EXPLANATORY NOTE

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

These regulations, which are made under Section 78 (1) of the Town and Country Planning (Scotland) Act, 1947, prescribe the adaptations and modifications to which the Act is to be subject in relation to development consisting of the winning and working of minerals.

(By Section 78 (6) the Regulations have no application to:—

(1) the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use;

(2) the winning and working of peat by any person for the domestic requirements of that person;

(3) the winning and working of any minerals vested in the National Coal Board.)

The Town and Country Planning (Modification of Mines Act) (Scotland) Regulations, 1948†

1948 No. 1526 (S. 137)

Made - - - - 13*th May*, 1948
Coming into Operation 1*st July*, 1948*

The Secretary of State for Scotland and the Minister of Fuel and Power in exercise of the powers conferred on them by subsection (4) of section 78 of the Town and Country Planning (Scotland) Act, 1947(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, Commencement and Interpretation

1.—(1) These regulations may be cited as the Town and Country Planning (Modification of Mines Act) (Scotland) Regulations, 1948, and shall come into operation on the appointed day*.

(2) In these regulations—

" the appointed day " means the day appointed for the coming into force of the Town and Country Planning (Scotland) Act, 1947;

" the Commission " means the Railway and Canal Commission;

" the Mines Act " means the Mines (Working Facilities and Support) Act, 1923(b).

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

(a) 10 & 11 Geo. 6. c. 53. (b) 13 & 14 Geo. 5. c. 20.
(c) 52 & 53 Vict. c. 63. * *See* S.I. 1948 No. 265, p. 4236 above.

† These Regulations were approved by Resolution of the House of Commons, 28th June, 1948, and the House of Lords, 30th June, 1948, in accordance with section 78 (5) of the Town and Country Planning (Scotland) Act, 1947.

General

2. Where a development plan provides that any land is to be used for the purpose of securing the winning and working of any minerals comprised therein, the provisions of the Mines Act shall have effect in relation to that land subject to the modifications prescribed by these Regulations.

3. The right to work such minerals as aforesaid may be conferred by the Commission under subsection (1) of Section 1 of the Mines Act, where there is danger for any reason that the minerals will not be worked in accordance with the development plan, on any person (whether having an interest in the minerals or not) who is desirous of working them either by himself or through his lessees and who is unable to obtain the necessary rights by agreement on reasonable terms, and any such person may apply under subsection (1) of Section 5 of that Act for the grant of such a right.

4. For the purposes of the determination by the Commission of an application for any such right, it shall be assumed that the winning and working of the minerals is expedient in the national interest.

5. The compensation or consideration in respect of any such right which is granted by the Commission shall be assessed having regard to the amount of the compensation which would be payable in respect of a compulsory acquisition of the minerals under Part III of the Town and Country Planning (Scotland) Act, 1947.

Dated this thirteenth day of May, nineteen hundred and forty-eight.

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

Donald Fergusson,
Secretary to the Ministry of Fuel and Power.

EXPLANATORY NOTE

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

Under Section 78 (4) of the Town and Country Planning (Scotland) Act, 1947, where a development plan makes provision for the winning and working of minerals in any land, the provisions of the Mines (Working Facilities and Support) Act, 1923, dealing with the granting of rights to work certain minerals in the national interest may be modified by Regulations:—

(*a*) extending its operation to any land allocated in the plan for mineral working;

(*b*) requiring the Railway and Canal Commission to assume that such working is in the national interest;

(*c*) requiring the compensation to the landowner to be assessed on the same basis as for compulsory purchase.

These regulations prescribe the necessary modifications of the 1923 Act.

(By Section 78 (6) these regulations have no application to

(1) the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use;

(2) the winning and working of peat by any person for the domestic requirements of that person;

(3) the winning and working of any minerals vested in the National Coal Board.)