

SCHEDULES

SCHEDULE 8

Section 51

MINES AND WASTE - SCOTLAND

- 1 The 1972 Act is amended as follows.
- 2 In section 27A (aftercare conditions on permission for winning and working of minerals)—
 - (a) in subsection (1) after “minerals” there is inserted “or involving the depositing of refuse or waste materials”;
 - (b) in subsection (2) 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”; and
 - (c) in subsection (18) for the words from “carried out” to “under the land” there is substituted “won and worked minerals or deposited refuse or waste materials”.
- 3 In section 38(3) (circumstances in which general condition limiting duration of planning permission does not apply) for paragraph (bb) there is substituted—
 - “(bb) 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;”.
- 4 (1) In section 41A (limit of duration of planning permission for winning and working of minerals), in subsection (1) for “consisting of the winning and working of minerals” there is substituted “—
 - (a) consisting of the winning and working of minerals; or
 - (b) involving the depositing of mineral waste;”.
- (2) In subsections (2), (3) and (5) of that section for “development”, in each place where it occurs, there is substituted “winning and working of minerals or the depositing of mineral waste”.
- (3) In subsections (6) and (7) of that section the words “consisting of the winning and working of minerals” in both places where they occur, are omitted.
- 5 (1) Section 49 (discontinuance orders, etc.) is amended as follows.
- (2) In subsection (1A), after “minerals” there is inserted “or involving the deposit of refuse or waste materials”.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (1B), for “of minerals” there is substituted “or depositing”.
- (4) In subsection (1C), after “minerals” there is inserted “or involving the deposit of refuse or waste materials”.
- (5) For subsection (1E) there is substituted—
- “(1E) An order under this section 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 section 41A of this Act; or
- (b) specified in the order.”.
- (6) In subsection (1F), for the words from “before” to “under it” there is substituted “before the development began”.
- (7) In subsection (7) at the beginning there is inserted “Subject to subsection (7A) of this section,”.
- (8) After subsection (7) there is inserted—
- “(7A) Subsection (7) of this section does not apply where the order under this section relates to the discontinuance of a use of land consisting of the winning and working of minerals or involving the deposit of refuse or waste materials.”.
- 6 (1) For subsections (1) to (3) of section 49A (prohibition of resumption of winning and working of minerals) there is substituted—
- “(1) Where it appears to the 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 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 subsection (3) of this section.
- (2) The 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 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 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 or the depositing or for any purpose ancillary to that purpose;

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- (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
 - (d) a restoration condition.”
 - (2) At the end of subsection (11) of that section there is inserted “or involving the depositing of mineral waste”.
- 7 For subsections (1) to (3) of section 49B (orders after suspension of winning and working of minerals) there is substituted—
 - “(1) Where it appears to the 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 planning authority may by order (in this Act referred to as a “suspension order”) require that steps be taken for the protection of the environment.
 - (2) The 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 12 months; but
 - (b) it appears to the 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.
 - (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 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.”.
- 8 In section 49F (resumption of winning and working of minerals after suspension order)—
 - (a) in subsection (1), for “in, on or under the land” there is substituted “or involving the depositing of mineral waste at the site”;
 - (b) in subsection (2) for “development consisting of the winning and working of minerals” there is substituted “the development”;
 - (c) for subsection (3) there is substituted—

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“(3) The 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.”;

(d) for subsection (7) there is substituted—

“(7) 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.”

9 In sections 100(1)(b) (enforcement of orders under sections 49, 49A and 49B) and 251(1) (power to modify Act in relation to minerals) after “minerals” there is inserted “or involving the depositing of mineral waste”.

10 Sections 153A, 159A and 159B are omitted.

11 For section 167A there is substituted—

“167A Regulations as to compensation in respect of orders relating to mineral working

(1) The Secretary of State may by regulations made with the consent of the Treasury provide, in relation to orders made under—

- (a) section 42 of this Act modifying planning permission for development consisting of the winning or working of minerals or involving the depositing of mineral waste; or
- (b) section 49, 49A or 49B of this Act with respect to such winning and working or depositing,

that sections 153, 159, 167, 226 and 227 of this Act shall have effect subject, in such cases as may be prescribed, to such modifications as may be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, regulations made by virtue of this section 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 regulations under this section shall have effect until 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;
- (c) of planning authorities.”.

12 Sections 167B and 167C are omitted.

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- 13 In section 251(1A) (power to modify Act in relation to minerals) the definition of “development consisting of the winning and working of minerals” is omitted.
- 14 For section 251A (duty of planning authorities to review mineral workings) there is substituted—

“251A Reviews of mineral workings by planning authorities

- (1) Every 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) of this section, 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 42, 49, 49A or 49B of this Act, 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.”
- 15 In section 275(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 definition of “development consisting of the winning and working of minerals” is omitted;
 - (c) the definition of “mineral compensation modifications” is omitted;
 - (d) in the definition of “minerals” for “minerals and substances in or under land” there is substituted “substances”;
 - (e) the definitions of “relevant order”, “restrictions on the winning and working of minerals” and “special consultations” are omitted; and
 - (f) at the end there is inserted—

““the winning and working of minerals” includes the extraction of minerals from a mineral working deposit.”