



# Town and Country Planning Act 1971

## 1971 CHAPTER 78

### PART XIV

#### APPLICATION OF ACT TO SPECIAL CASES

##### *Minerals*

#### **264 Power to modify Act in relation to minerals**

- (1) In relation to development consisting of the winning and working of minerals, the provisions of this Act specified in Parts I and II of Schedule 21 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.
- (2) In relation to interests in land consisting of or comprising minerals (being either the fee simple or tenancies of such land) and in relation to claims established (as mentioned in section 135(2) of this Act) wholly or partly in respect of such land, the provisions of this Act specified in Part III of Schedule 21 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.
- (3) Regulations made for the purposes of this section shall be of no effect unless they are approved by resolution of each House of Parliament.
- (4) 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
  - (b) to development consisting of the winning and working of any minerals vested in the National Coal Board, 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 273 of this Act;

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

## **265 Modification of Mines (Working Facilities and Support) Act 1966**

- (1) 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 (Working Facilities and Support) Act 1966 shall have effect in relation to the land subject to such modifications as may be prescribed by regulations made under this Act by the Secretary of State for the Environment and the Secretary of State for Trade and Industry.
- (2) Regulations made for the purposes of this section may in particular provide for securing—
  - (a) that a right to work any minerals in the land may be granted by the High Court under the said Act of 1966 to any person 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;
  - (b) that for the purposes of the determination by the court 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; and
  - (c) that the compensation or consideration in respect of any such right which is granted by the court 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 VI of this Act.
- (3) Subsections (3) and (4) of section 264 of this Act shall apply to the provisions of this section and to any regulations made thereunder as they apply to the provisions of subsection (1) of that section and to regulations made by virtue of that subsection.

### *Crown land*

## **266 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 or the Greater London development plan 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 225 to 228 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 54 of this Act.
- (2) Except with the consent of the appropriate authority—

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- (a) no order or notice shall be made or served under any of the provisions of sections 51, 60, 65, 87 or 96 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 87 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 192 to 207 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 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 or a Duchy 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; "Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall; and for the purposes of this section and section 267 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 relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
  - (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (d) 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.

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## **267 Agreements relating to Crown land**

- (1) The appropriate authority and the local planning authority for the area in which any Crown land is situated may make agreements 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; 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.
- (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.

## **268 Supplementary provisions as to Crown and Duchy interests**

- (1) Subject to the following provisions of this section—
  - (a) where there is a Crown, interest in any land, the provisions of Part VII of this Act and of sections 166 to 168 thereof, and the provisions of Schedules 15, 16 and 17 to this Act and the provisions of Schedule 24 to this Act in so far as they relate to Part VII or to sections 166 to 168 of this Act, shall have effect in relation to any private interest or Duchy interest as if the Crown interest were a private interest; and
  - (b) where there is a Duchy interest in any land, those provisions shall have effect in relation to that interest, and to any private interest, as if the Duchy interest were a private interest.
- (2) References in this Act to claims established under Part VI of the Act of 1947 include references to claims so established in accordance with arrangements made under section 88(2) of that Act (which provided for the application of Part VI of that Act to Duchy interests and for the payment of sums in lieu of development charges in respect of such interests); references to development charges include references to sums determined in accordance with such arrangements to be appropriate in substitution for development charges; and references to the amount of an established claim or of a development charge shall be construed accordingly.
- (3) Where, in accordance with an agreement under section 267 of this Act, the approval of a local planning authority is required in respect of any development of land in which there is a Duchy interest, the provisions of this Act referred to in subsection (1)(a) of this section shall have effect in relation to the withholding of that approval, or the giving thereof subject to conditions, as if it were a refusal of planning permission, or a grant of planning permission subject to conditions, as the case may be.
- (4) In this section "private interest" means an interest which is neither a Crown interest nor a Duchy interest.

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### *Isles of Scilly*

#### **269 Application of Act to Isles of Scilly**

- (1) The Secretary of State shall, after consultation with the Council of the Isles of Scilly, by order provide for the application to those Isles of the provisions of this Act specified in Parts I and II of Schedule 21 to this Act as if those Isles were a separate county.
- (2) In relation to land in the Isles of Scilly, the provisions of this Act specified in Part III of the said Schedule shall have effect as if those Isles were a county district and the Council of the Isles were the council of that district.
- (3) The Secretary of State, may, after consultation with the Council of the Isles of Scilly, by order provide for the application to those Isles of the provisions of this Act specified in Part IV of the said Schedule as if those Isles were a separate county or county district.
- (4) Any order under subsection (1) or (3) of this section may provide for the application of the provisions there mentioned to the Isles subject to such modifications as may be specified in the order.

