3. In Regulation 11 of the principal Regulations, in sub-paragraph (*b*) of paragraph (2), after the word "any" there shall be inserted the words "building used for religious worship,".

4. In Regulation 16 of the principal Regulations, in sub-paragraph (*d*) of paragraph (1), the word "other" shall be omitted and after the words "may direct" there shall be inserted the words "under Regulation 28 of these Regulations".

5. In paragraph (2) of Regulation 20 of the principal Regulations (as amended by paragraph (*a*) of Regulation 8 of the 1949 Regulations), after the words "as the Secretary of State may" there shall be inserted the words "at any time".

Dated this 6th day of July, 1951.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh 1.

EXPLANATORY NOTE

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

The Regulations make a number of amendments which the working of the principal Regulations has shown to be necessary. Regulations 2 and 4 are designed to make clear the source of the Secretary of State's power to direct local planning authorities to consult with persons or bodies in the exercise of their functions under the principal Regulations. The types of advertisements which, under Regulation 11 of the principal Regulations may be displayed, with express consent, in an area of special control is extended by Regulation 3 to include advertisements indicating the presence in the vicinity of a place of religious worship. Regulation 5 makes it clear that the Secretary of State may at any time allow a longer period within which an appeal may be lodged.

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

1951 No. 725 (S. 34)

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

The Secretary of State for Scotland and the Minister of Fuel and Power in exercise of the powers conferred on them by section 86 of the Town and Country Planning (Scotland) Act, 1947(a), and of all other powers enabling

(a) 10 & 11 Geo. 6. c. 53.

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) (Scotland) Regulations, 1951, and shall come into operation 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 hereby respectively assigned to them, namely—

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

"the Act of 1945" means the Town and Country Planning (Scotland) Act, 1945(**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) 8 & 9 Geo. 6. c. 33. (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 1945, 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 subsection (5) of section 42 of the Act as so applied in respect of the compulsory acquisition of specified land, shall, subject to the provisions of Regulation 6 of these regulations, be assessed in accordance with the provisions of the Fourth Schedule to the Act of 1945, and references therein to "the statutory undertaking" and "the undertaking" shall be construed as references to the functions of the Board.

6. The provisions of the Third Schedule to these regulations shall have effect in relation to the assessment of compensation payable under the Second Schedule thereto, or under Part I of the Fourth Schedule to the Act of 1945, in lieu of the provisions of Part II of that Schedule, and references in the said Part I to "the tribunal constituted in accordance with the provisions of Part II of this Schedule" and "the tribunal" shall be construed accordingly.

Given under the seal of the Secretary of State for Scotland this 24th day of April, nineteen hundred and fifty-one.

(L.S.)

Hector McNeil,
Secretary of State for Scotland.

St. Andrew's House,
Edinburgh, 1.

Given under the official seal of the Minister of Fuel and Power this 24th day of April, nineteen hundred and fifty-one.

(L.S.)

Philip Noel-Baker,
Minister of Fuel and Power.

Whitehall,
London, S.W.1.

We consent.

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

24th April, 1951.

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

FIRST SCHEDULE

Regulation 3

Column (1)	*Column* (2)
Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board.	Adaptations, modifications and exceptions.
Paragraph (*b*) *of subsection* (2) *of section* 3 (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 7 (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 subsection* (2) *of section* 10 (which provides that the carrying out by statutory undertakers 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.
Subsection (2) *of section* 32 (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 II of the Act to operational land of statutory undertakers and to the development of such land by such undertakers).	The words "Without prejudice to the provisions of the foregoing subsection" and the words "as defined by this Act" shall be omitted, and after the words in brackets there shall be inserted the words "as applied by any regulations made under section 86 of this Act".
Section 34 (which relates to the compulsory acquisition of land by statutory undertakers).	In subsection (3), for the words "who is the appropriate Minister for the purposes of those undertakers" there shall be substituted the words "of Fuel and Power".
Subsection (5) *of section* 42 (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).	After the word "subsection" there shall be inserted the words "including any land vested in the National Coal Board by virtue of the Coal Industry Nationalisation Act, 1946"; the words "without any such certificate as is therein referred to" shall be omitted; and after the word "assessed" there shall be inserted the words "as respects any land specified in regulations made under section 86 of this Act".

