
STATUTORY INSTRUMENTS

1998 No. 2914

The Town and Country Planning (Compensation for Restrictions on Mineral Working and Mineral Waste Depositing) (Scotland) Regulations 1998

Compensation following prohibition order

5.—(1) Where an order is made under paragraph 3 (prohibition of resumption of mineral working) of Schedule 8 prohibiting the resumption of the winning and working of minerals or the depositing of mineral waste, and the conditions specified in paragraph (2) are met—

- (a) section 83 shall have effect subject to the modification described in paragraph (3); and
- (b) the amount to be paid by way of compensation shall be assessed in accordance with section 83 (as so modified) and section 87 and then abated by the deduction of the appropriate portion of the sum of £8,100.

(2) The conditions specified in this paragraph are—

- (a) that the development was begun not less than 5 years before the day on which the order was made; and
- (b) that the planning authority have not made any other prohibition order, or any discontinuance or modification order, in respect of the land to which the order under paragraph 3 of Schedule 8 relates within the period of 5 years immediately preceding the day on which that order was made.

(3) The modification referred to in paragraph (1) is the substitution for subsections (2) and (3) of section 83, of the following subsections:—

“(2) If, on a claim made to the planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person with an interest in the land to which the order relates or in the 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;

that authority shall 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 to it, shall be taken to be included in the expenditure incurred in carrying out that work.

(3A) For the purposes of this section, works carried out for the purpose of removing or alleviating any injury to amenity caused by the winning and working of minerals on the land to which a prohibition order relates shall, unless included in another claim for compensation, be treated as loss or damage directly attributable to the provisions of the order.

(3B) In calculating, for the purposes of this section, the amount of any loss or damage attributable to a prohibition order, no account shall be taken of—

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- (a) the value of any mineral which cannot be won or worked;
- (b) the value of any mineral waste which cannot be deposited;
- (c) the value of any void which cannot be filled; or
- (d) the cost of complying with any restoration or after care condition, in consequence of that order.”.