



Town and Country Planning (Minerals) Act 1981

1981 CHAPTER 36

PART II

SCOTLAND

Compensation

29 Special compensation in respect of orders under s. 42 relating to mineral working

The following section shall be inserted after section 153 of the 1972 Act—

“153A Compensation for certain orders under s. 42 relating to mineral working to be on special basis.

- (1) Where mineral compensation requirements are satisfied in relation to an order under section 42 of this Act, section 153 of this Act shall have effect subject to mineral compensation modifications.
- (2) Subject to subsection (4) of this section, mineral compensation requirements are satisfied in relation to an order under section 42 of this Act if—
 - (a) the order modifies planning permission for development consisting of the winning and working of minerals ; and
 - (b) the order does not—
 - (i) impose any restriction on the winning and working of minerals ; or
 - (ii) modify or replace any such restriction subject to which the planning permission was granted or which was imposed by a relevant order; and

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- (c) the planning authority carried out special consultations about the making and terms of the order before they made it; and
- (d) either—
 - (i) the permission was granted not less than five years before the date of the order; or
 - (ii) the conditions specified in subsection (3) of this section are satisfied.
- (3) The conditions mentioned in subsection (1)(d) (ii) of this section are—
 - (a) that the planning permission which the order modifies was granted before the commencement of section 27A of this Act; and
 - (b) that the order—
 - (i) imposes an aftercare condition ; and
 - (ii) does not impose any other condition.
- (4) Where the planning authority—
 - (a) make an order under section 42 of this Act modifying planning permission for development consisting of the winning and working of minerals; and
 - (b) have previously made a relevant order or orders,

mineral compensation requirements are not satisfied in relation to the order mentioned in paragraph (a) of this subsection unless it was made more than five years after the order previously made or the last such order.”.

30 Compensation where resumption of mineral working is prohibited or suspension order is made

The following sections shall be inserted after section 159 of the 1972 Act—

“159A Compensation in respect of orders under s. 49a and suspension orders.

Subject to section 159B of this Act, the provisions of section. 159 of this Act shall apply where an order is made under section 49A of this Act or a suspension order or supplementary suspension order is made as they apply where an order is made under section 49 of this Act.

159B Compensation on special basis.

- (1) Where mineral compensation requirements are satisfied in relation to an order under section 49 or 49A of this Act, or in relation to a suspension order or supplementary suspension order, section 159 or 159A of this Act shall have effect subject to mineral compensation modifications.
- (2) Subject to subsection (6) of this section, mineral compensation requirements are satisfied in relation to an order under section 49 of this Act if—
 - (a) the order—
 - (i) imposes any conditions on the continuance of the use of land for the wining and working of minerals ; or

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- (ii) requires that any buildings, works, plant or machinery used for the winning and working of minerals shall be altered or removed; and
 - (b) the conditions specified in subsection (5) of this section are satisfied.
- (3) Subject to subsection (6) of this section, mineral compensation requirements are satisfied in relation to an order under section 49A of this Act if the conditions specified in subsection (5)(a) and (c) of this section are satisfied.
- (4) Mineral compensation requirements are satisfied in relation to a suspension order or supplementary suspension order if the conditions specified in subsection (5)(c) of this section are satisfied.
- (5) The conditions mentioned in subsections (2)(b), (3) and (4) of this section are—
 - (a) that development consisting of the winning and working of minerals began not less than five years before the date of the order;
 - (b) that the order does not—
 - (i) impose any restriction on the winning and working of minerals; or
 - (ii) modify or replace any such restriction subject to which planning permission for development consisting of the winning and working of minerals was granted or which was imposed by a relevant order; and
 - (c) that the planning authority carried out special consultations about the making and terms of the order before they made it.
- (6) Where the planning authority—
 - (a) make—
 - (i) an order under section 49 of this Act which imposes any such condition or makes any such requirement as is mentioned in subsection (2)(a) of this section; or
 - (ii) an order under section 49A of this Act; and
 - (b) have previously made a relevant order or orders,
mineral compensation requirements are not satisfied in relation to the order mentioned in paragraph (a) of this subsection unless it was made more than five years after the order previously made or the last such order.”.

31 Mineral compensation modifications

The following sections shall be inserted after section 167 of the 1972 Act: —

“167A Regulations as to compensation in respect of orders relating to mineral working— meaning of " mineral compensation modifications ".

