

EXPLANATORY MEMORANDUM TO
THE COAL MINING SUBSIDENCE (SUBSIDENCE ADVISER)
(REVOCAATION) REGULATIONS 2004 No.2241

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Regulations revoke the Coal Mining Subsidence (Subsidence Adviser) Regulations 1994 (S.I. 1994/2563 “the 1994 Regulations”). The 1994 Regulations provided for the appointment of a Subsidence Adviser, and the Regulations are being revoked because of a decision taken to abolish the post.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The functions of the Subsidence Adviser are to provide information in respect of the statutory rights of persons affected by subsidence damage and to investigate complaints that persons responsible for remedying subsidence damage have acted improperly in the discharge of claims as mentioned in the 1994 Regulations.

4.2 The workload of the post has been declining in reflection of the decline in the incidence of coal subsidence damage, with the result that a decision has been taken to wind up the Office of the Subsidence Adviser at the end of the term of appointment of the present post holder on 9 October 2004.

5. Extent

5.1 The instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Background

7.1 The post of the Subsidence Adviser was established as part of the process of privatising the coal industry in 1994. Since this time the workload of the post has been gradually declining. In the most recent information about his workload the post holder has shown that in 2003-04 he received 385 information requests and he commenced no complaint investigations. By

comparison in 1995-96, which was the first full year of his operations, the Adviser received 597 information requests and he commenced 17 complaint investigations. In April 2003 the Department sought the views of stakeholders on the future need for the Office. As part of this consultation process Ministers wrote to 255 coalfield MPs. Of the 27 MPs who replied 11 argued in favour of the post continuing. In light of this concern the post holder was given a further appointment of one year.

7.2 In the last year the workload has continued to decline and the Adviser's time is now largely spent in responding to information requests. He has not carried out any complaint investigations since 2000-01. Alternative arrangements are in place, as follows:

- The Coal Authority, as a publicly funded body, is equipped to advise on the legal rights of property owners.
- Any disputes over a subsidence claim can be taken to the Lands Tribunal.
- Alternatively, disputes can be resolved through cheap and quick arbitration arrangements provided by the Chartered Institute of Arbitrators specifically to deal with disputes about subsidence damage.
- The rights of property owners are also set out in a booklet on subsidence damage, which the Department of Trade and Industry has produced. The booklet additionally includes advice on how to make a subsidence claim.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Peter Dobson at the Department of Trade and Industry Tel: 020-7215 5367 or e-mail: Peter.A.Dobson@dti.gsi.gov.uk can answer any queries regarding the instrument.