



Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART XIV

APPLICATION OF ACT TO SPECIAL CASES

Minerals

251 Power to modify Act in relation to minerals.

- (1) In relation to development consisting of the winning and working of minerals [^{F1}or involving the depositing of mineral waste], the provisions of this Act specified in Parts I and II of Schedule 19 to this Act shall have effect subject to such adaptations and modifications as may be prescribed by regulations made under this Act with the consent of the Treasury.

[^{F2}(1A) In this Act—

^{F3} . . .

“mineral-working deposit” means any deposit of material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land.]

- (2) Regulations made for the purposes of this section shall be of no effect unless they are approved by resolution of each House of Parliament.
- (3) Any regulations made by virtue of subsection (1) of this section shall not apply—
- (a) to 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, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes; or

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- (b) to development consisting of the winning and working of any minerals vested in the [^{F4}British Coal Corporation], being development to which any of the provisions of this Act relating to operational land of statutory undertakers apply by virtue of regulations made under section 259 of this Act; or
- (c) to the winning and working of peat by any person for the domestic requirements of that person;

and nothing in subsection (1) of this section or in this subsection shall be construed as affecting the prerogative right of Her Majesty to any gold or silver mine.

Textual Amendments

F1 Words in s. 251(1) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, [Sch. 8 para. 9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)

F2 S. 251(1A) inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), [ss. 19\(2\)](#), 35

F3 Definition in s. 251(1A) omitted (24.1.1992) by virtue of [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), [ss. 51, 84\(6\)](#), [Sch. 8 para. 13](#), [Sch. 19 Pt. IV](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)

F4 Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 20](#)

[^{F5}251A Reviews of mineral workings by planning authorities.

- (1) Every planning authority shall undertake periodic reviews about the winning and working of minerals, and the depositing of mineral waste, in their area.
- (2) Subject to regulations made by virtue of subsection (4) of this section, the duty under this section is, at such intervals as they think fit—
 - (a) to review every mining site in their area; and
 - (b) to consider whether they should make an order under section 42, 49, 49A or 49B of this Act, and if they do consider that they should make any such order, to make it.
- (3) For the purposes of subsection (2) “a mining site” means a site which—
 - (a) is being used for the winning and working of minerals or the depositing of mineral waste;
 - (b) has been so used at any time during—
 - (i) the period of five years preceding the date of the beginning of the review; or
 - (ii) such other period preceding that date as may be prescribed; or
 - (c) is authorised to be so used.
- (4) If regulations so require, the reviews shall be undertaken at prescribed intervals and shall cover such matters as may be prescribed.]

Textual Amendments

F5 S. 251A substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, [Sch. 8 para. 14](#), (with s. 84(5)); S.I. 1992/71, [art. 2](#)

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Textual Amendments

F6 S. 252 repealed by [Mines \(Working Facilities and Support\) Act 1974 \(c. 36\), s. 2\(1\)](#)

Crown land

253 Exercise of powers in relation to Crown land.

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—
 - (a) a plan approved, adopted or made under Part II of this Act may include proposals relating to the use of Crown land, and any power to acquire land compulsorily under Part VI of this Act may be exercised in relation to any interest therein which is for the time being held otherwise than by or on behalf of the Crown;
 - (b) any restrictions or powers imposed or conferred by Part III, Part IV or Part V of this Act, by the provisions of Part IX of this Act relating to purchase notices and listed building purchase notices, or by any of the provisions of sections 214 to 217 of this Act, shall apply and be exercisable in relation to Crown land, to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown;
 - (c) a building which for the time being is Crown land may be included in a list compiled or approved by the Secretary of State under section 52 of this Act.
- (2) Except with the consent of the appropriate authority—
 - (a) no order or notice shall be made or served under any of the provisions of sections 49 [^{F7}, 49A, 49B [^{F8}56J]] 58, 63, 84 [^{F9}or 92][^{F9}92 or 97B] of this Act or under any of those provisions as applied by any order or regulations made under Part IV of this Act, in relation to land which for the time being is Crown land;
 - (b) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part VI of this Act.
- (3) No enforcement notice shall be served under section 84 of this Act in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.
- (4) No listed building enforcement notice shall be served in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.
- (5) No purchase notice or listed building purchase notice shall be served in relation to any interest in Crown land unless an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on terms that the price payable for it shall be equal to (and shall, in default of agreement, be determined in like manner as) the compensation which would be payable in respect of that interest if it were acquired in pursuance of a purchase notice, and that offer has been refused by the appropriate authority.
- (6) The rights conferred by the provisions of sections 181 to 196 of this Act shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident

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owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

(7) In this Part of this Act “Crown land” means land in which there is a Crown interest; “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department; and for the purposes of this section and section 254 of this Act “the appropriate authority”, in relation to any land—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;
- (b) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Textual Amendments

- F7** Words inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), s. 35, Sch. 2 para. 9](#)
- F8** Figure inserted (*prosp.*) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 37, Sch. 7 Pt. II para. 3](#)
- F9** Words “92 or 97B” substituted (*prosp.*) for “or 92” by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 37, Sch. 7 Pt. II para. 3](#)

Modifications etc. (not altering text)

- C1** [S. 253\(1\)\(b\)](#) modified by [Town and Country Planning Act 1984 \(c.10, SIF 123:1, 2\), s. 4\(1\)](#)

254 Agreements relating to Crown land.

(1) The appropriate authority and the . . . ^{F10} planning authority for the district in which any Crown land is situated may make agreements

[^{F11}(a)] for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable thereto; [^{F11}and

(b) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement.]and any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.

