
STATUTORY INSTRUMENTS

1985 No. 698**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES****The Town and Country Planning
(Compensation for Restrictions on Mineral Working)
Regulations 1985**

<i>Made</i> - - - - -	26th March 1985
<i>Laid before Parliament</i>	27th March 1985
<i>Coming into Operation</i>	1st 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 178A of the Town and Country Planning Act 1971^(a) and all other powers enabling them in that behalf, with the consent of the Treasury and after consultation with persons and bodies appearing to them to be representative of persons carrying out mining operations, of owners of interests in land containing minerals and of mineral planning authorities, hereby make the following regulations:—

Citation, commencement and application

1.— (1) These regulations may be cited as the Town and Country Planning (Compensation for Restrictions on Mineral Working) Regulations 1985 and shall come into operation on 1st June 1985.

(2) These regulations do not apply to compensation in respect of orders made under the Town and Country Planning Act 1971 in relation to the winning and working of minerals by the National Coal Board.

Interpretation

- 2.— (1) In these regulations, unless the context otherwise requires:—
- “the 1967 Act” means the General Rate Act 1967^(b)
 - “the 1971 Act” means the Town and Country Planning Act 1971;

^(a) 1971 c. 78; section 178A was added by section 16 of the Town and Country Planning (Minerals) Act 1981 (c. 36).
^(b) 1967 c. 9.

“the appropriate portion” has the meaning assigned to it by regulation 7;

“hereditament” and “valuation officer” have the meanings assigned to them by section 115(1) of the 1967 Act;

“order” means an order made under section 45 or section 51 of the 1971 Act in relation to development consisting of the winning and working of minerals, or an order made under section 51A or 51B(a) of that Act;

“retail prices index” means the general index of retail prices (for all items) published by the Department of Employment;

“site” means the area of land to which an order relates;

“valuation list” means the valuation list kept under Part V of the 1967 Act for a rating area in which the site, or any land forming part of the site, is situated.

(2) References in these regulations to minerals in, on or under a site shall include references to minerals contained in any deposit of material in, on or under the site or contained in any disused railway embankment on the site.

(3) Any reference in these regulations to a mineral remaining unworked shall be construed, in relation to any order, as not including any mineral in, on or under the site to which the order relates other than the mineral or minerals to which the order relates.

(4) Reference in these regulations to a mine or quarry shall be construed as references to—

(a) a mine as defined in section 180(1), (3) and (4) of the Mines and Quarries Act 1954(b); or

(b) a quarry as defined in section 180(2), (3) and (4) of that Act; or

(c) a well or borehole, or a well and borehole combined, made for the purpose of, or in connection with, the getting of minerals (as defined in section 182 of the Mines and Quarries Act 1954), whether in their natural state or in solution or suspension, or of products of minerals.

(5) A section referred to only by number in these regulations means the section so numbered in the 1971 Act; and a regulation or Schedule referred to only by number means a regulation or Schedule so numbered in these regulations.

Modification of sections 164 and 170

3.— (1) Where mineral compensation requirements (as defined in section 164A(c)) are satisfied in relation to an order made under section 45 (revocation or modification of planning permission) section 164(d) shall apply in relation to that order subject to the modification set out in paragraph (2) below.

(a) Sections 51A and 51B were added to the Town and Country Planning Act 1971 by section 10 of the Town and Country Planning (Minerals) Act 1981; sections 45 and 51 were amended by sections 8 and 9 of that Act.

(b) 1954 c. 70.

(c) Section 164A was added to the Town and Country Planning Act 1971 by section 13 of the Town and Country Planning (Minerals) Act 1981.

(d) Section 164 was amended by section 12 of the Town and Country Planning (Minerals) Act 1981.

