
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 60

The Management of Extractive
Waste (Scotland) Regulations 2010

PART 9

APPEALS, ENFORCEMENT AND GENERAL PROVISION

Compensation

- 31.**—(1) This regulation shall apply where the requirements in paragraph (2) are met and—
- (a) an application for approval of a waste management plan which requires to be made in accordance with regulation 5(2) is finally determined;
 - (b) an application for planning permission which requires to be made in terms of regulation 5(4) is finally determined; or
 - (c) where requirements imposed in pursuance of these Regulations have been finally determined on review in terms of regulation 17.
- (2) The requirements for the purposes of paragraph (1) are—
- (a) the conditions to which the mineral permissions relating to the site are to be subject, after that determination or review, differ from the conditions to which the mineral permissions relating to the site were subject immediately prior to that determination; and
 - (b) the effect of the later conditions, as compared with the effect of the previous conditions, except in so far as they are or were restoration or aftercare conditions, is to restrict working rights in respect of the site, and, for the purposes of this sub-paragraph, whether working rights are restricted shall be determined in accordance with paragraph 13(3) of Schedule 10 to the 1997 Act.
- (3) In a case to which this regulation applies, but subject to paragraph (5), Parts IV (compensation for effects of certain orders) and X (statutory undertakers) of the 1997 Act shall apply and shall have effect as if an order made under section 65 of that Act—
- (a) had been confirmed by the Scottish Ministers under section 66 of that Act at the time when the application in question was finally determined; and
 - (b) as so confirmed, had effect to modify those permissions to the extent specified in paragraph (5).
- (4) For the purposes of this regulation, the order referred to in paragraph (3) is one whose only effect adverse to the interests of any person having an interest in the land or minerals comprised in the site is to restrict working rights in respect of the site to the same extent as the relevant restriction.
- (5) For the purposes of Schedule 13 of the 1997 Act (regulations as to compensation) and of any regulations made under that Schedule, the permissions treated as being modified by the order mentioned in paragraph (4) shall be treated as if they were planning permissions for development which neither consists of nor includes any minerals development.