TOWN AND COUNTRY PLANNING, SCOTLAND

1953 No. 827 (S. 73)

The Town and Country Planning (Minerals) (Scotland) Regulations, 1953

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

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 of all other powers enabling me in that behalf, I hereby, with the consent of the Treasury, make the following regulations:—

Interpretation, Citation and Revocations

1.—(1) In these regulations—

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

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

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

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

(3) These regulations may be cited as the Town and Country Planning (Minerals) (Scotland) 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) (Scotland) Regulations, 1948 to 1953.

(4) Paragraph (1) 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 4 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 10 (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. 53. (**b**) 14 & 15 Geo. 6. c. 19.
(**c**) S.I. 1948/1525; Rev. XXII, p. 964; 1948 I, p. 4334. (**d**) S.I. 1949/2015; 1949 I, p. 4069.
(**e**) 52 & 53 Vict. c. 63.

(*b*) in the following provisions of the Act, namely, paragraph (*b*) of subsection (2) of section 12 (as to conditions requiring the discontinuance of a use after a special period), subsections (1) and (2) of section 16 (as to permission for the continuance of a use of land already instituted), subsections (2) and (3) of section 21 (as to enforcement notices), subsection (3) of section 22 (as to the use of land in contravention of an enforcement notice), subsection (2) of section 69 (as to the determination of development charge in respect of the use of land for a limited period), and section 73 (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.—(1) 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 II of the Act, or is treated as having been so made, for permission to resume or continue any such operations in adjoining land, section 76 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 11th day of November, 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 for Scotland 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.

(2) Until sections one to three of the Lands Tribunal Act, 1949, come into force as respects Scotland references in this Regulation to the Lands Tribunal for Scotland shall be construed as references to an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
13th April, 1953.

We consent,

Herbert Butcher,
Hendrie D. Oakshott,
Two of the Lords Commissioners of Her Majesty's Treasury.

14th April, 1953.

EXPLANATORY NOTE

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

These regulations effect minor alterations in the Town and Country Planning (Minerals) (Scotland) Regulations, 1948 and 1949, by widening the context in which mining operations can be regarded as a use of land under the Act. They also re-enact with amendments the provisions of the 1948 Regulations relating to compensation for abortive expenditure; these amended provisions apply (with certain modifications) the provisions of section 76 of the Town and Country Planning (Scotland) Act, 1947, to applications made at any time for the resumption or continuance of mining operations in progress on or after 7th January, 1937, except to the extent that these operations were carried on in contravention of planning control. The regulations further revoke the provisions of the 1948 Regulations setting up a special tribunal to vary in certain cases the royalty or other payment to be made under a mining lease.

TOWN CLERKS, SCOTLAND

1953 No. 1776 (S. 118)

Act of Sederunt (Fees of Town Clerks and Clerks of the Peace), 1953

Made - - - - 22*nd July*, 1953
Coming into Operation 16*th December*, 1953

The Lords of Council and Session, in respect that an application has been made to them by the Lord Advocate under subsection (3) of section twenty-seven of the Licensing (Scotland) Act, 1903(**a**), as extended by paragraph (*c*) of section eighteen of the Moneylenders Act, 1927(**b**), representing that the

(a) 3 Edw. 7. c. 25. (b) 17 & 18 Geo. 5. c. 21.