

1987 No. 1937 (S.133)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (British Coal Corporation) (Scotland) Amendment Regulations 1987

Made - - - - - *12th November 1987*

Laid before Parliament *20th November 1987*

Coming into force *11th December 1987*

The Secretary of State for Scotland, in exercise of the powers conferred on him by section 259 of the Town and Country Planning (Scotland) Act 1972(a), and the Secretary of State for Energy, in exercise of the powers conferred by the said section 259 and now vested in him(b), and of all other powers enabling them in that behalf, hereby with the consent of the Treasury make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (British Coal Corporation) (Scotland) Amendment Regulations 1987 and shall come into force on 11th December 1987.

Compensation for British Coal Corporation

2. In Schedule 1 to the Town and Country Planning (National Coal Board) (Scotland) Regulations 1975(c), in column (2) of the entry relating to section 226 of the Town and Country Planning (Scotland) Act 1972, there shall be inserted after paragraph 1-

“1A. After subsection (1)(a) insert:

“Provided that the British Coal Corporation shall not be entitled to compensation in respect of the refusal, or the grant subject to conditions, of planning permission for the working of coal by opencast operations;”.

9th November 1987

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

12th November 1987

Cecil Parkinson
Secretary of State for Energy

We consent,

12th November 1987

Tony Durant
D. Lightbown
Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1972 c.52.

(b) S.I. 1974/692.

(c) S.I. 1975/1280. (For references in these Regulations to the National Coal Board, references to the British Coal Corporation were substituted, as respects any time after 5th March 1987, by section 1(3) of the Coal Industry Act 1987 (c.3).)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (National Coal Board) (Scotland) Regulations 1975.

Under the Opencast Coal Act 1958 (c.69) opencast working by the British Coal Corporation required Ministerial authorisation and the Secretary of State had power to grant deemed planning permission for the working. Section 2(5) of that Act excluded compensation under the Town and Country Planning (Scotland) Act 1972 in respect of various orders and decisions including orders revoking or modifying planning permission for opencast working, and the refusal of such planning permission or its grant subject to conditions.

The Housing and Planning Act 1986 brings opencast working within general planning procedures by abolishing the authorisation requirement and the provision for deemed planning permission. It also repeals section 2(5). The relevant provisions of the 1986 Act are brought into force on 11th December 1987 by the Housing and Planning Act 1986 (Commencement No.9) Order 1987 (S.I. 1987/1939).

The repeal of section 2(5) would make the Corporation eligible for compensation on the same basis as statutory undertakers by virtue of the Town and Country Planning (National Coal Board) (Scotland) Regulations 1975 which apply section 226 of the 1972 Act to the Corporation.

These Regulations have the effect of amending the 1972 Act in its application to the British Coal Corporation to prevent the Corporation from being eligible for compensation in respect of the refusal of planning permission for opencast working or its grant subject to conditions. They will be entitled to compensation for revocation or modification of planning permission. Where the Corporation are entitled to compensation, the amount of compensation will be calculated on the same basis as the compensation for statutory undertakers.

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