



Planning and Compensation Act 1991

1991 CHAPTER 34

PART II

TOWN AND COUNTRY PLANNING - SCOTLAND

Controls over particular matters

51 Mines and waste

Schedule 8 to this Act (which, among other things, provides for after-care where permission is given to deposit refuse or waste materials and provides for altering the provisions relating to compensation for restrictions on mineral working and depositing mineral waste) shall have effect.

52 Old mining permissions

After section 49G of the 1972 Act there is inserted

“49H Old mining permissions

- (1) In this section and Schedule 10A to this Act, “old mining permission” means any planning permission for development—
 - (a) consisting of the winning and working of minerals, or
 - (b) involving the depositing of mineral waste,which is deemed to have been granted by virtue of paragraph 77 of Schedule 22 to this Act (development authorised under interim development orders after 10th November 1943).
- (2) An old mining permission shall, if an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined, have effect as from the final determination as if granted on the terms required to be registered.

Status: This is the original version (as it was originally enacted).

- (3) If no such development has, at any time in the period of two years ending with 16th May 1991, been carried out to any substantial extent anywhere in, on or under the land to which an old mining permission relates, that permission shall not authorise any such development to be carried out after the coming into force of this section unless—
- (a) the permission has effect in accordance with subsection (2) above; and
 - (b) the development is carried out after such an application is finally determined.
- (4) An old mining permission shall—
- (a) if no application for the registration of the permission is made under that Schedule, cease to have effect on the day following the last date on which such an application may be made, and
 - (b) if such an application is refused, cease to have effect on the day following the date on which the application is finally determined.
- (5) An old mining permission shall, if—
- (a) such an application is granted; but
 - (b) an application under that Schedule to determine the conditions to which the permission is to be subject is required to be served before the end of any period and is not so served,
- cease to have effect on the day following the last date on which the application to determine those conditions may be served.
- (6) Subject to subsection (3) above, this section—
- (a) shall not affect any development carried out under an old mining permission before an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined or, as the case may be, the date on which the permission ceases to have effect; and
 - (b) shall not affect any order made or having effect as if made under section 49 or 49A to 49F of this Act (discontinuance, etc., orders).”.

53 Transitional provision as to compensation regulations

Without prejudice to section 17(2) of the Interpretation Act 1978, any regulations made, or having effect as if made, by virtue of section 167A (regulations as to mineral compensation) of the 1972 Act shall, to the extent that they are in force on the coming into force of paragraph 13 of Schedule 8 to this Act, have effect as if made under section 167A of that Act as substituted by that paragraph.

54 Trees

- (1) In section 98 of the 1972 Act (penalties for non-compliance with tree preservation order), in subsection (1)—
- (a) for paragraph (a) there is substituted—
 - “(a) on summary conviction to a fine not exceeding £20,000;”
 - (b) the words “on indictment”, where second occurring, are omitted; and
 - (c) subsection (3) is omitted.
- (2) In section 99 of the 1972 Act (enforcement of duties as to replacement of trees)—

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- (a) for subsection (2) there is substituted—
 - “(2) A notice under subsection (1) of this section shall specify a period at the end of which it is to take effect, being a period of not less than twenty-eight days beginning with the date of service of the notice.”;
 - (b) in subsection (3)—
 - (i) for the words from “at any time” to “take effect” there is substituted “either by giving written notice to the Secretary of State before the end of the period specified in accordance with subsection (2) of this section, or by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before the end of that period,”; and
 - (ii) after paragraph (a) there is inserted—
 - “(ab) that in all the circumstances of the case the duty imposed by the said section 60(1) should be dispensed with in relation to any tree;”;
 - (c) at the end there is inserted—
 - “(6) Any person who wilfully obstructs a person acting in the exercise of the power under section 88(1) of this Act (as applied by subsection (5) of this section) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (3) After section 99 there is inserted—

“Rights of entry

99A Rights to enter without warrant

- (1) Any person duly authorised in writing by a planning authority may enter any land for the purpose of—
 - (a) surveying it in connection with making or confirming a tree preservation order with respect to the land;
 - (b) ascertaining whether an offence under section 59A or 98 of this Act has been committed on the land; or
 - (c) determining whether a notice under section 99 should be served on the owner of the land,if there are reasonable grounds for entering for the purpose in question.
- (2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land if there are reasonable grounds for entering for that purpose.
- (3) Any person who is duly authorised in writing by a planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under sections 57 to 60 and 99 of this Act.
- (4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim

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for compensation in respect of any land which is payable by the planning authority under section 163 of this Act.

- (5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under section 58 or 99 of this Act.
- (6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the planning authority.
- (7) Admission shall not be demanded as of right—
 - (a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or
 - (b) by virtue of subsection (3), (4) or (5) to any land which is occupied, unless 24 hours' notice of the intended entry has been given to the occupier.
- (8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

99B Right to enter under warrant

- (1) If the sheriff is satisfied—
 - (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 99A(1) or (2) of this Act; and
 - (b) that—
 - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
 - (ii) the case is one of urgency,
 he may issue a warrant authorising any person duly authorised in writing by a planning authority or, as the case may be, the Secretary of State to enter the land.
- (2) For the purposes of subsection (1)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (3) A warrant authorises entry on one occasion only and that entry must be—
 - (a) within one month from the date of the issue of the warrant; and
 - (b) at a reasonable hour, unless the case is one of urgency.

99C Rights of entry: supplementary provisions

- (1) Any power conferred under or by virtue of section 99A or 99B to enter land (referred to in this section as “a right of entry”) shall be construed as including power to take samples from any tree and samples of the soil.
- (2) A person authorised to enter land in the exercise of a right of entry—
 - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
 - (b) may take with him such other persons as may be necessary; and
 - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

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- (3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.”

55 Control over advertisements

In section 275 of the 1972 Act (interpretation), in subsection (1), in the definition of “advertisement”—

- (a) after “notice” there is inserted “awning, blind”;
- (b) after “used” there is inserted “or designed”; and
- (c) after “use” there is inserted “and anything else used, or designed or adapted principally for use,”.

56 Power to remove or obliterate placards and posters

After section 101 of the 1972 Act there is inserted—

“101A Power to remove or obliterate placards and posters

- (1) Subject to the provisions of this section, a planning authority may remove or obliterate any placard or poster—
 - (a) which is displayed in their area; and
 - (b) which in their opinion is so displayed in contravention of regulations made under section 61 of this Act.
- (2) Subsection (1) of this section does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.
- (3) Subject to subsection (4) of this section, where a placard or poster identifies the person who displayed it or caused it to be displayed, the planning authority shall not exercise any power conferred by subsection (1) of this section unless they have first given him notice in writing—
 - (a) that in their opinion it is displayed in contravention of regulations made under section 61 of this Act; and
 - (b) that they intend to remove or obliterate it on the expiry of a period specified in the notice.
- (4) Subsection (3) of this section does not apply if—
 - (a) the placard or poster does not give his address; and
 - (b) the authority do not know it and are unable to ascertain it after reasonable inquiry.
- (5) The period specified in a notice under subsection (3) of this section must be not less than two days from the date of service of the notice.

Status: This is the original version (as it was originally enacted).

- (6) Any person duly authorised in writing by the planning authority may at any reasonable time enter any land for the purpose of exercising a power conferred by this section if—
- (a) the land is unoccupied; and
 - (b) it would be impossible to exercise the power without entering the land.”.

57 Listed buildings, conservation areas and hazardous substances

Schedule 10 to this Act, which makes amendments to the 1972 Act in respect of listed buildings, conservation areas and hazardous substances, shall have effect.