4247, S.I. 1948 (No. 2825) I, p. 4255 and S.I. 1949 No. 1193, p. 4054 above.

"trustee" has the meaning assigned to it by the Trusts (Scotland) Act, 1921(a), and includes a trustee under the Bankruptcy (Scotland) Act, 1913(b).

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

3. The provisions of the Act shall have effect in relation to development consisting of mining operations subject to the further adaptations and modifications prescribed by these regulations.

4. Payment in respect of a claim relating to any interest in land (such interest and the land to which it relates being hereinafter respectively referred to as "the said interest in land" and "the said land") shall not be excluded by section 60 of the Act where the following conditions are satisfied—

(*a*) on the 1st day of July, 1948 (or in a case to which the provisions of subsection (2) of section 87 of the Act apply, immediately before the date of the notice to treat) a mineral undertaker, or a trustee for a mineral undertaker, or a subsidiary within the meaning of section 154 of the Companies Act, 1948(d), of a mineral undertaker, with a view to mining operations, held any interest in the said land which entitled such a person to win and work the minerals therein and in respect of which a claim may be made under the Act, or was under an enforceable contractual obligation to acquire such an interest;

(*b*) the development value of the said interest in land is wholly attributable to the prospect of mining operations;

(*c*) the area of the said land exceeds 25 acres; and

(*d*) the development value of the said interest in land exceeds £500.

5.—(1) Where a claim is duly made on or before the 31st day of December, 1949, in respect of an interest in land in which a mining lease subsisted on the 1st day of July, 1948, the claim shall be treated as if it were also a claim in respect of every other interest in the land which subsisted on that day and comprised or included an interest in the minerals the subject of the mining lease (being an interest in respect of which a claim may be made but is not in fact made under the Act) duly made by the owner thereof.

(2) Where a claim is treated as having been made by any person in pursuance of this regulation, the proviso to subsection (4) of section 57 of the Act shall not apply so as to enable the Central Land Board to direct that the claim so treated as having been made shall be dealt with together with any claim duly made by that person in respect of any interest in any other land.

6. The Town and Country Planning (Minerals) (Scotland) Regulations, 1948, shall be amended by substituting for Regulation 7 thereof the following regulation:

"7. For the purposes of section 58 of the Act (which provides for the ascertainment of development values of land) in calculating the restricted and unrestricted values of an interest in any land wholly or partly used for the purpose of mining operations or in which a mineral undertaker has an interest entitling him (whether subject to the consent of another person or not) to use the land for that purpose, regard shall be had to any increase

(a) 11 & 12 Geo. 5. c. 58.
(b) 3 & 4 Geo. 5. c. 20.
(c) 52 & 53 Vict. c. 63.
(d) 11 & 12 Geo. 6. c. 38.

in the value of the interest arising from the presence of any buildings, plant and machinery used for such purpose or for the purpose of processing minerals, but the value of the buildings, plant and machinery as such shall be excluded."

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
14th July, 1949.

Wm. Hannan,
Richard Adams,
Two of the Lords Commissioners of His Majesty's Treasury.

14th July, 1949.

EXPLANATORY NOTE

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

The purpose of these regulations is :—

(*a*) to vary in respect of minerals the provisions of section 60 of the Town and Country Planning (Scotland) Act, 1947 (which excludes payments for small claims under the Treasury Scheme for payment in respect of depreciation of land values to be made under section 55 of the Act), by providing a different minimum for certain claims in respect of mineral bearing land by mineral undertakers or other parties interested in that land ;

(*b*) to make special provision in the case of land subject to mining leases whereby a claim for payment under the Treasury Scheme, made by any person entitled to claim in respect of an interest in the land comprised in the mining lease, is to be treated as if it were a claim made also by all other persons entitled to claim in respect of mineral interests in the land ; and

(*c*) to extend the application of Regulation 7 of the Town and Country Planning (Minerals) (Scotland) Regulations, 1948, to the case where a claim includes both mineral bearing land which is worked or held by a mineral undertaker and buildings, plant and machinery for processing minerals.