paragraph (*d*) of subsection (1) of Section 28 (relating to provisions for compensation in tree preservation orders);

paragraph (*c*) of subsection (2) of Section 29 (relating to provisions for compensation in building preservation orders);

and paragraphs 1 (3), 2 (2), 3 (3) and 4 (3) of the Fifth Schedule (relating to compensation in respect of operational land).

Given under the Official Seal of the Minister of Housing and Local Government this twenty-eighth day of November, one thousand nine hundred and fifty-one.

Harold Macmillan,
Minister of Housing and Local Government.

EXPLANATORY NOTE

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

These Regulations are made under Section 35 (3) of the Town and Country Planning Act, 1947, which provides that where a local planning authority owns land, or wishes to develop land, for which it is itself the local planning authority, Part III of the Act (which includes the power of the local planning authority to grant permission to develop land and the power of the Minister to direct a local planning authority to refer any application for such permission to the Minister for determination) shall have effect subject to such exceptions and modifications as are prescribed by Regulations. They replace the Town and Country Planning (Development by Local Planning Authorities) Regulations, 1948 (S.I. 1948, No. 2302).

The main exceptions and modifications made by the Regulations are—(1) that unless in a particular case the Minister requires an application for permission to be made to him an authority requiring permission to develop land for which they are the local planning authority shall obtain such permission, not on an application to themselves, but on passing a resolution to carry out the development; (2) that any other applications for consent or approval by a local planning authority in relation to land which they own or wish to develop shall be made to the Minister, whose decision shall be final; and (3) that compensation in cases of refusal or revocation of planning permission, and in other kindred cases, shall not be claimed by an authority in respect of land for which they are the local planning authority.

The Town and Country Planning (National Coal Board) Regulations, 1951

1951 No. 716

Made - - - -	*24th April*, 1951
Laid before Parliament	*25th April*, 1951
Coming into Operation	*1st May*, 1951

L.G.P. 265

The Minister of Local Government and Planning and the Minister of Fuel and Power in exercise of the powers conferred on them by Section 90 of the Town and Country Planning Act, 1947(a), and of all other powers

(a) 10 & 11 Geo. 6. c. 51.

enabling them in that behalf, hereby with the consent of the Treasury make the following Regulations:—

1. These Regulations may be cited as the Town and Country Planning (National Coal Board) Regulations, 1951, and shall come into force on the 1st day of May, 1951.

2.—(1) In these Regulations, subject to the provisions of the next succeeding paragraph, the following expressions have the meanings respectively assigned to them, namely:—

"the Act" means the Town and Country Planning Act, 1947;

"the Act of 1944" means the Town and Country Planning Act, 1944(a);

"the Act of 1946" means the Coal Industry Nationalisation Act, 1946(b);

"the Board" means the National Coal Board;

"coal industry activities" and "colliery activities" have the meanings assigned to those expressions by Section 63 of the Act of 1946;

"planning proceeding" has the meaning assigned to it by the Second Schedule to these Regulations;

"specified land" means land (including mines) of the Board of the following classes:—

(*a*) unworked coal, or any space excavated underground for the purposes of colliery activities;

(*b*) unworked minerals other than coal, being minerals which can only be economically worked in association with the working of coal, or which can only be economically brought to the surface by the use of a mine of coal vested in the Board;

(*c*) surface land in the immediate vicinity of a shaft or adit for the winning or working of coal, being either land on which any of the activities mentioned in Parts I, II and III of the First Schedule to the Act of 1946 (except paragraphs 13 and 14 thereof) are ordinarily carried on, or land in which an interest is held by the Board for the purpose of any of those activities and which is comparable in respect of its nature and situation rather with land on which those activities are carried on than with land in general;

(*d*) other surface land, being either land on which coal industry activities are ordinarily carried on, or land in which an interest is held by the Board for the purpose of those activities and which is comparable in respect of its nature and situation rather with land on which those activities are carried on than with land in general, but excluding in either case shops and offices not adjacent to any other surface land which is specified land by virtue of this definition:

Provided that (i) land of class (*c*) shall include any dwelling house at a colliery, in which an employee of the Board is required by the terms of his employment to reside for the purpose of enabling him properly to perform his duties, and (ii) land of class (*d*) shall not include any land used for the deposit of refuse or waste materials or comprised in a site used or held for that purpose.

