
Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Prohibition of resumption of mineral working is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 8

OLD MINERAL WORKINGS AND PERMISSIONS

PART I

REQUIREMENTS RELATING TO DISCONTINUANCE OF MINERAL WORKING

Prohibition of resumption of mineral working

- 3 (1) Where it appears to the planning authority that development of land consisting of the winning and working of minerals or involving the depositing of mineral waste has occurred, but the winning and working or depositing has permanently ceased, the planning authority may by order—
- (a) prohibit the resumption of the winning and working or the depositing, and
 - (b) impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).
- (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 2 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 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
 - (d) a restoration condition.
- (4) If—
- (a) an order under this paragraph includes a restoration condition, or
 - (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act,

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the order may include any such aftercare condition as the planning authority think fit.

- (5) Paragraphs 2(3) to (9), 3(3) and (4) and 4 to 6 of Schedule 3 apply in relation to an aftercare condition imposed under this paragraph as they apply to such a condition imposed under paragraph 2 of that Schedule.
- (6) In a case where—
- (a) the use specified in an aftercare condition is a use for agriculture,
 - (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on, or under it or had previously been used for any authorised purpose since its use for agriculture ceased, and
 - (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,
- the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (7) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.
- 4 (1) An order under paragraph 3 shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (2) Where a planning authority submit such an order to the Secretary of State for his confirmation under this paragraph, the authority shall serve notice of the order—
- (a) on any person who is an owner or occupier of any of the land to which the order relates, and
 - (b) on any other person who in their opinion will be affected by it.
- (3) The notice shall specify the period within which any person on whom the notice is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.
- (4) If within that period such a person so requires, the Secretary of State shall, before confirming the order, give such an opportunity both to that person and to the planning authority.
- (5) The period referred to in sub-paragraph (3) must not be less than 28 days from the service of the notice.
- (6) Where an order under paragraph 3 has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under sub-paragraph (2).
- (7) When an order under paragraph 3 takes effect any planning permission for the development to which the order relates shall cease to have effect.
- (8) Sub-paragraph (7) is without prejudice to the power of the planning authority, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)