(2) Where a person making a claim for compensation under the section has carried out works for the purpose of removing or alleviating any injury to amenity caused by the winning and working of minerals on the land to which the order relates, or for the purpose of restoring that land after the extraction of minerals, under an agreement in writing with the local planning authority which is entered into after the date when these regulations come into operation but before the date when the order takes effect, the expenditure incurred in carrying out those works shall be treated for the purposes of section 164(1)(b) as constituting loss or damage directly attributable to the revocation or modification:

Provided that the provisions of this paragraph shall not apply in any case where a previous claim for compensation has been made under section 164 or section 170 (after the date when these regulations come into operation) in relation to the land to which the relevant order relates.

4.— (1) Where mineral compensation requirements (as defined in section 170B(a)) are satisfied in relation to an order made under section 51 (discontinuance of use), section 51A (prohibition on resumption of operations) or section 51B (suspension of operations), section 170(b) shall apply in relation to that order subject to the modifications set out in paragraphs (2) to (4) below.

(2) The section shall apply as though the following subsections were substituted for subsections (2) and (3):—

“(2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the land to which the order relates, or a person who is without an interest in the land itself but has an interest in minerals in, on or under it—

- (a) has incurred expenditure in carrying out work which is rendered abortive by the provisions of the order; or
- (b) has otherwise sustained loss or damage which is directly attributable to the provisions of the order,

the local planning authority shall (subject to the provisions of any regulations made under section 178A of this Act which are for the time being in force) pay to that person compensation in respect of that expenditure, loss or damage.

(3) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3A) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted for development of the land of any class specified in Schedule 8 to this Act.”.

(a) Section 170B was added to the Town and Country Planning Act 1971 by section 15 of the Town and Country Planning (Minerals) Act 1981.

(b) Section 170 was amended by section 14 of the Town and Country Planning (Minerals) Act 1981.

(3) Where a person making a claim for compensation under the section (as modified by these regulations) has carried out works for the purpose of removing or alleviating any injury to amenity caused by the winning and working of minerals on the land to which the order relates, or for the purpose of restoring that land after the extraction of minerals, under an agreement in writing with the local planning authority which is entered into after the date when these regulations come into operation but before the date when the order takes effect, the expenditure incurred in carrying out those works shall be treated, for the purposes of section 170(2)(b), as constituting loss or damage directly attributable to the provisions of the order:

Provided that the provisions of this paragraph shall not apply in any case where a previous claim for compensation has been made under section 170 or section 164 (after the date when these regulations come into operation) in relation to the land to which the relevant order relates.

(4) In the case of an order made under section 51A of the Act, the section shall apply with the further modification that in calculating the amount of any loss or damage, no account shall be taken of the value of any mineral in, on or under the site which cannot be won or worked in consequence of the order.

Assessment of compensation

5. Where mineral compensation requirements are satisfied in relation to an order made under section 51A or section 51B, the amount to be paid by way of compensation to a person making a claim under section 170 (as modified by regulation 4) shall be determined by assessing the amount of compensation which would be payable to him in accordance with the provisions of that section and deducting therefrom the appropriate portion of the sum of £5,000.

6.— (1) Where mineral compensation requirements are satisfied in relation to an order made under section 45 or section 51, the amount to be paid by way of compensation to a person making a claim under section 164 or section 170 shall be determined as follows:—

- (a) an assessment shall be made of the amount of compensation which would be payable to him in accordance with the provisions of section 164 or section 170 (as the case may be) as modified by these regulations; and
- (b) from that amount there shall be deducted the appropriate portion of whichever is the greater of:—
 - (i) the sum of £2,500; or
 - (ii) 10 per cent of a sum calculated in accordance with paragraph (2) or paragraph (3) below (as appropriate):

Provided that the deduction shall not in any case exceed a sum which represents the appropriate portion of the sum of £100,000.

(2) Where the order relates to a site at which only one mineral was being won and worked at the date when the order took effect, the sum for the purposes of paragraph (1)(b)(ii) above shall be the product of the annual value of the right to win and work minerals on the site (calculated in accordance with the provisions of Schedule 1) multiplied by the multiplier appropriate to the estimated life of the site, as provided in Schedule 2.

