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STATUTORY INSTRUMENTS

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**1998 No. 2913 (S. 169)**

**TOWN AND COUNTRY PLANNING, SCOTLAND**

The Town and Country Planning  
(Minerals) (Scotland) Regulations 1998

*Approved by both Houses of Parliament*

*Made - - - - 17th November 1998*

*Laid before Parliament 25th November 1998*

*Coming into force in accordance with regulation 1(1)*

The Secretary of State, in exercise of the powers conferred on him by sections 262(1), 275(1)(b) and 277(1) of the Town and Country Planning (Scotland) Act 1997<sup>(1)</sup> and all other powers enabling him in that behalf, and with the consent of the Treasury, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Town and Country Planning (Minerals) (Scotland) Regulations 1998 and shall come into force on the fourteenth day after the day on which they are approved by resolution of each House of Parliament.

(2) In these Regulations—

“the 1997 Act” means the Town and Country Planning (Scotland) Act 1997;

“development consisting of the winning and working of minerals” does not include—

- (a) 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 on it which are occupied or used for those purposes; or
- (b) the winning and working of peat by any person for the domestic requirements of that person.

**Modification of the meaning of “use”**

2.—(1) For the purpose of the provisions specified in Part I of Schedule 18 to the 1997 Act, “use” in relation to the discontinuance of a use of land includes the discontinuance of the use of land for development consisting of the winning and working of minerals.

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(1) 1997 c. 8; section 277(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

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(2) Save as provided in paragraph (1), for the purpose of those provisions “use”, in relation to land, does not include the use of land for development consisting of the winning and working of minerals.

### **Modification of specific provisions of the 1997 Act**

3. In relation to development consisting of the winning and working of minerals or involving the depositing of mineral waste, the provisions of the 1997 Act, set out in column (1) of the Schedule to these Regulations, shall have effect subject to the modifications set out opposite such provisions in column (2) of the Schedule.

### **Revocations**

4. The Town and Country Planning (Minerals) (Scotland) Regulations 1971(2) and the Town and Country Planning (Minerals) (Scotland) Regulations 1982(3) are hereby revoked.

St Andrew’s House Edinburgh  
12th November 1998

*Calum MacDonald*  
Parliamentary Under Secretary of State, Scottish  
Office

We consent,

17th November 1998

*Jim Dowd*  
*Bob Ainsworth*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(2) S.I.1971/778.  
(3) S.I. 1982/973.

SCHEDULE

Regulation 3

<i>Column 1</i> <i>Provisions of 1997 Act</i>	<i>Column 2</i> <i>Modifications</i>
<p>1. Section 27 (time when development begun).</p> <p>2. Section 76 (compensation where planning permission revoked or modified).</p>	<p>(1) For subsection (2) substitute –</p> <p style="padding-left: 40px;">“(2) For the purposes of sections 58, 59 and 61, development consisting of the winning and working of minerals shall be taken to be begun on the earliest date on which the winning and working of minerals to which the relevant grant of planning permission relates begins.”.</p> <p>(2) Omit subsections (3) to (6).</p> <p>After subsection (3) insert–</p> <p style="padding-left: 40px;">Where planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste is revoked or modified, no compensation shall be paid under this section in respect of any buildings, plant or machinery, unless the claimant can prove that he is unable to put them to a reasonably beneficial use or to put them to a reasonably beneficial use except at the loss claimed.</p> <p style="padding-left: 40px;">Where a claim under this section includes a claim for expenditure or loss in respect of buildings, plant or machinery to which subsection (3A) applies, the Lands Tribunal may give directions that that part of the claim be severed from the remainder of the claim and be dealt with at such later date as may be fixed by the Tribunal, either in such directions or subsequently on application by either party..</p>

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations modify certain provisions of the Town and Country Planning (Scotland) Act 1997 as they apply to development consisting of the winning and working of minerals or involving the depositing of mineral waste.

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These Regulations replace the Town and Country Planning (Minerals) (Scotland) Regulations 1971 as amended by the Town and Country Planning (Minerals) (Scotland) Regulations 1982, which are revoked.