1955 No. 346 (S. 38)

The Town and Country Planning (Minerals) (Scotland) Regulations, 1955

Made - - - - *28th January,* 1955
Coming into Operation *7th March,* 1955

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 subsection (3) of section 56 and section 68 of the Town and Country Planning (Scotland) Act, 1954(b), and of all other powers enabling me in that behalf I hereby, with the consent of the Treasury, make the following regulations:—

PART I

Preliminary

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Town and Country Planning (Minerals) (Scotland) Regulations, 1955, and shall come into operation on the 7th day of March, 1955.

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

"the Act of 1947" means the Town and Country Planning (Scotland) Act, 1947;

"the Act of 1953" means the Town and Country Planning Act, 1953(d);

"the Act of 1954" means the Town and Country Planning (Scotland) Act, 1954;

"the Board" means the Central Land Board;

"Lands Tribunal" means the Lands Tribunal for Scotland:

Provided that, until sections one to three of the Lands Tribunal Act, 1949(e), come into force as regards Scotland, for any reference in these regulations to the Lands Tribunal there shall be substituted a reference to an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919(f), and sections three, five and six of that Act shall apply, subject to any necessary modifications, in relation to the determination of any question under these regulations by an arbiter so appointed.

(a) 10 & 11 Geo. 6. c. 53. (b) 2 & 3 Eliz. 2. c. 73. (c) 52 & 53 Vict. c. 63.
(d) 1 & 2 Eliz. 2. c. 16. (e) 12, 13 & 14 Geo. 6. c. 42. (f) 9 & 10 Geo. 5. c. 57.

" excepted minerals " means such minerals as are mentioned in paragraphs 3 and 4 of Part II of the Third Schedule to the Act of 1947 or minerals vested in the National Coal Board which are specified land to which the provisions of the Act of 1947 relating to operational land of statutory undertakers apply by virtue of regulations made under section 86 of that 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;

" mineral undertaker " means any person engaged in mining operations;

" mineral undertakers land " means land in which at the 1st day of July, 1948, a mineral undertaker had an interest which entitled him (whether subject to the consent of another person or not) to win and work the minerals therein, or had a right to acquire such an interest;

" mining lease " means a mining lease, as defined by the Act of 1947, of minerals other than excepted minerals; and " lessor " and " lessee " in relation to such a lease mean respectively the person entitled to receive the rent and royalties reserved and the person entitled to win or work minerals under the lease, and where a person is entitled to an interest in minerals both as lessee and also as lessor to a sub-lessee these regulations shall be applied first to the superior lease;

" 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).

Revocation of existing regulations

2. The Town and Country Planning (Minerals) (Scotland) Regulations, 1948(c), the Town and Country Planning (Minerals) (Scotland) Regulations, 1949(d), and the Town and Country Planning (Minerals) (Scotland) Regulations, 1953(e), are hereby revoked without prejudice to any right, privilege, obligation or liability acquired, accrued or incurred or to anything duly done or suffered thereunder.

PART II

Adaptations and Modifications of the Act of 1947

3. In relation to development consisting of mining operations the provisions of the Act of 1947 shall have effect subject to the adaptations and modifications prescribed by this part of these regulations.

4. For the purposes of the Act of 1947, " 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

(a) 11 & 12 Geo. 5. c. 58. (b) 3 & 4 Geo. 5. c. 20.
(c) S.I. 1948/1525 (Rev. XXII, p. 964: 1948 I, p. 4334).
(d) S.I. 1949/2015 (1949 I, p. 4069). (e) S.I. 1953/827 (1953 II, p. 2297).

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 1947, namely, paragraph (*b*) of subsection (2) of section 12 (as to conditions requiring the discontinuance of a use after a specified 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.

5. Subsection (1) of section 20 of the Act of 1947 (which provides for the payment of compensation in the event of a revocation or modification of planning permission) 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.—(1) In assessing compensation under section 48 of the Act of 1947 for the value of an interest acquired compulsorily in any land in respect of which a planning permission to win and work minerals is in force at the date of the notice to treat—

(*a*) for the purpose of assessing the value of any buildings, plant or machinery on the land, regard shall be had to that permission;

(*b*) in so far as that permission has diminished the value of the surface of the land by rendering it liable to subsidence or otherwise, regard shall be had to that diminution;

but, save as aforesaid, the value of the interest to which the notice to treat relates shall (notwithstanding that any sum has been paid under Part VI of the Act of 1947 as mentioned in paragraph (*a*) of subsection (4) of the said section) be calculated as if the said permission had not been granted.

