



# Control of Pollution Act 1974

## 1974 CHAPTER 40

### [<sup>F1</sup>PART IA

#### ABANDONED MINES

##### Textual Amendments

**F1** Pt. IA (ss. 30Y, 30Z) inserted (12.10.1995 for specified purposes otherwise 1.1.1999) by 1995 c. 25, s. 59 (with ss. 7(6), 115, 117); S.I. 1995/2649, art. 2(i); S.I. 1998/3272, art. 2

##### Modifications etc. (not altering text)

**C1** Pt. IA modified (1.4.1996) by 1995 c. 25, s. 33(5)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

### **30Y** **Introductory.**

- (1) For the purposes of this Part, “abandonment”, in relation to a mine,—
- (a) subject to paragraph (b) below, includes—
    - (i) the discontinuance of any or all of the operations for the removal of water from the mine;
    - (ii) the cessation of working of any relevant seam, vein or vein-system;
    - (iii) the cessation of use of any shaft or outlet of the mine;
    - (iv) in the case of a mine in which activities other than mining activities are carried on (whether or not mining activities are also carried on in the mine)—
      - (A) the discontinuance of some or all of those other activities in the mine; and
      - (B) any substantial change in the operations for the removal of water from the mine; but
  - (b) does not include—
    - (i) the abandonment of any rights, interests or liabilities by the Accountant in Bankruptcy acting as [<sup>F2</sup>trustee] or interim trustee in a

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sequestration (within the meaning of the Bankruptcy (Scotland) Act [F<sup>3</sup>2016]); F<sup>4</sup>...

(ii) any disclaimer under section 178 or 315 of the M<sup>1</sup>Insolvency Act 1986 (power of liquidator, or trustee of bankrupt's estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity; [F<sup>5</sup>or

(iii) any disclaimer by notice signed by the Queen's and Lord Treasurer's Remembrancer under section 1013 of the Companies Act 2006 (Crown disclaimer of property vesting as *bona vacantia*).]

and cognate expressions shall be construed accordingly.

(2) In this Part, except where the context otherwise requires—

“acting in a compulsory capacity”, in the case of the official receiver, means acting as—

- (a) liquidator of a company;
- (b) receiver or manager of a bankrupt's estate, pursuant to section 287 of the M<sup>2</sup>Insolvency Act 1986;
- (c) trustee of a bankrupt's estate;
- (d) liquidator of an insolvent partnership;
- (e) trustee of an insolvent partnership;
- (f) trustee, or receiver or manager, of the insolvent estate of a deceased person;

“the official receiver” has the same meaning as it has in the M<sup>3</sup>Insolvency Act 1986 by virtue of section 399(1) of that Act;

“relevant seam, vein or vein-system”, in the case of any mine, means any seam, vein or vein-system for the purpose of, or in connection with, whose working any excavation constituting or comprised in the mine was made.

(3) This Part extends only to Scotland.]

#### Textual Amendments

- F2** Word in s. 30Y(1)(b)(i) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 2(2)(a)**
- F3** Word in s. 30Y(1)(b)(i) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 2(2)(b)**
- F4** Word in s. 30Y(1)(b)(i) repealed (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **Sch. 3 para. 16(3)(a)**; S.S.I. 2014/160, art. 2(1)(2), Sch.
- F5** S. 30Y(1)(b)(iii) and preceding word inserted (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), **Sch. 3 para. 16(3)(b)**; S.S.I. 2014/160, art. 2(1)(2), Sch.

#### Modifications etc. (not altering text)

- C2** S. 30Y modified (1.4.1996) by [1995 c. 25, s. 33\(5\)\(b\)](#) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

- M1** 1986 c. 45.  
**M2** 1986 c. 45.  
**M3** 1986 c. 45.

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**[<sup>F6</sup>30Z Mine operators to give SEPA six months' notice of any proposed abandonment.**

- (1) If, in the case of any mine, there is to be an abandonment at any time after the expiration of the initial period, it shall be the duty of the operator of the mine to give notice of the proposed abandonment to SEPA at least six months before the abandonment takes effect.
- (2) A notice under subsection (1) above shall contain such information (if any) as is prescribed for the purpose, which may include information about the operator's opinion as to any consequences of the abandonment.
- (3) A person who fails to give the notice required by subsection (1) above shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) A person shall not be guilty of an offence under subsection (3) above if—
  - (a) the abandonment happens in an emergency in order to avoid danger to life or health; and
  - (b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.
- (5) Where the operator of a mine is—
  - (a) the Accountant in Bankruptcy acting as [<sup>F7</sup>trustee] or interim trustee in a sequestration (within the meaning of the Bankruptcy (Scotland) Act [<sup>F8</sup>2016]); or
  - (b) the official receiver acting in a compulsory capacity,he shall not be guilty of an offence under subsection (3) above by reason of any failure to give the notice required by subsection (1) above if, as soon as is reasonably practicable (whether before or after the abandonment), he gives to SEPA notice of the abandonment or proposed abandonment, containing such information as may be prescribed.
- (6) Where a person gives notice under subsection (1), (4)(b) or (5) above, he shall publish prescribed particulars of, or relating to, the notice in one or more local newspapers circulating in the locality where the mine is situated.
- (7) Where SEPA—
  - (a) receives notice under this section or otherwise learns of an abandonment or proposed abandonment in the case of any mine, and
  - (b) considers that, in consequence of the abandonment or proposed abandonment taking effect, any land has or is likely to become contaminated land, within the meaning of Part IIA of the <sup>M4</sup>Environmental Protection Act 1990,it shall be the duty of SEPA to inform the local authority in whose area that land is situated of the abandonment or proposed abandonment.
- (8) In this section—

“the initial period” means the period of six months beginning with the day on which subsection (1) above comes into force;

“local authority” means a council constituted under section 2 of the <sup>M5</sup>Local Government etc. (Scotland) Act 1994.]

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#### **Textual Amendments**

- F6** Pt. IA (ss. 30Y, 30Z) inserted (12.10.1995 for specified purposes otherwise 1.1.1999) by 1995 c. 25, s. 59 (with ss. 7(6), 115, 117); S.I. 1995/2649, art. 2(i); S.I. 1998/3272, art. 2
- F7** Word in s. 30Z(5)(a) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 2(3)(a)
- F8** Word in s. 30Z(5)(a) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 2(3)(b)
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#### **Modifications etc. (not altering text)**

- C3** S. 30Z modified (1.4.1996) by 1995 c. 25, s. 33(5)(b) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
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#### **Marginal Citations**

- M4** 1990 c.43.
- M5** 1994 c. 39.

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