(3) Where the order relates to a site at which two or more minerals were being won and worked at the date when the order took effect, the sum for the purposes of paragraph 1(b)(ii) above shall be determined as follows:—

- (a) the annual value of the right to win and work each of the minerals shall be calculated in accordance with the provisions of Schedule 1, and that figure shall be multiplied by the multiplier appropriate to the estimated life of that mineral (as provided in Schedule 2); and
- (b) the sums so calculated in respect of each mineral shall be added together.

7.— (1) References in regulations 5 and 6 to “the appropriate portion” are to be construed in accordance with paragraphs (2) to (4) below.

(2) Where the local planning authority are satisfied, at the time when they assess the amount to be paid in respect of a claim for compensation, that the person making the claim is the only person who is interested in the site, the appropriate portion is the whole sum.

(3) Where, at the time when they are assessing the amount to be paid in respect of a claim for compensation, the local planning authority are aware that there are persons other than the claimant who are interested in the site, they shall calculate the appropriate portion as follows:—

- (a) they shall take the value of the claimant’s interest in the site and in the minerals to which the order relates;
- (b) they shall take the total value which the site and the minerals in, on or under the site would have if there were a single person entitled to all of the interests in the site and all of the minerals; and
- (c) they shall take the appropriate portion as being the sum which represents the same proportion of the whole sum as the value referred to in sub-paragraph (a) is of the total value referred to in sub-paragraph (b).

(4) In this regulation, “the whole sum” means—

- (a) the sum of £5,000 specified in regulation 5; or
- (b) the sum of £2,500 specified in regulation 6(1)(b)(i); or
- (c) the sum which represents the 10 per cent proportion referred to in regulation 6(1)(b)(ii); or
- (d) the sum of £100,000 specified in regulation 6(1)(b), as the case may be.

(Regulation 6(2) and (3)) SCHEDULE 1

1. The annual value of the right to win and work minerals at a site shall be calculated in the manner set out in paragraph 3, 4, 5 or 6 below as the case may require.

2. In making any calculations for the purposes of this Schedule, no account shall be taken of any minerals in, on or under the site other than those in respect of which the winning and working was, at the date when the order took effect, authorised by a planning permission.

3. Where only one mineral was being won and worked at the site at the date when the order took effect, and the site consists of, includes or forms part of a mine or quarry, or any part of a mine or quarry, the annual value of the right to win and work minerals shall be calculated by:—

- (1) deducting from the figure which is specified in the valuation list as the net annual value of the site the figure which is specified in that list as its rateable value;
- (2) multiplying the resulting sum by 2; and
- (3) further multiplying the resulting sum by the appropriate factor.

4. Where only one mineral was being won and worked at the site at the date when the order took effect and the site does not consist of, include or form part of a mine or quarry, or any part of a mine or quarry, the annual value of the right to win and work minerals shall be calculated by:—

- (1) deducting from the figure specified in the valuation list as the rateable value of the site the figure which the valuation officer certifies to be that which would have been specified in that list as the rateable value of the site had it consisted of, included or formed part of a mine or quarry or any part of a mine or quarry;
- (2) multiplying the resulting sum by 2; and
- (3) further multiplying the resulting sum by the appropriate factor.

5. Where two or more minerals were being won and worked at the site at the date when the order took effect, and the site consists of, includes or forms part of a mine or quarry, or any part of a mine or quarry, the annual value of the right to win and work each of those minerals shall be calculated by:—

- (1) taking the figure which the valuation officer certifies to be the portion of the net annual value of the site (as specified in the valuation list) which is attributable to that mineral;
- (2) taking the figure which the valuation officer certifies to be the portion of the rateable value of the site (as specified in the valuation list) which is attributable to that mineral;
- (3) deducting the figure referred to in sub-paragraph (2) from the figure referred to in sub-paragraph (1);
- (4) multiplying by 2 the sum resulting from that deduction; and
- (5) further multiplying the resulting sum by the appropriate factor.