(2) Where the planning permission referred to in the preceding paragraph was granted by a development order, it shall be assumed for the purposes of this regulation that such permission was for the winning and working, subject to such conditions as the local planning authority might reasonably have imposed, of any minerals in adjoining land the winning and working of which is not dealt with by another planning permission for the time being in force and which at the date of the notice to treat belonged (whether or not subject to payment of a rent or royalty) to the same person as did the land acquired, or were subject to rights enabling him to work them at any future time.

7. Part V of the Act of 1947 (as amended by the Act of 1953) shall have effect subject to the following modifications—

(*a*) Subsection (3) of section 57 (which provides for the establishment of claims for payments out of the £300 million fund) shall have effect as if the interests therein specified included an interest in land under a mining lease.

(*b*) Where a claim was 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 might have been but was not in fact made under the Act) duly made by the owner thereof.

(*c*) Where a claim is treated as having been made by any person in pursuance of the last preceding paragraph the proviso to subsection (4) of section 57 shall not apply so as to enable the 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.

(*d*) For the purposes of section 58 (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 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.

(*e*) The restricted and unrestricted values of an interest in mineral undertakers land shall be calculated as if any operations carried out for the winning and working of minerals therein during the period of three years from the 1st day of July, 1948, had been carried out before that date, provided that it shall not be assumed that any other operations would have been advanced thereby.

(*f*) Payment in respect of a claim relating to any interest in land (such interest and the land to which it relates being in this paragraph respectively referred to as "the said interest in land" and "the said land") shall not be excluded by section 60 (which excludes payments in respect of small claims) where the following conditions are satisfied—

(i) on the 1st day of July, 1948, (or in a case to which the provisions of subsection (2) of section 87 of the Act of 1947 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(**a**), of a mineral undertaker, with a view to mining operations held any interest in the said

(**a**) 11 & 12 Geo. 6. c. 38.

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;

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

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

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

8.—(1) Without prejudice to anything contained in section 68 of the Act of 1947 (which provides for payment of development charges) the Board may, after taking into account any representations made by the applicant, calculate the amount (or any part of the amount) of the development charge payable under Part VI of that Act in respect of any development consisting of the winning and working of minerals by reference to the amount of minerals got from time to time, and for this purpose the amount of minerals got may be measured by reference to the amount of the manufactured article produced or by any other method recognised as appropriate to the type of minerals concerned.

(2) The Board may require the mineral undertaker to furnish in such form as the Board may prescribe such periodical returns and other information (including an auditor's certificate) as may be necessary in order to ensure that payment is made in accordance with the Board's determination of the development charge and the Board may, in any case where a mineral undertaker neglects to furnish any such information as aforesaid to their satisfaction, require the mineral undertaker to permit such examination of his books and accounts as may be necessary for the said purpose.

(3) Information obtained by the Board under the preceding paragraph shall be treated as confidential by the Board and the Secretary of State.

9.—(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 of 1947, or is treated as having been so made, for permission to resume or continue any such operations in adjoining land, section 76 of the said Act (which provides for compensation for abortive expenditure on refusal of planning permission for certain development authorised before the 1st day of July, 1948) 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 1st day of July, 1948, 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 and the following reference in that subsection to expenditure shall include a reference to loss by way of depreciation of value or otherwise 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 said Act or obtainable under any enactment relating to town and country planning repealed by the said 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) Where on refusal of an application to which the last preceding paragraph applies, or on the grant of permission on such an application subject to conditions, it is shown that the applicant has sustained loss or damage which is directly attributable to such refusal or conditional grant of permission, subsection (1) of section 20 of the Act of 1947 (except the proviso thereto) and subsection (2) of that section shall apply in respect of such loss or damage as it applies to loss or damage which is directly attributable to a revocation or modification of permission, but no compensation shall be payable thereunder in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of such refusal or conditional grant of permission, or in respect of any loss or damage for which a claim may be made under paragraph (1) of this regulation.

