



Coal industry Act 1994

1994 CHAPTER 21

PART III

RIGHTS AND OBLIGATIONS IN CONNECTION WITH COAL MINING

Protection of the environment

53 Environmental duties in connection with planning

- (1) This section applies in the case of proposals (“coal-mining proposals”) formulated for inclusion in so much of any application for planning permission as relates to any of the following, that is to say—
 - (a) the carrying on of any coal-mining operations;
 - (b) the restoration of land used in connection with the carrying on of any coal-mining operations; and
 - (c) the carrying on of any other operations incidental to any coal-mining operations or to the restoration of land which has been so used.
- (2) Where a planning authority consider any coal-mining proposals included in such an application, they shall have regard—
 - (a) to the desirability of the preservation of natural beauty, of the conservation of flora and fauna and geological or physiographical features of special interest and of the protection of sites, buildings, structures and objects of architectural, historic or archaeological interest; and
 - (b) to the extent (if any) to which the person by whom the proposals were formulated has complied with subsection (3) below.
- (3) A person who formulates coal-mining proposals shall be required for the purposes of paragraph (b) of subsection (2) above—
 - (a) to have regard, in formulating those proposals, to the desirability of the matters mentioned in paragraph (a) of that subsection; and
 - (b) to formulate proposals (as part of or in addition to the coal-mining proposals) for the adoption of such measures (if any) as it is reasonably practicable for

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that person to adopt for mitigating any adverse effect of the development to which the coal-mining proposals relate on the natural beauty of any area or on any such flora, fauna, features, sites, buildings, structures or objects as are so mentioned.

- (4) In this section—
- “development” and “planning permission”—
- (a) in relation to England and Wales, have the same meanings as in the Town and Country Planning Act 1990; and
 - (b) in relation to Scotland, have the same meanings as in the Town and Country Planning (Scotland) Act 1972; and
- “planning authority” means—
- (a) any local planning authority within the meaning of the Town and Country Planning Act 1990 or any planning authority within the meaning of Part IX of the Local Government (Scotland) Act 1973; or
 - (b) the Secretary of State in the exercise and performance of such of his powers and duties under those Acts as relate to the grant of planning permission.
- (5) Section 3 of the Opencast Coal Act 1958 (protection of amenity) shall cease to have effect.

54 Obligations to restore land affected by coal-mining operations

- (1) Subject to subsection (5) below, the power of the Secretary of State by a development order to make the planning permission granted by any such order subject to conditions shall include power, in relation to any permission to win or work any minerals in a coal mine started before 1st July 1948, to make it a condition of that permission that there is compliance with such requirements falling within subsection (2) below as may be specified or described in the order.
- (2) The requirements which, in relation to any coal mine, fall within this section are such requirements as the Secretary of State thinks fit in relation to—
 - (a) the demolition or removal of any buildings, plant, machinery, structures or erections used at any time for or in connection with any previous coal-mining operations at that mine; and
 - (b) the re-instatement, restoration and aftercare of any land used at any time for or in connection with any previous coal-mining operations at that mine.
- (3) In subsection (2) above “previous coal-mining operations”, in relation to the requirements imposed by any condition, means—
 - (a) any coal-mining operations carried on by any person before 1st July 1948; or
 - (b) any coal-mining operations which—
 - (i) were carried on by any person at any time on or after that date but before the coming into force of that condition; and
 - (ii) were operations constituting development for which planning permission was granted by a development order or any corresponding order made, or having effect as if made, under any enactment then in force;

and references in this section to the use of anything in connection with any such operations shall include references to its use for or in connection with activities carried

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on in association with, or for purposes connected with, the carrying on of those operations.

- (4) A condition contained in a development order by virtue of this section may provide—
- (a) for the requirements imposed by that condition to include a requirement framed by reference to the opinion or approval of the relevant planning authority; and
 - (b) for that condition to be capable of being modified by agreement with the relevant planning authority.
- (5) The Secretary of State’s powers under this section to modify a development order shall not be exercised at any time after the end of the period of six months beginning with the restructuring date, except for purposes which do not, in relation to any coal mine, include any of the following, that is to say—
- (a) imposing a requirement which had not previously been imposed in relation to that coal mine;
 - (b) making a requirement which had been imposed in relation to that coal mine more onerous; and
 - (c) making provision by reference to any person’s opinion or approval so as to confer powers that did not exist before and might be exercised for a purpose falling within paragraph (a) or (b) above;
- but nothing in this subsection shall be taken as affecting the continuing effect after the end of that period of any modification made after the passing of this Act and before the end of that period.
- (6) Expressions used in this section and in the Town and Country Planning Act 1990 or the Town and Country Planning (Scotland) Act 1972 shall—
- (a) in the application of this section to England and Wales, have the same meanings in this section as in that Act of 1990; and
 - (b) in the application of this section to Scotland, have the same meanings in this section as in that Act of 1972.
- (7) In this section “relevant planning authority”—
- (a) in relation to England and Wales, means the mineral planning authority within the meaning of the Town and Country Planning Act 1990; and
 - (b) in relation to Scotland, means the planning authority within the meaning of Part IX of the Local Government (Scotland) Act 1973.