6. Where two or more minerals were being won and worked at the site at the date when the order took effect, and the site does not consist of, include or form part of a mine or quarry, or any part of a mine or quarry, the annual value of the right to win and work each of those minerals shall be calculated by:—

(1) taking the figure which the valuation officer certifies to be the portion of the net annual value of the site (as specified in the valuation list) which is attributable to the mineral;

(2) taking the figure which the valuation officer certifies to be the portion attributable to that mineral of the figure which would have been specified in the valuation list as the rateable value of the site had it consisted of, included or formed part of a mine or quarry or any part of a mine or quarry;

(3) deducting the figure referred to in sub-paragraph (2) from the figure referred to in sub-paragraph (1);

(4) multiplying by 2 the sum resulting from that deduction; and

(5) further multiplying the resulting sum by the appropriate factor.

7. For the purposes of paragraphs 3 to 6 of this Schedule, the appropriate factor is the sum ascertained by multiplying the retail prices index for the month in which the order took effect by the figure of 0.0108225 and rounding up the figure resulting from that calculation to the nearest two decimal places.

8. Where the site forms part only of a hereditament for which an entry is shown in the valuation list, or consists of or forms part of more than one such hereditament (or of hereditaments for which entries are shown in different valuation lists), the net annual value of the site and the rateable value of the site shall for the purposes of this Schedule be taken to be such value as is found by properly aggregating or apportioning the relevant value or values shown in the valuation list or relevant valuation lists, as the case may be.

9. Where, at the date when a claim for compensation is made in relation to an order:—

(1) a proposal has been made under section 69 of the 1967 Act for the alteration of the valuation list in relation to a hereditament which includes, consists of, or forms part of the site to which the order relates;

(2) that proposal relates to an alteration which would take effect from a date which is on or before the date when the order took effect;

(3) that proposal has not been withdrawn; and

(4) no alteration has been made to the valuation list as a result of that proposal and no final decision on the proposal has been issued,

the net annual value of the site and the rateable value of the site shall be taken, for the purposes of this Schedule, as being the net annual value of the site and the rateable value shown in the valuation list—

(a) after alteration by the valuation officer; or

(b) after issue of a final decision by the valuation court, the Lands Tribunal or an arbitrator (in pursuance of their jurisdiction under section 76, 77 or 78 of the 1967 Act) that no alteration shall be made to the valuation list in respect of the proposal,

as the case may be.

(Regulation 6(2) and (3)) SCHEDULE 2

1. The multiplier to be used for the purposes of calculating the sum referred to in regulation 6(1)(b)(ii) shall be that specified below in respect of the estimated life of the site, or in respect of the estimated life of the relevant mineral (as the case may be), calculated as at the date when the order took effect:—

Estimated Life of Site or Estimated Life of Mineral (in years)	Multiplier
Less than 2	0.9
2 or more but less than 4	1.8
4 or more but less than 6	3.3
6 or more but less than 8	4.6
8 or more but less than 10	5.7
10 or more but less than 15	6.6
15 or more but less than 20	8.4
20 or more but less than 25	9.6
25 or more but less than 30	10.5
30 or more but less than 40	11.0
40 or more but less than 60	11.6
60 or more	12.0

2. Where only one mineral was being won and worked at the site at the date when the order took effect, the estimated life of the site shall be calculated as follows:—

(1) the quantity of mineral remaining unworked in the site at that date shall be taken as being the amount which, if the site were sold in the open market, a willing vendor and a willing purchaser might be expected to agree as being economically workable and saleable mineral reserves;

(2) the annual rate of extraction shall be taken as being the rate used by the valuation officer in ascertaining the net annual value of the site and the rateable value of the site shown in the valuation list; and

(3) the figure ascertained in accordance with sub-paragraph (1) shall be divided by the figure ascertained in accordance with sub-paragraph (2).