PART III

Adaptations and Modifications of the Act of 1954

10. In relation to interests in land consisting of or comprising minerals, and in relation to claims established wholly or partly in respect of such land, the provisions of the Act of 1954 shall have effect subject to the adaptations and modifications prescribed by this part of these regulations.

11. Any provision of the Act of 1954 which refers to a provision of the Act of 1947 which is modified in any manner by Part II of these regulations shall have effect as if it were a reference to that provision as so modified.

12.—(1) Where an established claim relates to an interest in land comprising minerals, and since the 1st day of July, 1948, the interest of the superior, or of the person who is the proprietor of the *dominium utile*, or in the case of land other than feudal land is the owner of the land or of the lessee under a mining lease as the case may be (hereinafter referred to as "the relevant interest") in those minerals or part of them has, by sale or reservation or otherwise, been severed from the relevant interest in the remainder of the land, then if a payment falls to be made under the Act of 1954 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 subsection (4) of section 2 of the Act of 1954 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 the Act of 1954, the minerals and the remainder of the land shall be regarded as separate claim areas, and the provisions of this part of these regulations other than this regulation shall apply only to the claim holding or balance in respect of the minerals.

(2) Nothing in section 17 of the Act of 1954 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.

13. Where but for

(*a*) the provisions of the Mineral Development Charge Set-Off (Scotland) Regulations, 1951(**a**), and subsection (5) of section 56 of the Act of 1954 or

(*b*) the provisions of section 1 of the Act of 1953,

a development charge would have fallen to be determined in respect of minerals got before the commencement of the Act of 1954, then if any payment falls to be made under Part I or Part V of that Act in respect of land which comprised those minerals there shall first be deducted from the claim holding out of which that payment would otherwise be made such part of the development value represented by that claim holding as was attributable to the prospects of winning and working the minerals got before the act or event giving rise to such payment; and for the purposes of that payment and of any other provisions of the Act in relation to that claim holding the claim holding shall be treated as reduced or extinguished accordingly.

14.—(1) Without prejudice to anything in subsection (3) of section 3 of the Act of 1954, the principal amount of a payment under Case A, in the case of a development charge determined in respect of the winning and working of minerals, shall not exceed such part of the claim holding as was attributable to the prospects of winning and working the minerals worked before the 1st day of January, 1955, or where the development charge was determined in respect of a period expiring before that date, before the expiration of that period.

(2) Where a development charge has been paid or is payable by reference to the amount of minerals worked from time to time, the reference in paragraph (*b*) of subsection (3) of section 4 of the Act of 1954 to the single capital payment which would have been payable as therein mentioned shall be construed as a reference to the total gross amount payable by way of development charge in respect of minerals got during the period in question.

15.—(1) Notwithstanding anything in paragraph (a) of subsection (4) of section 5 of the Act of 1954, the principal amount of a payment under Case B, in the case of an acquisition or sale to which paragraph (*a*) of subsection (1) of that section relates of the interest of a lessor or a lessee in land,

(**a**) S.I. 1951/2170 (1951 II, p. 825).

which at the date of the acquisition or sale was subject to a mining lease, shall be the value of the relevant claim holding subject to such adjustment (if any) as the Board or where the Board's determination is referred to the Lands Tribunal under section 13 of the Act of 1954 that Tribunal may determine to be appropriate having regard—

(*a*) to any provision as to short workings in the lease and to any variation since the material date in regard to the amount of such short workings accumulated ;

(*b*) to any premium or capital sum paid under the lease since the 1st day of July, 1948, and its effect on the royalty or royalties payable under the lease ; and

(*c*) in the case of a payment to the lessor, to any variation in the period during which the lessee is liable to pay a rent under the lease which, if it had occurred before the said 1st day of July, 1948, would, apart from this regulation, have increased or decreased the value of the lessor's claim holding ;

and except to the extent aforesaid no variation such as is mentioned in sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph shall be taken into account under the proviso to sub-section (5) of section 6 of the Act of 1954:

Provided that—

(i) no adjustment shall be made under this regulation to the value of any claim holding so as to increase that value except where, and to the extent to which, an adjustment has been or might be made under this regulation so as to reduce another claim holding in respect of the same minerals ; and

(ii) in a case where the minerals acquired are part only of the claim area, regard shall be had to the extent to which short workings can be recovered out of minerals included in the lease but not included in the land acquired or sold.

