



# Environment Act 1995

## 1995 CHAPTER 25

### PART II

#### CONTAMINATED LAND AND ABANDONED MINES

#### **58 Abandoned mines: England and Wales.**

After Chapter II of Part III of the Water Resources Act 1991 (pollution offences) there shall be inserted—

#### “CHAPTER IIA

#### ABANDONED MINES

#### **91A Introductory.**

- (1) For the purposes of this Chapter, “abandonment”, in relation to a mine,—
- (a) subject to paragraph (b) below, includes—
    - (i) the discontinuance of any or all of the operations for the removal of water from the mine;
    - (ii) the cessation of working of any relevant seam, vein or vein-system;
    - (iii) the cessation of use of any shaft or outlet of the mine;
    - (iv) in the case of a mine in which activities other than mining activities are carried on (whether or not mining activities are also carried on in the mine)—
      - (A) the discontinuance of some or all of those other activities in the mine; and
      - (B) any substantial change in the operations for the removal of water from the mine; but
  - (b) does not include—

*Status: Point in time view as at 14/07/2014.*

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- (i) any disclaimer under section 178 or 315 of the <sup>M1</sup>Insolvency Act 1986 (power of liquidator, or trustee of a bankrupt's estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity; or
  - (ii) the abandonment of any rights, interests or liabilities by the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the <sup>M2</sup>Bankruptcy (Scotland) Act 1985);
- and cognate expressions shall be construed accordingly.

- (2) In this Chapter, except where the context otherwise requires—
- “the 1954 Act” means the <sup>M3</sup>Mines and Quarries Act 1954;
  - “acting in a compulsory capacity”, in the case of the official receiver, means acting as—
    - (a) liquidator of a company;
    - (b) receiver or manager of a bankrupt's estate, pursuant to section 287 of the <sup>M4</sup>Insolvency Act 1986;
    - (c) trustee of a bankrupt's estate;
    - (d) liquidator of an insolvent partnership;
    - (e) trustee of an insolvent partnership;
    - (f) trustee, or receiver or manager, of the insolvent estate of a deceased person;
  - “mine” has the same meaning as in the 1954 Act;
  - “the official receiver” has the same meaning as it has in the <sup>M5</sup>Insolvency Act 1986 by virtue of section 399(1) of that Act;
  - “prescribed” means prescribed in regulations;
  - “regulations” means regulations made by the Secretary of State;
  - “relevant seam, vein or vein-system”, in the case of any mine, means any seam, vein or vein-system for the purpose of, or in connection with, whose working any excavation constituting or comprised in the mine was made.

**91B Mine operators to give the Agency six months' notice of any proposed abandonment.**

- (1) If, in the case of any mine, there is to be an abandonment at any time after the expiration of the initial period, it shall be the duty of the operator of the mine to give notice of the proposed abandonment to the Agency at least six months before the abandonment takes effect.
- (2) A notice under subsection (1) above shall contain such information (if any) as is prescribed for the purpose, which may include information about the operator's opinion as to any consequences of the abandonment.
- (3) A person who fails to give the notice required by subsection (1) above shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4) A person shall not be guilty of an offence under subsection (3) above if—

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- (a) the abandonment happens in an emergency in order to avoid danger to life or health; and
- (b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.

(5) Where the operator of a mine is—

- (a) the official receiver acting in a compulsory capacity, or
- (b) the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the <sup>M6</sup>Bankruptcy (Scotland) Act 1985),

he shall not be guilty of an offence under subsection (3) above by reason of any failure to give the notice required by subsection (1) above if, as soon as reasonably practicable (whether before or after the abandonment), he gives to the Agency notice of the abandonment or proposed abandonment, containing such information as may be prescribed.

(6) Where a person gives notice under subsection (1), (4)(b) or (5) above, he shall publish prescribed particulars of, or relating to, the notice in one or more local newspapers circulating in the locality where the mine is situated.

(7) Where the Agency—

- (a) receives notice under this section or otherwise learns of an abandonment or proposed abandonment in the case of any mine, and
- (b) considers that, in consequence of the abandonment or proposed abandonment taking effect, any land has or is likely to become contaminated land, within the meaning of Part IIA of the <sup>M7</sup>Environmental Protection Act 1990,

it shall be the duty of the Agency to inform the local authority in whose area that land is situated of the abandonment or proposed abandonment.

(8) In this section—

“the initial period” means the period of six months beginning with the day on which subsection (1) above comes into force;

“local authority” means—

- (a) any unitary authority;
- (b) any district council, so far as it is not a unitary authority;
- (c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

“unitary authority” means—

- (a) the council of a county, so far as it is the council of an area for which there are no district councils;
- (b) the council of any district comprised in an area for which there is no county council;
- (c) the council of a London borough;
- (d) the council of a county borough in Wales.”

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### Commencement Information

- II** S. 58 wholly in force at 1.7.1998; s. 58 not in force at Royal Assent see s. 125(3); s. 58 in force for specified purposes at 21.9.1995 by S.I. 1995/1983, art. 3; s. 58 in force on 1.7.1998 insofar as not already in force by S.I. 1998/604, art. 2
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### Marginal Citations

- M1** 1986 c. 45.  
**M2** 1985 c. 66.  
**M3** 1954 c. 70.  
**M4** 1986 c. 45.  
**M5** 1986 c. 45.  
**M6** 1985 c. 66.  
**M7** 1990 c. 43.

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