- (1) The Secretary of State may by regulations made with the consent of the Treasury direct that sections 153, 159, 167, 226, and 227 of this Act shall have effect, where mineral compensation requirements are satisfied, subject, in such cases as may be specified in the regulations, to such modifications as may be so specified.
- (2) Any such regulations shall make provision as to circumstances in which compensation is not to be payable.

- (3) Any such regulations shall make provision—
 - (a) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed ; or
 - (b) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed.
- (4) Regulations made by virtue of subsection (3) (a) of this section in relation to compensation where an order is made under section 42 or 49 of this Act shall provide that the amount of the compensation under section 153 or, as the case may be, 159 of this Act, shall be reduced—
 - (a) by the prescribed sum ; or
 - (b) by a sum equal to the prescribed percentage of the appropriate sum.
- (5) In subsection (4) of this section " the appropriate sum " means the product of the sum which represents the annual value of the right to win and work minerals at the site to which the order relates and a multiplier which the Secretary of State considers appropriate having regard to the period at the expiration of which the minerals in, on or under that site might be expected to be exhausted if they continued to be extracted at the rate which has been assumed for the purpose of calculating the annual value of the right to win and work them.
- (6) The prescribed percentage shall not be more than 10 per cent.
- (7) The annual value of the right to win and work the minerals shall be calculated in the prescribed manner.
- (8) In this Act " mineral compensation modifications " means modifications specified in regulations made by virtue of this section.
- (9) Regulations under this section—
 - (a) may make different provision for different cases; and
 - (b) may include such incidental or supplementary provisions as the Secretary of State considers expedient.
- (10) No regulations under this section shall have effect until approved by a resolution of each House of Parliament.
- (11) Before making any such regulations the Secretary of State shall consult such persons or bodies of persons as appear to him to be representative—
 - (a) of persons carrying out mining operations;
 - (b) of owners of interests in land containing minerals; and
 - (c) of planning authorities.

167B Orders relating to mineral working— meaning of " special consultations ".

- (1) Any reference in this Act to a planning authority carrying out special consultations about the making and terms of an order before they make it is a reference to their carrying out consultations—
 - (a) subject to subsection (2) of this section, with any person who has an interest—
 - (i) in the land to which the order will relate; or
 - (ii) in minerals in, on or under that land; and

- (b) with the relevant authority or authorities.
- (2) The duty to consult imposed by subsection (1)(a) of this section is only a duty to consult persons whom the planning authority are able to trace by taking reasonable steps to do so.
- (3) In subsection (1)(b) above "the relevant authority or authorities " means—
 - (a) if the planning authority is a district planning authority, the regional planning authority in whose area the land to which the order will relate is situated ; and
 - (b) if the planning authority is a regional planning authority, the district planning authority or authorities in whose area or areas the land to which the order will relate is situated.

167C Orders relating to mineral working— meaning of " restriction on the winning and working of minerals " and " relevant order ".

- (1) In this Act " restriction on the winning and working of minerals " means—
 - (a) in relation to planning permission granted for development consisting of the winning and working of minerals, a condition subject to which the permission was granted and which made provision to which this section applies; and
 - (b) in relation to an order under section 42 or 49 of this Act, a term of the order which made such provision.
- (2) The provision to which this section applies is—
 - (a) any provision—
 - (i) for the period before the expiration of which development consisting of the winning and working of minerals was to be begun;
 - (ii) for the size of the area to be used for the winning and working of minerals ;
 - (iii) for the depth to which operations for the winning and working of minerals were to extend ;
 - (iv) for the rate at which any particular mineral was to be extracted ;
 - (v) for the total quantity of minerals to be extracted; or
 - (vi) for the period at the expiration of which the winning and working of minerals was to cease ;
 - (b) in relation to an order under section 42 or 49 of this Act, a term of the order making provision for any such matter as is mentioned in paragraph (a) of this subsection.
- (3) In this Act " relevant order ", in relation to any land, means an order under section 42, 49 or 49A of this Act.”.

32 Determination of claims

In subsection (1) of section 168 of the 1972 Act (determination of claims for compensation) after the words " this Act", in the third place where they occur, there shall be inserted the words " including any question of disputed compensation under section 153, 159, 167, 226 or 227 of this Act as modified by regulations under section 167A of this Act ".