

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1 **E+W**

Section 21.

#### MINES AND WASTE

1 The principal Act is amended as follows.

##### Commencement Information

**I1** Sch. 1 para. 1 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

2 In section 72(5) (conditional grant of planning permission) after “the winning and working of minerals” there is inserted “ or involving the depositing of refuse or waste materials ”.

##### Commencement Information

**I2** Sch. 1 para. 2 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

3 In section 91(4) (circumstances in which general condition limiting duration of planning permission does not apply) for paragraph (d) there is substituted—

“(d) to any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—

(i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission; or

(ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission;”.

##### Commencement Information

**I3** Sch. 1 para. 3 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

4 In section 97 (power to revoke or modify planning permission) in subsection (5) the words from “and Part II of Schedule 5” to the end are omitted and after that subsection there is inserted—

“(6) Part II of Schedule 5 shall have effect for the purpose of making special provision with respect to the conditions that may be imposed by an order under this section which revokes or modifies permission for development—

(a) consisting of the winning and working of minerals; or

(b) involving the depositing of refuse or waste materials.”

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**Commencement Information**

**I4** Sch. 1 para. 4 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

5 In section 100 (revocation and modification of planning permission by the Secretary of State) for subsection (8) there is substituted—

“(8) Subsections (5) and (6) of section 97 apply for the purposes of this section as they apply for the purposes of that.”

**Commencement Information**

**I5** Sch. 1 para. 5 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

6 In section 102(8) (discontinuance orders, etc.) for “consisting in the winning and working of minerals” there is substituted “consisting of the winning and working of minerals or involving the depositing of refuse or waste materials”.

**Commencement Information**

**I6** Sch. 1 para. 6 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

7 For section 105 (duty of mineral planning authorities to review mineral workings) there is substituted—

**“105 Reviews by mineral planning authorities.**

- (1) Every mineral planning authority shall undertake periodic reviews about the winning and working of minerals and the depositing of mineral waste in their area.
- (2) Subject to regulations made by virtue of subsection (4), the duty under this section is, at such intervals as they think fit—
  - (a) to review every mining site in their area; and
  - (b) to consider whether they should make an order under section 97 or under paragraph 1, 3, 5 or 6 of Schedule 9, and if they do consider that they should make any such order, to make it.
- (3) For the purposes of subsection (2) “a mining site” means a site which—
  - (a) is being used for the winning and working of minerals or the depositing of mineral waste;
  - (b) has been so used at any time during—
    - (i) the period of five years preceding the date of the beginning of the review; or
    - (ii) such other period preceding that date as may be prescribed;
 or
  - (c) is authorised to be so used.
- (4) If regulations so require, the reviews shall be undertaken at prescribed intervals and shall cover such matters as may be prescribed.”

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**Commencement Information**

**I7** Sch. 1 para. 7 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 8 In section 107 (compensation where planning permission revoked or modified) in subsection (5) for “1(2)” there is substituted “ 1(3) ”.

**Commencement Information**

**I8** Sch. 1 para. 8 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 9 For section 116 (special basis for compensation in respect of certain orders affecting mineral working) there is substituted—

**“116 Modification of compensation provisions in respect of mineral working etc.**

- (1) Regulations made by virtue of this section with the consent of the Treasury may provide that where an order is made under—
- (a) section 97 modifying planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste; or
  - (b) paragraph 1, 3, 5 or 6 of Schedule 9 with respect to such winning and working or depositing,
- sections 107, 115, 117, 279 and 280 shall have effect subject, in such cases as may be prescribed, to such modifications as may be prescribed.
- (2) Any such regulations may make provision—
- (a) as to circumstances in which compensation is not to be payable;
  - (b) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed;
  - (c) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed,
- and may also make different provision for different cases and incidental or supplementary provision.
- (3) No such regulations shall be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.
- (4) Before making any such regulations the Secretary of State shall consult such persons as appear to him to be representative—
- (a) of persons carrying out mining operations;
  - (b) of owners of interests in land containing minerals; and
  - (c) of mineral planning authorities.”

