

STATUTORY INSTRUMENTS

1985 No. 814

MINES AND QUARRIES

**The Mining Dereliction (Compulsory Works) (Procedure)
Regulations 1985**

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| <i>Made</i> - - - - - | 23rd May 1985 |
| <i>Laid before Parliament</i> | 6th June 1985 |
| <i>Coming into Operation</i> | 28th June 1985 |

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred by section 8(5), (8), (12) and (13) of the Mineral Workings Act 1985(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. These regulations may be cited as the Mining Dereliction (Compulsory Works) (Procedure) Regulations 1985 and shall come into operation on 28th June 1985.

Interpretation

2. In these regulations—

“the Act” means the Mineral Workings Act 1985;

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949(b);

“works notice” means a notice under section 8(4) of the Act of a proposal to carry out works on land under section 89(2) of the 1949 Act without the consent of all persons interested in the land;

“the authority” means the local authority by whom a works notice is given;

“application to the Secretary of State” means an application under section 8(6) of the Act for a decision whether or not works under section 89(2) of the 1949 Act may be carried out without the consent of all persons interested in the land;

(a) 1985 c.12.

(b) 1949 c.97; section 89(2) was substituted by section 3(1) of the Derelict Land Act 1982 (c.42).

“relevant operations” has the same meaning as in section 89(2) of the 1949 Act.

PART II

WORKS NOTICES

Matters to be specified in works notice

3. A works notice shall specify—

- (a) the nature and extent of the works which the authority propose to carry out and their location;
- (b) the date, being not less than 21 clear days from the date of the giving of the works notice, upon which the authority propose to start the works;
- (c) the reasons why the authority consider that the works should be carried out as a matter of urgency;
- (d) the name and address of all of the persons to whom notice of the intention to carry out the works is being given;
- (e) the grounds on which the authority are proposing to carry out the works without the consent of all of the persons interested in the land (including, where appropriate, the name and address of any person who has withheld consent to the carrying out of the works or the name of any person interested in the land on which the works are proposed to be carried out, whom the authority have been unable to trace);
- (f) where the grounds on which the authority are proposing to carry out the works without the consent of all of the persons interested in the land are that they have been unable to identify, or to trace, one or more of those persons, the steps which the authority have taken in attempting to identify or trace such person or persons;

and the notice shall be in the form set out in the Schedule to these regulations.

Documents to accompany works notice

4. A works notice shall be accompanied by—

- (a) such plans, drawings and diagrams as are, in the authority’s opinion, necessary to indicate the location, nature and extent of the works; and
- (b) a copy of section 8 of the Act and a copy of section 89(2) of the 1949 Act.

Service of works notice

5. A works notice shall be given in the manner specified in section 233(2) of the Local Government Act 1972(a).

PART III

APPLICATIONS TO THE SECRETARY OF STATE

Grounds of application

6. An application to the Secretary of State may be made on any of the

(a) 1972 c.70.

following grounds:—

- (a) that the surface of the land under which the relevant operations have been carried out has not collapsed or, as the case may be, is not in imminent danger of collapse;
- (b) that there is no risk, or no likely risk, of death of or injury to persons or damage to other land or other property;
- (c) that the works specified in the works notice exceed those which are reasonably required;
- (d) that consent to the carrying out of the works so specified has not been withheld unreasonably;
- (e) that the authority have not made sufficient attempt to identify or trace all of the persons interested in the land.

Form and content of application

7. An application to the Secretary of State shall be made in writing, and shall specify the grounds on which it is made and the facts upon which the applicant proposes to rely in support of each of those grounds.

Determination of application

8. The Secretary of State may appoint such person or persons as he thinks fit for the purpose of—

- (a) inspecting the land to which the works notice relates; and
- (b) undertaking such consultations with the applicant and with the authority as the appointed person considers necessary.

9. The person or persons appointed by the Secretary of State shall so far as practicable complete their inspection and any consultations within 7 days of the date of their appointment.

10.— (1) The decision of the Secretary of State may be given in writing or orally; and where the decision is given orally, it shall as soon as practicable thereafter be confirmed in writing.

(2) The Secretary of State shall, when giving his decision (or, in the case of a decision given orally, when confirming that decision in writing), state his reasons for it.

(Regulation 3)

SCHEDULE

MINERAL WORKINGS ACT 1985

THE MINING DERELICTION (COMPULSORY WORKS) (PROCEDURE)
REGULATIONS 1985
WORKS NOTICE

IMPORTANT: THIS NOTICE AFFECTS YOUR PROPERTY

TO (1)
THE (2)

HEREBY GIVE YOU NOTICE, under section 8(4) of the Mineral Workings Act 1985, that it is their intention to carry out works under section 89(2) of the National Parks and Access to the Countryside Act 1949, on the land at

(3)

The nature and extent of the works are specified in the Schedule to this notice.