Column (1)	*Column* (2)
Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board.	Adaptations, modifications and exceptions.
Paragraph (*b*) *of subsection* (7) *of section* 42 (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.
Subsection (1) *of section* 54 (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 81 (which relates to payments under Part V of the Act, development charges and compensation on compulsory acquisition, in respect of operational land of statutory undertakers).	In subsections (2) and (3), after the words "appointed day" there shall be inserted the words "or in the case of land vesting by virtue of subsection (2) or (3) of section 5 of the Coal Industry Nationalisation Act, 1946, after that day, on the date of such vesting".
Subsection (1) *of section* 94 (which empowers statutory undertakers to contribute towards certain expenses of local planning authorities).	None.
Proviso to subsection (9) *of section* 99 (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).	For the words "appropriate Minister" there shall be substituted the words "Minister of Fuel and Power".
Subsection (2) *of section* 113 so far as it relates to the determination of questions whether land of statutory undertakers is operational land.	The words "as defined by this section" shall be omitted, and for the words "who is the appropriate Minister in relation to those undertakers" there shall be substituted the words "of Fuel and Power".
Paragraph 1 *of the Fifth Schedule* (which relates to applications for planning permission to develop operational land by statutory undertakers).	In sub-paragraph (1), the words "and the appropriate Minister" shall be omitted: Sub-paragraph (2) shall be omitted: In sub-paragraph (3), for the present proviso there shall be substituted the following provisos— "Provided that— (i) if the Secretary of State and the Minister of Fuel and Power are satisfied that it is unreasonable,

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

Column (1)	*Column* (2)
Provisions of the Act relating to Statutory Undertakers and to land of such undertakers applied to the Board.	Adaptations, modifications and exceptions.
	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 Secretary of State 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; (ii) 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 1945 were a reference to Part II of this Act." Sub-paragraphs (4) and (5) shall be omitted.
Paragraph 2 *of the Fifth Schedule* (which contains special provisions in relation to certain development of operational land of statutory undertakers).	Sub-paragraph (1) shall be omitted: In sub-paragraph (2), for the word "proviso" there shall be substituted the word "provisos", and for the words "the said paragraph 1" there shall be substituted the words "paragraph 1 of this Schedule".
Paragraph 3 *of the Fifth Schedule* (which relates to revocation and modification of planning permissions granted to statutory undertakers to develop operational land).	In sub-paragraph (1), the words from "as if" to the end of the sub-paragraph shall be omitted: Sub-paragraph (2) shall be omitted: In sub-paragraph (3), the words "and the appropriate Minister" shall be omitted and for the words "the said section nineteen as modified" there shall be substituted the words "section nineteen of this Act as applied".
Paragraph 4 *of the Fifth Schedule* (which relates to the making of orders under section 24 of the Act as to operational land of statutory undertakers).	In sub-paragraph (1), the words from "as if" to the end of the sub-paragraph shall be omitted: Sub-paragraph (2) shall be omitted: In sub-paragraph (3), the words "the said" shall be omitted and for the word "modified" there shall be substituted the word "applied".

SECOND SCHEDULE

Regulation 4

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 1945.

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1. In this Schedule, the following expressions have the meanings hereby 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 planning 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 II 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 ten 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 the Third Schedule to these regulations 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.

THIRD SCHEDULE

Provisions in lieu of Part II of the Fourth Schedule to the Act of 1945

1. The tribunal for the assessment of compensation shall consist of three persons, namely—

(*a*) an advocate or solicitor of not less than seven years' standing, appointed by the Lord President of the Court of Session to act as chairman ; and

(*b*) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively.

2. The tribunal, in any proceedings before it, shall have the assistance of an assessor selected by the Minister of Fuel and Power as a person having special knowledge and experience of coal mining.

3. The Treasury may pay out of monies provided by Parliament to the members of the tribunal and to the assessor such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.

4. The provisions of sections three, five and six of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to the tribunal and proceedings before the tribunal as they apply in relation to an official arbiter and proceedings before an official arbiter, with the substitution for references in the said section five to the acquiring authority of references to the person from whom compensation is claimed.

EXPLANATORY NOTE

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

These regulations, made under section 86 of the Town and Country Planning (Scotland) 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 81 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 Secretary of State, 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 Secretary of State 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 (Scotland) Act, 1945 (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.

The Third Schedule to the regulations substitutes for the tribunal constituted under Part II of the Fourth Schedule to the Act of 1945 a special tribunal to assess the compensation payable to the National Coal Board.