



Town and Country Planning (Minerals) Act 1981 (repealed 27.5.1997)

1981 CHAPTER 36

PART II

Miscellaneous amendments

27 Orders prohibiting resumption of operations and orders relating to suspension of operations.

The following sections shall be inserted after section 49 of the 1972 Act—

“49A Prohibition of resumption of winning and working of minerals.

- (1) Where it appears to the planning authority—
 - (a) that development consisting the winning and working of minerals has been carried out in, on or under any land ; but
 - (b) that it has permanently ceased,the planning authority may by order—
 - (i) prohibit the resumption of such development ; and
 - (ii) impose, in relation to the site, any such requirement as is specified in subsection (3) of this section.
- (2) The planning authority may assume that development consisting of the winning and working of minerals has permanently ceases only when—
 - (a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least two years ; and
 - (b) it appears to the planning authority on the evidence available to them at the time when they make the order, that resumption of such development in, on or under the land is unlikely.

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- (3) The requirements mentioned in subsection (1) of this section are—
- (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working of minerals or for any purpose ancillary to that purpose ;
 - (b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working of minerals, other than injury due to subsidence caused by underground mining operations ;
 - (c) a requirement that any condition subject to which planning permission for development consisting of the winning and working of minerals was granted or which has been imposed by virtue of any provision of this Act shall be complied with ; and
 - (d) a restoration condition.
- (4) An order under this section may include any such aftercare condition as the planning authority thinks fit if—
- (a) it also includes a restoration condition ; or
 - (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act.
- (5) Subsections (3) to (8) and (11) to (19) of section 27A of this Act shall apply in relation to an aftercare condition imposed under this section as they apply in relation to such a condition imposed under that section.
- (6) In a case where—
- (a) the use specified is a use for agriculture ; and
 - (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased ; and
 - (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,
- the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (7) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.
- (8) An order under this section shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (9) Where a planning authority submit an order under this section to the Secretary of State for his confirmation under this section, that authority shall serve notice of the order on any person who is an owner or occupier of any of the land to which the order relates, and on any other person who in their opinion will be effected by the order ; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before

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confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

- (10) Where an order under this section has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with the notice under subsection (9) of this section.
- (11) On an order under this section taking effect any planning permission for the development to which the order relates shall cease to have effect but without prejudice to the power of the planning authority, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals.

49B Orders after suspension of winning and working of minerals.

- (1) Where it appears to the planning authority—
 - (a) that development consisting of winning and working of minerals has been carried out in, on or under any land ; but
 - (b) that it has been temporarily suspended,the planning authority may by order (in this Act referred to as a “suspension order”) require that steps shall be taken for the protection of the environment.
- (2) The planning authority may assume that development consisting of the winning and working of minerals has been temporarily suspended only when—
 - (a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for the period of at least twelve months ; but
 - (b) it appear to the planning authority, on the evidence available to them at the time when they make the order, that the resumption of such development in, on or under the land is likely.
- (3) In this Act “steps for the protection of the environment” means steps for the purpose—
 - (a) of preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while operations for the winning and working of minerals in, on or under it are suspended ;
 - (b) of protecting that area from damage during that period ; or
 - (c) of preventing any deterioration in the condition of the land during that period.
- (4) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any step required for the protection of the environment is to be taken, and may specify different periods for the taking of different steps.
- (5) At any time when a suspension order is in operation the planning authority may by order (in this Act referred to as a “supplementary suspension order”) direct—
 - (a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous supplementary suspension order specified as required to be taken ; or

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- (b) that the suspension order or any supplementary suspension order shall cease to have effect.

49C Confirmation and coming into operation of suspension orders.

- (1) Without prejudice to section 49D of this Act, a suspension order or supplementary suspension order (other than a supplementary suspension order revoking a suspension order and not requiring that any fresh step shall be taken for the protection of the environment) shall not take effect until it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (2) Subsection (9) of section 49A of this Act shall have effect in relation to a suspension order or supplementary suspension order submitted to the Secretary of State for his confirmation as it has effect in relation to an order submitted to him for his confirmation under that section.
- (3) Where a suspension order or supplementary suspension order has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with the notice by virtue of subsection (2) of this section.

49D Registration of suspension orders.

No order under section 49A or 49B of this Act shall take effect until it is registered either—

- (a) in a case where the land affected by the order is registered in that Register, in the Land Register of Scotland, or
- (b) in any other case, in the appropriate division of the General Register of Sasines.

49E Reviews of suspension orders.

- (1) It shall be the duty of a planning authority—
 - (a) to undertake in accordance with the following provisions of this section reviews of suspension orders and supplementary suspension orders which are in operation in their area ; and
 - (b) to determine whether they should make, in relation to any land to which a suspension order or supplementary suspension order applies,—
 - (i) an order under section 49A of this Act ; or
 - (ii) a supplementary suspension order.
- (2) The first review of a suspension order shall be undertaken not more than five years from the date on which the order takes effect.
- (3) Each subsequent review shall be undertaken not more than five years after the previous review.
- (4) If a supplementary suspension order is in operation for any part of the area for which a suspension order is in operation, they shall be reviewed together.
- (5) If a planning authority have made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution

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for all the steps required to be taken by a previous order under section 49B of this Act, the authority shall undertake reviews of the supplementary suspension order in accordance with subsections (6) and (7) of this section.

- (6) The first review shall be undertaken not more than five years from the date on which the order takes effect.
- (7) Each subsequent review shall be undertaken not more than five years after the previous review.
- (8) The duty to undertake reviews imposed by this section is in addition to and not in substitution for the duties imposed by section 251A of this Act.

49F Resumption of winning and working of minerals after suspension order.

- (1) Nothing in a suspension order or a supplementary suspension order shall prevent the recommencement of development consisting of the winning and working of minerals in, on or under the land in relation to which the order is in effect ; but no person shall recommence such development without first giving the planning authority notice of his intention to do so.
- (2) A notice under subsection (1) of this section shall specify the date on which the person giving the notice intends to recommence development consisting of the winning and working of minerals.
- (3) The planning authority shall revoke the order if development consisting of the winning and working of minerals has recommenced to a substantial extent in, on or under the land in relation to which the order is in effect.
- (4) If the authority do not revoke the order before the end of the period of two months from the date specified in the notice under subsection (1) of this section, the person who gave that notice may apply to the Secretary of State for the revocation of the order.
- (5) Notice of an application under subsection (4) of this section shall be given by the applicant to the planning authority.
- (6) If he is required to do so by the person who gave the notice or by the planning authority, the Secretary of State, before deciding whether or not to revoke the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (7) If the Secretary of State is satisfied that development consisting of the winning and working of minerals in, on or under the land has recommenced to a substantial extent, he shall revoke the order.
- (8) If the Secretary of State revokes an order by virtue of subsection (7) of this section, he shall give notice of his revocation to the person who applied to him for the revocation and to the planning authority.

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49G Powers of regional planning authorities regarding orders under 49A or 49B.

The provisions of section 181 of the Local Government (Scotland) Act 1973 shall apply in relation to the provisions of sections 49A and 49B of this Act as they apply in relation to the provisions of sections 42 and 49 of this Act.”

Modifications etc. (not altering text)

- C1** The text of ss. 19(1)(2), 20, 21(1)–(4), 22–32, 34, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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