The authority intend to start the works on (4)

In their opinion the works must be carried out as a matter of urgency because (5)

The grounds on which they propose to carry out the works without the consent of all persons interested in the land are:— (6)

The names and addresses of all other persons to whom notice of the intention to carry out the works is being given are:—

[The steps which the authority have taken to identify or trace the persons interested in the land to whom notice has not been given are:—

] (7)

Your attention is drawn to the fact that, as a person interested in the land, you have a right to apply to the Secretary of State for a decision whether or not the works may be carried out without the consent of all persons interested in the land.

NOTES:

- (1) Insert name and address of person interested in the land to whom notice is being given.
- (2) Insert name and address of local authority.
- (3) Specify location of intended works. A plan should be attached.
- (4) Insert date, being not less than 21 clear days from date when notice is given.
- (5) Specify which of the grounds set out in section 8(3)(a) and (b) of the Act is relied upon by the authority.
- (6) Insert statement of grounds on which it is proposed to carry out works without the consent of all persons interested in the land, including (where appropriate) the name and address of any such person who has withheld consent or the name of any such person whom the authority have been unable to trace.
- (7) This statement is to be included where relevant to the grounds specified in accordance with note (6): full details of the steps taken should be given.

An application may be made to the Secretary of State on any of the following grounds:—

- (a) that the surface of the land under which the relevant operations have been carried out has not collapsed or, as the case may be, is not in imminent danger of collapse;
- (b) that there is no risk, or no likely risk, of death of or injury to persons or damage to other land or other property;
- (c) that the works specified in the works notice exceed those which are reasonably required;
- (d) that consent to the carrying out of the works so specified has not been withheld unreasonably;
- (e) that the authority have not made sufficient attempt to identify or trace all of the persons interested in the land.

Any such application must be made in writing and must specify the grounds on which it is made and the facts upon which you propose to rely in support of each of these grounds. It should be taken or sent to the Secretary of State [for the Environment] [for Wales] at (8) in time to be received by him not less than 10 clear days before the date specified in this notice as the date when the authority intend to start the works.

SCHEDULE

DESCRIPTION OF WORKS TO BE CARRIED OUT

Date
on behalf of the (2)

Copies of Section 89(2) of the 1949 Act and Section 8 of the 1985 Act are enclosed with this notice.

NOTES:

- (8) Where the land is in England, insert address of appropriate Regional Office of the Department of the Environment; where the land is in Wales, insert “Welsh Office, Cathays Park, Cardiff, CF1 3NQ”.

22nd May 1985.

Patrick Jenkin,
Secretary of State for the
Environment.

23rd May 1985.

Nicholas Edwards,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations prescribe certain matters in relation to works notices given under section 8(4) of the Mineral Workings Act 1985 (notices of intention to carry out compulsorily remedial works under section 89(2) of the National Parks and Access to the Countryside Act 1949 on land affected by former underground mining operations other than coal mining). A works notice may be given where the carrying out of such works is urgently necessary because subsidence has occurred or there is imminent danger of subsidence, there is risk of death or injury to persons or of damage to other land or property, and it is not possible to secure the consent of all of the persons interested in the land.

Regulations 3 and 4 prescribe the matters to be contained in a works notice and the documents which are to accompany it, and the Schedule to the regulations prescribes the form of the notice. Amongst other matters, authorities are required to specify the works which they propose to carry out and the date on which they propose to start them (which must be not less than 21 clear days from the date of giving the works notice), the authority's reasons for considering that the works should be carried out as a matter of urgency, and the grounds on which they are proposing to carry out the works without the consent of all of the persons interested in the land; and to indicate the grounds on which an application may be made to the Secretary of State under section 8(6) of the 1985 Act for a decision whether or not the works may be carried out without such consent. The notice is to be accompanied by such plans, drawings and diagrams as are necessary to indicate the location, nature and extent of the proposed works and by copies of section 8 of the 1985 Act and section 89(2) of the 1949 Act. Regulation 5 prescribes the manner in which a works notice is to be given.

Regulations 6 and 7 prescribe the grounds on which an application may be made to the Secretary of State under section 8(6) of the 1985 Act and the form and content of such an application. Regulations 8 to 10 make provision with respect to the procedure for reaching and indicating decisions on such applications.

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