[^{F12}(1A) Subject to subsection (1B) of this section an agreement made under subsection (1)(b) of this section may, if it has been recorded in the appropriate Register of Sasines or, as the case may be, registered in the Land Register of Scotland, be enforceable at the instance of the planning authority against persons deriving title to the land from the appropriate authority.

(1B) An agreement made under subsection (1)(b) of this section shall not be enforceable against a third party who has in good faith and for value acquired right (whether completed by infestment or not) to the land prior to the agreement being recorded or,

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as the case may be, registered as aforesaid or against any person deriving title from such a third party.]

- (2) An agreement made under this section by a government department shall not have effect unless it is approved by the Treasury.
- (3) In considering whether to make or approve an agreement under this section relating to land belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

[^{F13}(4) In this section “planning authority” includes a regional planning authority.]

Textual Amendments

- F10** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F11** Words in [s. 254\(1\)](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 49\(2\)](#) (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#).
- F12** [S. 254\(1A\)\(1B\)](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 49\(3\)](#), (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#).
- F13** [S. 254\(4\)](#) added by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2 para. 37](#)

255 Supplementary provisions as to Crown interest.

[^{F14}(1) Subject to subsection (2) of this section, where there is a Crown interest in any land, the provisions of sections 155 to 157 of this Act, and the provisions of Schedule 22 to this Act in so far as they relate to those sections, shall have effect in relation to any private interest as if the Crown interest were a private interest.]

- (2) In this section “private interest” means an interest which is not a Crown interest.

Textual Amendments

- F14** [S. 255\(1\)](#) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 60\(6\), Sch. 12, para. 29](#) (with [s. 84\(5\)](#)); [S.I. 1991/2092, art.3](#)

. . . ^{F15} *planning authorities*

Textual Amendments

- F15** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

256 Application to . . . ^{F16}planning authorities of provisions as to planning control and enforcement.

- (1) In relation to land of . . . ^{F16}planning authorities, and to the development by local authorities of land in respect of which they are the . . . ^{F16}planning authorities, the provisions of this Act specified in Part III of Schedule 19 to this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

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- (2) Subject to the provisions of section 37 of this Act, any such regulations may in particular provide for securing—
- (a) that any application by such an authority for planning permission to develop such land, or for any other consent required in relation to such land under the said provisions, shall be made to the Secretary of State and not to the . . . ^{F16} planning authority;
 - (b) that any order or notice authorised to be made or served under those provisions in relation to such land shall be made or served by the Secretary of State and not by the . . . ^{F16} planning authority.
- (3) Sections 23, 24 and 26(2) and (3) of this Act shall apply, with the necessary modifications, in relation to applications made to the Secretary of State in pursuance of regulations made for the purposes of subsection (1) of this section, as they apply in relation to applications for planning permission which fall to be determined by the . . . ^{F16} planning authority.

Textual Amendments

F16 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

[^{F17}257 Application to . . . ^{F18}planning authorities of provisions as to listed buildings.

The provisions of this Act specified in Part IV of Schedule 19 to this Act shall have effect for the purpose of applications by planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to such exceptions and modifications as may be prescribed by regulations; and the regulations may in particular provide for the making of applications for listed building consent to the Secretary of State and for the service of notices under the said provisions by him.]

Textual Amendments

F17 [S. 257](#) substituted by [Town and Country Amenities Act 1974 \(c. 32\), s. 7\(2\)](#)

F18 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

VALID FROM 18/02/1993

[^{F19}257A Application to planning authorities of provisions as to hazardous substances control.

- (1) The provisions of this Act relating to hazardous substances shall have effect subject to such exceptions and modifications as may be prescribed in relation to hazardous substances consent for planning authorities.
- (2) Subject to the provisions of section 56G of this Act, any such regulations may in particular provide for securing—
 - (a) that any application by such an authority for hazardous substances consent in respect of the presence of a hazardous substance on, over or under such land shall be made to the Secretary of State and not to the planning authority;

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- (b) that any order or notice authorised to be made, issued or served under those provisions shall be made, issued or served by the Secretary of State and not by the planning authority.]

Textual Amendments

- F19** S. 257A inserted (18.2.1993) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 37, [Sch. 7 Pt. II para. 4](#); [S.I. 1993/273, art.4](#)

258 Special provisions as to statutory undertakers who are . . . ^{F20}planning authorities.

In relation to statutory undertakers who are . . . ^{F20}planning authorities, section 230 of this Act and the provisions specified in subsection (2) of that section shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

Textual Amendments

- F20** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)

Special case Regulations

259 National Coal Board.

- (1) Regulations made under this Act by the Secretary of State and [^{F21}the Secretary of State for Energy] with the consent of the Treasury may direct that any of the provisions of this Act specified in Part I of Schedule 19 to this Act or of section 212 of this Act being provisions relating to statutory undertakers and to land of such undertakers, shall apply, subject to such adaptations, modifications and exceptions as may be specified in the regulations, in relation to the [^{F22}British Coal Corporation], and in relation to land (including mines) of [^{F22}that Corporation] of any such class as may be specified in the regulations, as if [^{F22}the Corporation] were statutory undertakers and as if land of any class so specified were operational land.
- (2) Without prejudice to the generality of subsection (1) of this section, any regulations made thereunder may in particular provide that any compensation payable to the [^{F22}British Coal Corporation] by virtue of any of the provisions applied by the regulations, being compensation which, in the case of statutory undertakers, would be assessable in accordance with the provisions of section 227 of this Act, shall, instead of being assessed in accordance with that section, be assessed in accordance with the provisions of the regulations.

Textual Amendments

- F21** Words substituted by virtue of [S.I. 1974/692](#), arts. 2(1), 5(3), [Sch. 1 Pt. I](#)

- F22** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 20](#)

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Modifications etc. (not altering text)

- C2** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

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