(2) Where an adjustment is made to the value of a claim holding pursuant to paragraph (1) of this regulation, being an adjustment which results in a reduction in the value of that claim holding, and the party to the lease other than the claim holder is a person in respect of whose interest a claim for a payment under the Scheme to be made under section 55 of the Act of 1947 was made, or was deemed by virtue of Regulation 5 of the Town and Country Planning (Minerals) (Scotland) Regulations, 1949, to have been made, but is not an established claim for the purposes of the Act of 1954, the amount by which the value of the claim holding is reduced shall be paid to that party.

(3) In computing the principal amount of a payment under Case B, in the case of a sale to which paragraph (*b*) of subsection (1) of section 5 relates—

(*a*) where the payment is in respect of the interest of a lessor or a lessee in land which at the date of the sale was subject to a mining lease, account shall be taken of any increase in the amount of short workings accumulated under the lease since the material date, of any premium or capital sum paid thereunder since the 1st day of July, 1948, and its effect on the royalty or royalties payable under the lease, and of any increase (or in the case of a lease entered into before the 1st day of July, 1948, any increase or decrease) in the period during which

the lessee is liable to pay a rent under the lease which if it had occurred before the 1st day of July, 1948, would, apart from this regulation, have affected the value of the relevant claim holding and the amount of the claim holding shall be adjusted accordingly; and

(*b*) in calculating the restricted value of buildings, plant or machinery used for the winning and working or the processing of minerals, no regard shall be had to paragraph (*d*) of Regulation 7 of these regulations, but where at the date of the sale a planning permission to win and work such minerals was in force regard shall be had to that permission.

(4) Where the planning permission referred to in the immediately preceding paragraph was granted by a development order, it shall be assumed for the purposes of that paragraph that such permission was for the winning and working, subject to such conditions as the local planning authority might reasonably have imposed, of any minerals in adjoining land the winning and working of which is not dealt with by another planning permission for the time being in force and which at the date of the sale belonged (whether or not subject to payment of a rent or royalty) to the same person as did the land sold or were subject to rights enabling him to work them at any future time.

(5) In this and succeeding regulations, the expression "the material date" means—

(*a*) in relation to a mining lease entered into prior to the 1st day of July, 1948, the 1st day of July, 1951, or where no minerals were worked under the lease between the 1st day of July, 1948, and the 1st day of July, 1951, the 1st day of July, 1948; and

(*b*) in relation to a mining lease entered into on or after the 1st day of July, 1948, the date of the lease.

16. Where a payment falls to be made under Case C in respect of a disposal by way of gift by a lessor of his interest in land subject to a mining lease, the principal amount of such payment shall be reduced by the value of any increase in the amount of short workings accumulated at the date of the gift over the amount accumulated at the material date.

17.—(1) In determining the principal amount of a payment to be made under section 10 of the Act of 1954 in the case of the grant, renewal or continuance of a mining lease the Board, or, as the case may be, the Lands Tribunal shall—

(*a*) have regard only to such part of the claim holding as was attributable to the prospects of winning and working the minerals worked before the 1st day of January, 1955; and

(*b*) include in the capital value of the consideration for the grant, renewal or continuance of such lease any realised development value of those minerals.

(2) In this regulation the expression "realised development value" means the amount by which the aggregate gross amount of rents and royalties (excluding the value of any short workings) payable by the lessee before the 1st day of January, 1955, exceeds the sum of—

(*a*) the gross amount of any rents which would have been payable for the land included in the lease in which the minerals have been worked

from the date of the grant, renewal or continuance of the lease, as the case may be, to the 1st day of January, 1955, if the land had been subject to a permanent restriction against new development; and

(*b*) the amount by which on the same assumption, and disregarding the lease, the value of the lessor's interest in the land in which the minerals have been worked, after the working of the minerals, is less than such value before such working.

18. Except so far as Regulation 13 of these regulations has already applied in relation to any new development consisting of the winning and working of minerals, subsection (4) of section 18 of the Act of 1954 shall have effect as if a development charge was not, and would not have fallen to be, determined in respect of the winning and working of minerals after the 1st day of July, 1951, under the Mineral Development Charge Set-Off (Scotland) Regulations, 1951, notwithstanding anything in those regulations or in subsection (5) of section 56 of the Act of 1954.