**Commencement Information**

**I9** Sch. 1 para. 9 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

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- 10 In section 117(2) (general provisions as to compensation for depreciation under Part IV) for “under paragraph 1 of Schedule 11” there is substituted “by virtue of section 116”.

**Commencement Information**

**I10** Sch. 1 para. 10 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 11 In sections 189(1)(b) (penalties for contravention of orders under s.102 and Schedule 9) and 315(1) (power to modify Act in relation to minerals) after “minerals” there is inserted “or involving the depositing of mineral waste”.

**Commencement Information**

**I11** Sch. 1 para. 11 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 12 In section 336(1) (interpretation)—
- (a) after the definition of “conservation area” there is inserted—
- ““depositing of mineral waste” means any process whereby a mineral-working deposit is created or enlarged and “depositing of refuse or waste materials” includes the depositing of mineral waste;”
- (b) the definitions of “development consisting of the winning and working of minerals” and “mineral compensation modifications” are omitted;
- (c) in the definition of “minerals” for “minerals and substances in or under land” there is substituted “substances”;
- (d) the definitions of “relevant order”, “restriction on the winning and working of minerals” and “special consultations” are omitted; and
- (e) at the end there is inserted—
- ““the winning and working of minerals” includes the extraction of minerals from a mineral working deposit.”

**Commencement Information**

**I12** Sch. 1 para. 12 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 13 In Schedule 1 (local planning authorities: distribution of functions), in paragraph 1—
- (a) in sub-paragraph (1)(d) for “disposal” there is substituted “depositing”;
- and
- (b) sub-paragraph (2) is omitted.

**Commencement Information**

**I13** Sch. 1 para. 13 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 14 (1) In Schedule 5, in paragraph 1(1) for “consisting of the winning and working of minerals” there is substituted “—
- (a) consisting of the winning and working of minerals; or

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- (b) involving the depositing of mineral waste.”.
- (2) In sub-paragraphs (2), (3) and (5) of that paragraph for “development”, in each place where it occurs, there is substituted “winning and working of minerals or the depositing of mineral waste”.
- (3) In sub-paragraph (6) of that paragraph “consisting of the winning and working of minerals” is omitted.
- (4) In paragraph 2(1) of that Schedule—
- (a) in paragraph (a) after “minerals” there is inserted “or involving the depositing of refuse or waste materials”; and
- (b) in paragraph (b) for “operations for the winning and working of minerals have been completed” there is substituted “the winning and working is completed or the depositing has ceased”.
- (5) In paragraph 6 of that Schedule for the words from “carried out” to “under the land” there is substituted “won and worked minerals or deposited refuse or waste materials”.
- (6) In paragraph 7 of that Schedule after “minerals” there is inserted “or involving the depositing of refuse or waste materials”.
- (7) At the end of that Schedule there is inserted—

*“ Interpretation*

- 9 In this Schedule any reference to a mineral planning authority shall be construed, in relation to the exercise of functions with respect to the depositing of refuse or waste materials (other than mineral waste), as a reference to the authority entitled to discharge such functions.”

**Commencement Information**

**I14** Sch. 1 para. 15 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

- 15 (1) In Schedule 9, in paragraph 1(1) for paragraph (a) there is substituted—
- “(a) that any use of land for—
- (i) development consisting of the winning and working of minerals; or
- (ii) the depositing of refuse or waste materials,
- should be discontinued or that any conditions should be imposed on the continuance of the winning and working or the depositing;”.
- (2) For paragraph (c) of that sub-paragraph there is substituted—
- “(c) that any plant or machinery used for the winning and working or the depositing should be altered or removed;”.
- (3) For sub-paragraphs (2) and (3) of that paragraph there is substituted—
- “(2) An order under this paragraph may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be—
- (a) required by paragraph 1 of Schedule 5; or

