



# Environment Act 1995

## 1995 CHAPTER 25

### PART II

#### CONTAMINATED LAND AND ABANDONED MINES

#### **60 Amendments to sections 89 and 161 of the Water Resources Act 1991**

- (1) In section 89 of the Water Resources Act 1991 (defences) in subsection (3) (person not to be guilty of an offence under section 85 by reason only of permitting water from an abandoned mine to enter controlled waters) after the words “an abandoned mine” there shall be inserted the words “or an abandoned part of a mine”.
- (2) After that subsection there shall be inserted—
  - “(3A) Subsection (3) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.
  - (3B) In determining for the purposes of subsection (3A) above whether a mine or part of a mine became abandoned before, on or after 31st December 1999 in a case where the mine or part has become abandoned on two or more occasions, of which—
    - (a) at least one falls on or before that date, and
    - (b) at least one falls after that date,the mine or part shall be regarded as becoming abandoned after that date (but without prejudice to the operation of subsection (3) above in relation to that mine or part at, or in relation to, any time before the first of those occasions which falls after that date).
  - (3C) Where, immediately before a part of a mine becomes abandoned, that part is the only part of the mine not falling to be regarded as abandoned for the time being, the abandonment of that part shall not be regarded for the purposes of subsection (3A) or (3B) above as constituting the abandonment of the mine, but only of that part of it.”

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*Status: This is the original version (as it was originally enacted).*

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- (3) In section 161 of that Act (anti-pollution works and operations) in subsection (1), after paragraph (b) there shall be inserted the words—

“and, in either case, the Agency shall be entitled to carry out investigations for the purpose of establishing the source of the matter and the identity of the person who has caused or knowingly permitted it to be present in controlled waters or at a place from which it was likely, in the opinion of the Agency, to enter controlled waters.”

- (4) In subsection (3) of that section (Agency entitled to recover expenses of works or operations from the person responsible for the pollution) for the words “or operations” there shall be substituted the words “operations or investigations”.

- (5) In subsection (4) of that section (exception for expenses of works or operations in respect of water from an abandoned mine)—

- (a) for the words “or operations” there shall be substituted the words “operations or investigations”; and
- (b) after the words “an abandoned mine” there shall be inserted the words “or an abandoned part of a mine”.

- (6) After that subsection there shall be inserted—

“(4A) Subsection (4) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

(4B) Subsections (3B) and (3C) of section 89 above shall apply in relation to subsections (4) and (4A) above as they apply in relation to subsections (3) and (3A) of that section.”

- (7) In subsection (6) of that section (definitions), after the definition of “controlled waters” there shall be inserted—

““expenses” includes costs;”.