(2) For the purposes of these Regulations none of the activities mentioned in the First Schedule to the Act of 1946 shall be regarded as subject to the provisions of sub-paragraph (2) of paragraph 22 of that Schedule.

(a) 7 & 8 Geo. 6. c. 47. (b) 9 & 10 Geo. 6. c. 59.

(3) The Interpretation Act, 1889(a), 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 relating to statutory undertakers and to land of such undertakers which are set out in column (1) of the First Schedule to these Regulations shall apply in relation to the Board and in relation to specified land of the Board as if the Board were statutory undertakers, and as if references in such provisions to operational land were references to specified land, subject to the adaptations, modifications and exceptions set out opposite such provisions in column (2) of the said First Schedule.

4. Any compensation payable to the Board by virtue of any of the provisions of the Fifth Schedule to the Act as applied by these Regulations in respect of a planning proceeding shall, in lieu of being assessed in accordance with the provisions of the Fourth Schedule to the Act of 1944, be assessed in accordance with the provisions of the Second Schedule to these Regulations.

5. Any compensation payable to the Board by virtue of any of the provisions of the Fifth Schedule to the Act as applied by these Regulations in respect of any decision or order relating to specified land, other than a planning proceeding, or by virtue of sub-section (5) of Section 45 of the Act as so applied in respect of the compulsory acquisition of specified land, shall be assessed in accordance with the provisions of the Fourth Schedule to the Act of 1944, and references therein to " the statutory undertaking " and " the undertaking " shall be construed as references to the functions of the Board.

(Regulation 3)

FIRST SCHEDULE

Column (1) *Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board*	*Column* (2) *Adaptations, modifications and exceptions*
Paragraph (*b*) *of sub-section* (2) *of Section* 5 (which relates to the designation, as land subject to compulsory acquisition by statutory undertakers, of any land allocated by a development plan for the purposes of any of their functions).	None.
Section 9 (which relates to the modification of development plans in relation to land designated as subject to compulsory acquisition by statutory undertakers if such land has not been acquired within a specified period).	None.
Proviso (*c*) *to sub-section* (2) *of Section* 12 (which provides that the carrying out by a statutory undertaker of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose, shall not involve development).	None.

(a) 52 & 53 Vict. c. 63.

Column (1) *Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board*	*Column* (2) *Adaptations, modifications and exceptions*
Sub-section (2) *of Section* 35 (which provides that except in relation to the display of advertisements on operational land the provisions set out in the Fifth Schedule to the Act shall have effect for the purposes of the application of Part III of the Act to operational land of statutory undertakers and to the development of such land by such undertakers).	1. Omit the words " Without prejudice to the provisions of the foregoing subsection " and the words " as defined by this Act ". 2. Add after the words in brackets, the words " as applied by any regulations made under Section 90 of this Act ".
Section 37 (which relates to the compulsory acquisition of land by statutory undertakers).	In sub-section (3) substitute for the words " who is the appropriate Minister for the purposes of those undertakers ", the words " of Fuel and Power ".
Sub-section (5) *of Section* 45 (which relates to the compensation payable to statutory undertakers in respect of the compulsory acquisition of land which has been acquired by them for the purposes of their undertaking).	1. Add after the word " sub-section ", the words " including any land vested in the National Coal Board by virtue of the Coal Industry Nationalisation Act, 1946 ". 2. Omit the words " without any such certificate as is therein referred to ". 3. Add after the word " assessed ", the words " as respects any land specified in regulations made under Section 90 of this Act ".
Paragraph (*b*) *of sub-section* (7) *of Section* 45 (which provides for references in the Lands Clauses Acts to the execution of works to be construed as references to any erection, construction or carrying out of buildings or works by or on behalf of statutory undertakers).	None.
Sub-section (1) *of Section* 57 (which applies the Acquisition of Land (Assessment of Compensation) Act, 1919(a), in relation to the compulsory acquisition of land by statutory undertakers).	None.
Section 84 (which relates to payments under Paft VI of the Act, development charges and compensation on compulsory acquisition, in respect of operational land of statutory undertakers).	Add after the words " appointed day ", in sub-sections (2) and (3), the words " or in the case of land vesting by virtue of sub-section (2) or (3) of Section 5 of the Coal Industry Nationalisation Act, 1946, after that day, on the date of such vesting ".