19. In determining under section 26 of the Act of 1954 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 of value of buildings, plant or machinery in respect of which compensation has been paid or is or would be payable under Regulation 9 of these regulations.

20.—(1) Where any interest of a lessor or a lessee under a mining lease is compulsorily acquired as mentioned in subsection (1) of section 31 of the Act of 1954, the amount of compensation payable under subsection (1) of section 32 of that Act to the lessor or the lessee shall, notwithstanding any other provisions of that section, be ascertained as follows—

(*a*) the amount of the unexpended balance of established development value attributable to the lessor's interest shall be the whole of such balance reduced by:—

(i) the value, in terms of prices current immediately before the 7th day of January, 1947, of any short workings which at the date of the notice to treat the lessee is entitled to recover;

(ii) the value of any profit royalty in the lessee's interest; and

(iii) the value of the right to receive up to the date of the operation of any break clause in the lease such part of any rent payable under the lease as is in excess of a rent equivalent to the existing use value of the land; and

(*b*) the amount of such balance attributable to the lessee's interest shall be the aggregate of the amounts mentioned in sub-paragraphs (i) and (ii) of paragraph (*a*) hereof:

Provided that if the lease includes land containing any unworked minerals which is not comprised in the compulsory acquisition this regulation shall have effect as if—

(i) the reference in the said sub-paragraph (i) to any short workings which at the date of the notice to treat the lessee is entitled to recover were a reference to any short workings which the lessee is unable to recover from such other land;

(ii) the reference in the said sub-paragraph (ii) to the value of any profit royalty in the lessee's interest were a reference to the value of any such profit royalty which the lessee cannot recover by reason of the acquisition

and as if for sub-paragraph (iii) of paragraph (*a*) there were substituted the following paragraph:—

"(iii) the value of the right to receive up to the date of the operation of any break clause in the lease any rent in excess of existing use value which is appropriate to the part of the land to which the acquisition relates".

(2) In this regulation, the expression "profit royalty in the lessee's interest" means (i) the amount (if any) by which the tonnage royalty which would, as between a willing lessor and lessee, have been reserved in respect of the minerals comprised in the mining lease, if entered into immediately before the 7th day of January, 1947, exceeds the tonnage royalty payable at the date of the notice to treat in respect of those minerals under the mining lease then existing, or (ii) where no such royalty is payable, the amount of the first mentioned tonnage royalty; and "tonnage royalty" means a royalty calculated by reference to the amount of minerals got under a mining lease from time to time or of manufactured articles produced from such minerals or by any similar method.

21. Subsection (2) of section 34 of the Act of 1954 shall have effect as if the reference in paragraph (*b*) thereof to the purchase of an interest in land included a reference to the taking of a mining lease of minerals in such land, and as if the subsequent references to that interest included references to the interest of the lessee under such a lease.

22. Section 37 of the Act of 1954 shall have effect subject to the following modifications—

(*a*) any compensation for disturbance shall not be assessed at a greater amount than that at which it would have fallen to be assessed if Part IV of the Act of 1947 and sections 31 to 36 of the Act of 1954 had not been enacted, or at a lesser amount than that at which it would have fallen to be assessed if the provisions of Part V of the Act of 1947 had not had effect in relation to the development values of interests in land; and

(*b*) where an interest affected as defined in paragraph 1 of the Seventh Schedule to the Act of 1954 is an interest in buildings, plant or machinery used for the winning and working or the processing of minerals as if any part of the value of such buildings, plant or machinery which was immediately before the injurious act or event attributable to the existence of minerals in the relevant land and was lost by reason of that act or event formed part of the loss of immediate value and not of the loss of development value.

23.—(1) In determining under section 45 of the Act of 1954 whether or to what extent the value of an interest in land is depreciated by a planning decision or order, no account shall be taken of any depreciation of value of buildings, plant or machinery in respect of which compensation has been paid or is payable under Regulation 4 of the Town and Country Planning (Minerals) (Scotland) Regulations, 1953, or Regulation 10 of the Town and Country Planning (Minerals) (Scotland) Regulations, 1948.