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- (b) specified in the order.
- (3) Subsections (3) to (5) and (7) of section 102 and section 103 apply to orders under this paragraph as they apply to orders under section 102, but as if—
  - (a) references to the local planning authority were references to the mineral planning authority; and
  - (b) the reference in section 103(2)(a) to subsection (2) of section 102 were a reference to sub-paragraph (2).”
- (4) In paragraph 2 of that Schedule for sub-paragraph (1) there is substituted—
 

“(1) An order under paragraph 1 may impose a restoration condition”.
- (5) In sub-paragraph (4)(b) of that paragraph for the words from “before” to “under it” there is substituted “before the development began ”.
- (6) For paragraph 3(1) to (3) of that Schedule there is substituted—
 

“(1) Where it appears to the mineral planning authority—

  - (a) that development of land—
    - (i) consisting of the winning and working of minerals; or
    - (ii) involving the depositing of mineral waste,
 has occurred; but
  - (b) the winning and working or depositing has permanently ceased, the mineral planning authority may by order—
    - (i) prohibit the resumption of the winning and working or the depositing; and
    - (ii) impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).

(2) The mineral planning authority may assume that the winning and working or the depositing has permanently ceased only when—

  - (a) no winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least two years; and
  - (b) it appears to the mineral planning authority, on the evidence available to them at the time when they make the order, that resumption of the winning and working or the depositing to any substantial extent at the site is unlikely.

(3) The requirements mentioned in sub-paragraph (1) are—

  - (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working or the depositing 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 or depositing, other than injury due to subsidence caused by underground mining operations;
  - (c) a requirement that any condition subject to which planning permission for the development was granted or which has been imposed by virtue of any provision of this Act shall be complied with; and

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- (d) a restoration condition.”
- (7) At the end of paragraph 4(8) of that Schedule there is inserted “ or involving the depositing of mineral waste ”.
- (8) For paragraph 5(1) of that Schedule there is substituted—
- “(1) Where it appears to the mineral planning authority—
- (a) that development of land—
- (i) consisting of the winning and working of minerals; or
- (ii) involving the depositing of mineral waste,
- has occurred; but
- (b) the winning and working or depositing has been temporarily suspended,
- the mineral planning authority may by order require that steps be taken for the protection of the environment.”
- (9) For sub-paragraphs (3) and (4) there is substituted—
- “(3) The mineral planning authority may assume that the winning and working or the depositing has been temporarily suspended only when—
- (a) no such winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least twelve months; but
- (b) it appears to the mineral planning authority, on the evidence available to them at the time when they make the order, that a resumption of such winning and working or depositing to a substantial extent is likely.
- (4) 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 the winning and working or the depositing is 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.”
- (10) In paragraph 10(1) of that Schedule for “in, on or under the land” there is substituted “ or involving the depositing of mineral waste at the site ”.
- (11) In sub-paragraph (3) of that paragraph for “development consisting of the winning and working of minerals” there is substituted “ the development ”.
- (12) For sub-paragraph (4) of that paragraph there is substituted—
- “(4) The mineral planning authority shall revoke the order if the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect.”
- (13) For sub-paragraph (8) there is substituted—

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“(8) If the Secretary of State is satisfied that the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect, he shall revoke the order.”

(14) At the end of that Schedule there is inserted—

*“ Interpretation*

12 In this Schedule any reference to a mineral planning authority shall be construed, in relation to the exercise of functions with respect to the depositing of refuse or waste materials (other than mineral waste), as a reference to the authority entitled to discharge such functions.”

**Commencement Information**

**I15** Sch. 1 para. 15 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

16 (1) Schedule 11 (compensation in respect of certain orders affecting mineral working) is omitted.

(2) Without prejudice to section 17(2)(b) of the <sup>M1</sup>Interpretation Act 1978, any regulations made or having effect as if made by virtue of Schedule 11 to the principal Act shall, to the extent that they are in force on the coming into force of this paragraph, have effect as if made under section 116 of the principal Act as substituted by paragraph 9 of this Schedule.

**Commencement Information**

**I16** Sch. 1 para. 16 wholly in force at 25.9.1991, see s. 84(2)(3) and S.I. 1991/2067, art. 3

**Marginal Citations**

**M1** 1978 c. 30.



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