(a) 9 & 10 Geo. 5. c. 57.

Column (1) *Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board*	*Column* (2) *Adaptations, modifications and exceptions*
Sub-section (1) *of Section* 98 (which empowers statutory undertakers to contribute towards certain expenses of local planning authorities and councils of county districts).	None.
The proviso to sub-section (9) *of Section* 103 (which entitles statutory undertakers to object to works, on land held by them, for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein).	Substitute for the words " appropriate Minister ", the words " Minister of Fuel and Power ".
Sub-section (2) *of Section* 119 so far as it relates to the determination of questions whether land of statutory undertakers is operational land.	1. Omit the words " as defined by this Section ". 2. Substitute for the words " who is the appropriate Minister in relation to those undertakers ", the words " of Fuel and Power ".
Fifth Schedule, paragraph 1 (which relates to applications for permission to develop operational land by statutory undertakers).	1. In sub-paragraph (1) omit the words " and the appropriate Minister ". 2. Omit sub-paragraph (2). 3. For the proviso to sub-paragraph (3), substitute the following provisoes:— " Provided that if the Minister and the Minister of Fuel and Power are satisfied that it is unreasonable, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that compensation should be so recovered in respect of the decision, the Minister may include therein a direction that the foregoing provisions of this sub-paragraph shall not apply in relation to the whole or any part of that decision, and provided that, subject to any such direction, where the decision relates wholly or in part to the deposit of refuse or waste materials on land or to any ancillary development required for that purpose, the foregoing provisions of this sub-paragraph shall apply in relation to that decision or that part of the decision, as the case may be, as if the reference to the Fourth Schedule to the Act of 1944 were a reference to Part III of this Act." 4. Omit sub-paragraphs (4), (5) and (6).

Column (1) *Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board*	*Column* (2) *Adaptations, modifications and exceptions*
Fifth Schedule, paragraph 2 (which contains special provisions in relation to certain development of operational land of statutory undertakers).	1. Omit sub-paragraph (1). 2. In sub-paragraph (2) substitute for the word "proviso", the word "provisoes", and for the words "the said paragraph 1", the words "paragraph 1 of this Schedule".
Fifth Schedule, paragraph 3 (which relates to revocation and modification of permissions granted to statutory undertakers to develop operational land).	1. In sub-paragraph (1) omit the words from "as if" to the end. 2. Omit sub-paragraph (2). 3. In sub-paragraph (3) omit the words "and the appropriate Minister" and substitute for the words "the said Section 21 as modified", the words "Section 21 of this Act as applied".
Fifth Schedule, paragraph 4 (which relates to the making of orders under Section 26 of the Act as to operational land of statutory undertakers).	1. In sub-paragraph (1), omit the words from "as if" to the end. 2. Omit sub-paragraph (2). 3. In sub-paragraph (3) omit the words "the said", and substitute for the word "modified", the word "applied".

(Regulation 4)

SECOND SCHEDULE

Provisions as to the assessment of compensation in respect of underground workings of coal and other minerals which are specified land, to be applied in lieu of the provisions of Part I of the Fourth Schedule to the Act of 1944.