### *Local planning authorities*

#### **270 Application to local planning authorities of provisions as to planning control and enforcement**

- (1) In relation to land of local planning authorities, and to the development by local authorities of land in respect of which they are the local planning authorities, the provisions of this Act specified in Part V of Schedule 21 to this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.
- (2) Subject to the provisions of section 40 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 local 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 local planning authority.
- (3) Sections 26, 27 and 29(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 local planning authority.

#### **271 Application to local planning authorities of provisions as to listed buildings**

- (1) In relation to buildings of local planning authorities which are listed, and to the execution of works for their demolition, alteration or extension, the provisions of this Act specified in Part VI of Schedule 21 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) Any such regulations may in particular provide for securing—
- (a) that any application by such an authority for listed building consent shall be made to the Secretary of State and not to the local planning authority;
  - (b) that any notice authorised to be served under the said provisions in relation to a listed building belonging to a local planning authority shall be served by the Secretary of State and not by that authority.

## **272 Special provisions as to statutory undertakers who are local planning authorities**

In relation to statutory undertakers who are local planning authorities, section 241 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.

### *Other special cases*

## **273 National Coal Board**

- (1) Regulations made under this Act by the Secretary of State for the Environment and the Secretary of State for Trade and Industry with the consent of the Treasury may direct that any of the provisions of this Act specified in Part I of Schedule 21 to this Act or of section 223 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 National Coal Board, and in relation to land (including mines) of that Board of any such class as may be specified in the regulations, as if the Board 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 National Coal Board 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 238 of this Act, shall, instead of being assessed in accordance with that section, be assessed in accordance with the provisions of the regulations.

## **274 Ecclesiastical property**

- (1) Without prejudice to the provisions of the Acquisition of Land (Authorisation Procedure) Act 1946 with respect to notices served under that Act, where under any of the provisions of this Act a notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Church Commissioners.
- (2) Where the fee simple of any ecclesiastical property is in abeyance—
- (a) if the property is situated elsewhere than in Wales, then for the purposes of the provisions of this Act specified in Part VII of Schedule 21 to this Act the fee simple shall be treated as being vested in the Church Commissioners;
  - (b) in any case, the fee simple shall, for the purposes of a compulsory acquisition of the property under Part VI of this Act, be treated as being vested in the

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Church Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly.

- (3) Any compensation payable under Part VIII (except sections 171, 172 and 175) or section 212 of this Act in respect of land which is ecclesiastical property shall be paid to the Church Commissioners, to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.
- (4) Any sum which under any of the provisions of this Act specified in Part III of Schedule 21 to this Act is payable in relation to land which is, or on the appointed day was, ecclesiastical property, and apart from this subsection would be payable to an incumbent, shall be paid to the Church Commissioners, to be applied for the purposes mentioned in subsection (3) of this section; and where any sum is recoverable under section 159, 168 or 279 of this Act in respect of any such land, the Church Commissioners may apply any money or securities held by them in the payment of that sum.
- (5) In this section "ecclesiastical property" means land belonging to an ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

## **275 Settled land, and land of universities and colleges**

- (1) The purposes authorised for the application of capital moneys—
  - (a) by section 73 of the Settled Land Act 1925 and by that section as applied by section 28 of the Law of Property Act 1925 in relation to trusts for sale; and
  - (b) by section 26 of the Universities and College Estates Act 1925,and the purposes authorised by section 71 of the Settled Land Act 1925, by that section as so applied, and by section 30 of the Universities and College Estates Act 1925 as purposes for which moneys may be raised by mortgage, shall include the payment of any sum recoverable under section 159, 168 or 279 of this Act.
- (2) The classes of works specified in Part II of Schedule 3 to the Settled Land Act 1925 (which specifies improvements which may be paid for out of capital money, subject to provisions under which repayment out of income may be required to be made) shall include works specified by the Secretary of State as being required for properly maintaining a listed building which is settled land within the meaning of that Act.