(2) In respect of a planning decision or order relating to land comprised in a mining lease, the value of the relevant holding or as the case may be the fraction of the said value which attached to the qualified land shall, for the purposes of section 46 of the Act of 1954, be adjusted to take account of any variation in the amount of short workings accumulated since the material date

and of any variation in the period during which the lessee is liable to pay a rent under the lease which if it had occurred before the 1st day of July, 1948, would, apart from this provision, have increased or decreased the value of the claim holding: Provided that no adjustment shall be made in any claim holding so as to increase the amount of such claim holding except where and to the extent to which an adjustment has been or might be made under this regulation so as to reduce another claim holding in respect of the same minerals.

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

St. Andrew's House,
Edinburgh, 1.
28th January, 1955.

We consent,

Edward Heath,
Hendrie D. Oakshott,
Two of the Lords Commissioners of Her Majesty's Treasury.

28th January, 1955.

EXPLANATORY NOTE

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

These regulations adapt and modify the provisions of the Town and Country Planning (Scotland) Act, 1947, and the Town and Country Planning (Scotland) Act, 1954, in relation to minerals. They are made under powers conferred by Section 78 of the Act of 1947 and Section 56 of the Act of 1954.

Part I of the regulations revokes the existing regulations made under the Act of 1947 and Part II re-enacts such of them as are still required, with minor amendments. These amendments, which are consequential on the passing of the Act of 1954, are in relation to the assessment of compensation under Section 48 of the Act of 1947 (Regulation 6, formerly Regulation 5 of the Regulations of 1948) and to the assessment of compensation for loss or damage in respect of refusals or conditional grants of planning permission for certain mineral development (Regulation 9, formerly Regulation 4 of the Regulations of 1953).

Part III of the regulations contains adaptations and modifications of the Act of 1954. Provision is made (Regulation 12) for the separation of development value attributable to the presence of minerals from that attributable to the prospects of surface development where the ownership of the minerals is in different hands to that of the surface. The other regulations in this part adapt to the special circumstances of mineral owners and operators various provisions of the Act of 1954 which deal with payments

and compensation to those who are adversely affected by the past or future operation of the Act of 1947 or by the compulsory acquisition of their land. Regulation 14 deals with those who have paid development charge and Regulations 15, 16 and 17 with those who disposed of their minerals while the provisions of the Act of 1947 were fully effective: special arrangements are made, in the case of land subject to a mining lease, to take account of the shifting of development value between lessor and lessee. Somewhat similar provisions are made by Regulation 20 in relation to the compulsory acquisition of land subject to a mining lease, after the coming into operation of the Act of 1954. Regulation 21 provides the same protection for a lessee under a mining lease as is obtainable by a purchaser of land under Section 34 of the Act of 1954, in relation to a subsequent compulsory acquisition of the land. Regulation 22 deals with compensation for disturbance, severance and injurious affection on the acquisition of mineral bearing land. Regulation 23 provides against the possibility of double compensation being payable in respect of past planning decisions and also deals with the division of the compensation payable under Part V of the Act of 1954 where shifts of development value have occurred under a mining lease.

TRADE MARKS

1955 No. 461

The Trade Marks (Amendment) Rules, 1955

Made - - - -	24*th March*, 1955
Laid before Parliament	31*st March*, 1955
Coming into Operation	1*st April*, 1955

Whereas, in pursuance of the requirements of sub-section (3) of Section 40 of the Trade Marks Act, 1938(**a**), the Board of Trade have, before making the following Rules under the Act, published notice of their intention to make such Rules and of the place where copies of the draft Rules may be obtained by advertising such notice in the Trade Marks Journal and the Official Journal (Patents) on the 2nd and 9th days of February, 1955, being the manner which the Board considered most expedient so as to enable persons affected to make representations to the Board before the Rules were finally settled:

Now, therefore, the Board of Trade, in pursuance of the powers conferred on them by Sections 40 and 41 of the said Act and all other powers enabling them in that behalf, hereby, and as regards rule 1 hereof with the sanction of the Treasury, make the following Rules:—

Amendment of the Trade Marks Rules, 1938: *New Fees*

1.—(1) The fee payable after 30th June, 1955, in respect of any of the trade mark matters referred to in Schedule I hereto shall be the amount appropriate to that matter specified in that Schedule; and, accordingly, the Trade Marks Rules, 1938(**b**), (hereinafter referred to as "the principal Rules") shall have

(**a**) 1 & 2 Geo. 6. c. 22.
(**b**) S.R. & O. 1938/661 (Rev. XXIII, p. 3: 1938 II, p. 3257).