1. In this Schedule, the following expressions have the meanings respectively assigned to them, namely:—

"minerals" means underground coal and other minerals which are specified land;

"planning proceeding" means any of the following decisions or orders in respect of minerals, namely:—

(*a*) a decision given under paragraph 1 of the Fifth Schedule to the Act as applied by these Regulations, refusing planning permission for the working underground of minerals, or the carrying out of underground works in a mine for the purpose of facilitating such working (whether with or without any other development), or granting such permission subject to conditions;

(*b*) an order made under paragraph 3 of that Schedule as so applied revoking or modifying permission for such working or works;

(*c*) an order made under paragraph 4 of that Schedule as so applied in relation to such working or works;

"existing mine", in relation to a planning proceeding, means a mine from which the winning and working of minerals has been commenced before that proceeding takes effect, and, where such commencement was on or after the first day of July 1948, with planning permission granted or deemed to be granted under Part III of the Act;

"new mine" means a mine, or proposed mine, other than an existing mine;

"affected mine" means an existing mine in relation to which a planning proceeding has taken effect;

"neighbouring mine" means a mine worked by the Board from which minerals are brought to the surface by means of a shaft or adit situated within 10 miles of the main shaft or adit of an affected mine;

"decrease in net receipts" means the amount by which a balance of receipts over expenditure is decreased or of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, the aggregate of the two balances; and

"increase in net receipts" shall be construed accordingly.

2. The compensation to be paid in respect of a planning proceeding shall in default of agreement be assessed by the arbitration of the tribunal constituted in accordance with the provisions of Part II of the Fourth Schedule to the Act of 1944 and the amount of such compensation shall be calculated in accordance with the provisions of the next following paragraphs.

3.—(1) In the case of a planning proceeding relating to an existing mine, the amount of such compensation shall, subject to the provisions of this paragraph, be the aggregate of the following amounts, that is to say,—

(*a*) such amount as is reasonable in respect of any expenditure at the affected mine which, as a result of the planning proceeding, is necessary for the purpose of maintaining the estimated output of that mine;

(*b*) such amount as is reasonable in respect of any further expenditure incurred by the Board in taking steps to comply with the planning proceeding;

(*c*) such amount as appears reasonable compensation for any decrease in net receipts directly attributable to the planning proceeding, being receipts which it is estimated would have been derived from the affected mine if the planning proceeding had not had effect:

Provided that nothing shall be included under head (*a*) or (*b*) of this sub-paragraph in respect of—

(i) any expenditure that would be necessary if there had been no planning proceeding, except where such expenditure must by reason of such proceeding be incurred earlier than would otherwise have been the case, in which event compensation in respect of such expenditure shall be limited to the loss of interest on the expenditure for the period between the time when it is necessary to incur such expenditure as a result of the planning proceeding and the time when such expenditure would normally have been incurred;

(ii) any expenditure of which account has been taken in arriving at the amount payable under head (*c*) of this sub-paragraph.

(2) In assessing the amounts payable under this paragraph regard shall be had to all the relevant circumstances, and in particular—

(*a*) to the time or times when such expenditure will be incurred and when such decrease in net receipts will occur;

(*b*) to the extent to which it is practicable from the affected mine to work minerals in substitution for minerals sterilised by the planning proceeding;

(*c*) to the extent to which any minerals rendered unworkable from the affected mine by reason of the planning proceeding may be workable by the Board from any neighbouring mine;

(*d*) to the extent (if any) to which the potential liability of the Board for subsidence or other damage to the surface of the land is diminished or increased by reason of the planning proceeding;

(*e*) to the extent to which as a direct result of loss of output from the affected mine due to the planning proceeding an increased output at any neighbouring mine (after making due allowance for any expenses necessary to obtain the increased output in the neighbouring mine and for the shortening of the life of such mine) can be obtained;

(*f*) to the extent to which buildings, plant or machinery rendered unusable at the affected mine by reason of the planning proceeding may be used by the Board otherwise than at that mine;

(*g*) if, as a result of the incurring of expenditure in respect of which compensation is payable under head (*a*) or (*b*) of the preceding sub-paragraph, the net receipts derived from the affected mine will be increased, to the estimated amount of such increase in net receipts.