3. Where two or more minerals were being won and worked at the site at the date when the order took effect, the estimated life of each of those minerals shall be calculated as follows:—

(1) the quantity of the mineral remaining unworked in the site at that date shall be taken as being the amount which, if the site were sold in the open market, a willing vendor and a willing purchaser might be expected to agree as being economically workable and saleable mineral reserves;

(2) the annual rate of extraction of the mineral shall be taken as being the rate used by the valuation officer for that mineral in ascertaining the net annual value of the site and the rateable value of the site shown in the valuation list; and

(3) the figure ascertained in accordance with sub-paragraph (1) shall be divided by the figure ascertained in accordance with sub-paragraph (2).

4. In making any calculations for the purposes of this Schedule, no account shall be taken of any minerals in, on or under the site other than those in respect of which the winning and working was, at the date when the order took effect, authorised by a planning permission.

5. Where the site forms part of a hereditament for which an entry is shown in the valuation list, or consists of or forms part of more than one such hereditament (or of hereditaments for which entries are shown in different valuation lists) the references in paragraphs 2 and 3 above to the net annual value of the site and the rateable value of the site are to be construed as referring to such value as is found by properly aggregating or apportioning the relevant values shown in the valuation list or relevant valuation lists, as the case may be; and the references to the valuation officer are to be construed accordingly.

Patrick Jenkin,
Secretary of State for the Environment.

25th March 1985.

Nicholas Edwards,
Secretary of State for Wales.

25th March 1985.

We consent,

Donald Thompson,
John Major,
Two of the Lords Commissioners of
Her Majesty's Treasury.

26th March 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations make provision with respect to the payment of compensation where an order is made under Part III of the Town and Country Planning Act 1971 revoking or modifying planning permission for mineral working (section 45), requiring the discontinuance of mineral working (section 51), prohibiting the resumption of mining operations which have ceased (section 51A) or imposing requirements in relation to a site where mining operations are temporarily suspended (section 51B). Sections 164A and 170B of the 1971 Act set out certain "mineral compensation requirements" in relation to such orders and provide that where such requirements are satisfied in respect of an order, the provisions of section 164 (compensation in respect of orders under section 45) or section 170 (compensation in respect of orders under sections 51, 51A and 51B) shall have effect subject to mineral compensation modifications. These regulations provide for such modifications.

The following modifications are made:—

(1) the amount of compensation payable under section 164 or section 170 will take account of expenditure incurred in voluntarily carrying out works for the purpose of removing or alleviating injury to amenity caused by mineral working on the land to which the order relates or works for restoring the land after the extraction of minerals (regulations 3 and 4);

(2) the basis on which compensation under section 170 is assessed is modified by the substitution of provisions equivalent to those set out in section 164(1), (2) and (4) (regulation 4(2));

(3) in relation to orders made under section 51A, the value of any mineral in the site which cannot be won or worked because of the order is to be ignored in calculating compensation under section 170 (regulation 4(3));

(4) the total amount of compensation payable under section 170 in respect of an order made under section 51A or section 51B is to be reduced by £5,000 (regulation 5); and

(5) the total amount of compensation payable under section 164 or section 170 in respect of an order made under section 45 or section 51 is to be reduced by (a) the sum of £2,500 or (b) 10% of the sum which is to be calculated by multiplying the annual value of the right to win and work minerals at the site to which the order relates by a specified multiplier, whichever is the greater (but subject to a maximum deduction of £100,000) (regulation 6 and Schedules 1 and 2).

Regulation 7 provides for the apportionment between claimants of the sum to be deducted from the total amount of compensation, in a case where there is more than one interest held in the land to which the order relates (or more than one interest held in the minerals in that land).

By virtue of regulation 1(2), the regulations do not apply to orders made in relation to mineral working by the National Coal Board.

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