4. In the case of a planning proceeding relating to a new mine, compensation shall be payable only in respect of an order made under paragraph 3 or paragraph 4 of the Fifth Schedule to the Act as applied by these Regulations and the amount of such compensation shall be the amount of any expenditure incurred by the Board in carrying out work (including the preparation of plans for any such work or other similar matters preparatory thereto) which is rendered abortive by such order and in taking steps to comply with such order: Provided that, in computing such amount, regard shall be had to the extent to which buildings, plant, or machinery rendered unusable at the new mine by reason of the planning proceeding may be used by the Board otherwise than at that mine.

Given under the Official Seal of the Minister of Local Government and Planning, this twenty-fourth day of April, 1951.

(L.S.)

Hugh Dalton,
Minister of Local Government and Planning.

Given under the Official Seal of the Minister of Fuel and Power, this twenty-fourth day of April, 1951.

(L.S.)

Philip Noel-Baker,
Minister of Fuel and Power.

We consent

Charles Royle,
W. A. Wilkins,
Two of the Lords Commissioners of His Majesty's Treasury.

Dated this twenty-fourth day of April, 1951.

EXPLANATORY NOTE

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

These Regulations, made under Section 90 of the Town and Country Planning Act, 1947, apply with modifications the provisions of the Act set out in column (1) of the First Schedule, relating to statutory undertakers, and to land of statutory undertakers, to the National Coal Board and to land of the Board specified in Regulation 2. This land includes all unworked coal, and surface land belonging to the Board which is used or held for a wide range of activities connected with coal mining. These activities include transport, sales, welfare and other similar activities as well as the actual getting and treatment of coal. The modifications to the provisions which are applied are set out in column (2) of the First Schedule. Of these, the modification of Section 84 of the Act extends to the specified land of the Board the exemption from development charge enjoyed by statutory undertakers in respect of operational land, even where such specified land may, under the Coal Industry Nationalisation Act, 1946, vest after 1st July,

1948; and the modifications to the Fifth Schedule to the Act provide that where applications and orders relating to the development of the specified land are dealt with Ministerially, they shall be dealt with by the Minister of Local Government and Planning, but the Minister of Fuel and Power must concur before any direction is issued excluding the Board's right to recover compensation in respect of the decision.

The Second Schedule to the Regulations lays down a special basis for calculating the compensation payable to the National Coal Board where decisions adverse to the Board are given by the Minister in relation to the underground working of coal. If the decision affects an existing mine, the compensation will cover any increased expenditure made necessary by the decision, together with a sum for any decrease in net receipts. In the case of a new mine the compensation will cover only abortive expenditure. Compensation in respect of other decisions affecting the specified land will in general be on the basis laid down for statutory undertakers by the Fourth Schedule to the Town and Country Planning Act, 1944 (Regulation 5); but under the proviso to paragraph 1 (3) of the Fifth Schedule to the Act of 1947 (as modified by the Regulations) no compensation will be payable where permission for a new tipping site is refused or granted conditionally.

TOWN AND COUNTRY PLANNING, SCOTLAND

The Claims for Depreciation of Land Values (National Coal Board) (Scotland) Regulations, 1951

1951 No. 734 (S. 35)

Made - - - -	*25th April*, 1951
Laid before Parliament	*26th April*, 1951
Coming into Operation	*10th May*, 1951

In exercise of the powers conferred on me by sections 57 and 107 of the Town and Country Planning (Scotland) Act, 1947(**a**), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1. These regulations may be cited as the Claims for Depreciation of Land Values (National Coal Board) (Scotland) Regulations, 1951, and shall come into operation on the 10th day of May, 1951.

2.—(1) In these regulations—

the expression "section 55 claim" has the meaning assigned to the expression "claim" by the Claims for Depreciation of Land Values (Scotland) Regulations, 1948(**b**);

the expression "section 56 claim" has the meaning assigned to the expression "claim" by the Planning Payments (War Damage) (Scotland) Regulations, 1949(**c**).

(2) The Interpretation Act, 1889(**d**), 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) S.I. 1948 (No. 907) I, p. 4247.
(c) S.I. 1949 (No. 2339) I, p. 4081.
(d) 52 & 53 Vict. c. 63.