STATUTORY INSTRUMENTS

1990 No. 803

TOWN AND COUNTRY PLANNING, ENGLAND AND WALES

The Town and Country Planning (Compensation for Restrictions on Mineral Working) (Amendment) Regulations 1990

Approved by both Houses of Parliament

Made - - - -	*22nd February 1990*
Laid before Parliament	*1st March 1990*
Coming into force	*1st April 1990*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred upon them by section 178A of the Town and Country Planning Act 1971**(a)** and all other powers enabling them in that behalf, with the consent of the Treasury and after consulting persons and bodies appearing to them to be representative of persons carrying out mining operations, of owners of interests in land containing minerals and of mineral planning authorities, hereby make the following Regulations–

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Compensation for Restrictions on Mineral Working) (Amendment) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations "the principal Regulations" means the Town and Country Planning (Compensation for Restrictions on Mineral Working) Regulations 1985**(b)**.

Amendment of principal Regulations

2. For paragraph 1 of regulation 2 of the principal Regulations (interpretation) substitute–

"(1) In these regulations, unless the context otherwise requires:–

"the 1971 Act" means the Town and Country Planning Act 1971;

"the 1988 Act" means the Local Government Finance Act 1988**(c)**;

"the 1989 Regulations" means the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989**(d)**;

(a) 1971 c. 78; section 178A was inserted by section 16 of the Town and Country Planning (Minerals) Act 1981 (c. 36). **(b)** S.I. 1985/698, amended by S.I. 1988/726. **(c)** 1988 c. 41. **(d)** S.I. 1989/1060, amended by S.I. 1989/2303.

"the appropriate portion" has the meaning assigned to it by regulation 7;

"hereditament" has the meaning assigned to it by section 64(1) of the 1988 Act;

"local non-domestic rating list" means the list maintained under Part III of the 1988 Act for the charging authority in whose area the site is situated, or is treated as being situated by virtue of regulation 6 of the 1989 Regulations;

"order" means an order made under section 45 or section 51 of the 1971 Act in relation to development consisting of the winning and working of minerals, or an order made under section 51A or 51B of that Act;

"retail prices index" means the general index of retail prices (for all items) published by the Department of Employment;

"site" means the area of land to which an order relates;

"valuation officer" means the officer appointed under section 61 of the 1988 Act for the charging authority in whose area the site is situated, or is treated as being situated by virtue of regulation 6 of the 1989 Regulations."

3. In paragraph (2) of regulation 3 of the principal Regulations (modifications of section 164 of the 1971 Act) for the proviso substitute –

"Provided that this paragraph shall not apply to expenditure which has, by virtue of this regulation or regulation 4, been treated as constituting loss or damage directly attributable to an order for the purposes of a previous claim for compensation under section 164 or section 170."

4. In paragraph (3) of regulation 4 of the principal Regulations (modification of section 170 of the 1971 Act) for the proviso substitute–

"Provided that this paragraph shall not apply to expenditure which has, by virtue of this regulation or regulation 3, been treated as constituting loss or damage directly attributable to an order for the purposes of a previous claim for compensation under section 164 or section 170."

5. In regulation 5 of the principal Regulations (assessment of compensation in relation to an order made under section 51A or section 51B of the 1971 Act) for "£5,000" substitute "£6,400".

6. In regulation 6 of the principal Regulations (assessment of compensation in relation to an order made under section 45 or section 51 of the 1971 Act)–

(a) for "£2,500" in paragraph (1)(b)(i) substitute "£3,200";

(b) for "£100,000" in paragraph 1(b)(ii) substitute "£128,000".

7. In paragraph (4) of regulation 7 of the principal Regulations (meaning of "the appropriate portion")–

(a) for "£5,000" in sub-paragraph (a) substitute "£6,400";

(b) for "£2,500" in sub-paragraph (b) substitute "£3,200";

(c) for "£100,000" in sub-paragraph (d) substitute "£128,000".

8. In Schedule 1 to the principal Regulations (calculation of the annual value of the right to win and work minerals)–

(a) for paragraph 3(1) substitute–

"(1) deducting from the net annual value of the site the figure shown in the local non-domestic rating list as its rateable value;";

(b) in paragraphs 4(1), 5(2), 6(1) and 6(2) for "specified in the valuation list" substitute "shown in the local non-domestic rating list" and in paragraph 4(1) for "specified in that list" substitute "shown in that list";

(c) in paragraph 5(1) omit "(as specified in the valuation list)";

(d) in paragraph 6(1) for "net annual value" substitute "rateable value";

(e) for paragraph 7 substitute–

"7. For the purposes of paragraphs 3 to 6 of this Schedule–

(1) the appropriate factor is the sum ascertained by multiplying the retail prices index for the month in which the order took effect by the figure of 0.0094518 and rounding up the figure resulting from that calculation to the nearest two decimal places;

(2) the net annual value of a site is the sum certified by the valuation officer as the sum which would have been the rateable value of the site if no account had been taken of regulation 5 of the 1989 Regulations and, in the case of a site to which paragraph 8 applies, if the site had formed one hereditament.";

(f) in paragraph 8 for "valuation list" substitute "local non-domestic rating list" and for "valuation lists" substitute "local non-domestic rating lists" wherever those expressions occur and omit "the net annual value of the site and";

(g) for paragraph 9 substitute–

"9.—(1) Subject to sub-paragraph (2), reference to the rateable value of the site shall be taken to refer to the rateable value shown for the site in the local non-domestic rating list on the day on which the claim for compensation is made in relation to the order.

(2) Where, at the date when a claim for compensation is made in relation to the order–

(i) a proposal has been made under regulations made under section 55 of the 1988 Act for the alteration of the local non-domestic rating list in relation to a hereditament which consists of, includes, or forms part of the site to which the order relates;

(ii) that proposal relates to an alteration which would take effect from a date which is on or before the date when the order takes effect;

(iii) that proposal has not been withdrawn; and

(iv) no alteration has been made to the local non-domestic rating list as a result of that proposal and no final decision on the proposal has been issued,

reference to the rateable value of the site shall be taken to refer to the value which results from the final determination of that proposal."

9. In Schedule 2 to the principal Regulations (multiplier appropriate to the estimated life of site or mineral)–

(a) in paragraphs 2(2) and 3(2) omit "net annual value of the site and the" and for "valuation list" substitute "local non-domestic rating list";

(b) in paragraph 5 for "valuation list" substitute "local non-domestic rating list" and for "valuation lists" substitute "local non-domestic rating lists" wherever those expressions occur and omit "the net annual value of the site and".

Revocation and transitional provisions

10.—(1) The Town and Country Planning (Compensation for Restrictions on Mineral Working) (Amendment) Regulations 1988**(a)** are hereby revoked.

(a) S.I. 1988/726.

(2) These Regulations do not apply to a claim for compensation in relation to an order made before the date of coming into force of these regulations, and for the purpose of such a claim"valuation list", "net annual value" and "rateable value" in Schedules 1 and 2 to the principal Regulations shall be taken to refer to the list and values to which those terms referred immediately before April 1st, 1990.

Chris Patten
Secretary of State for the Environment

20th February 1990

Peter Walker
Secretary of State for Wales

21st February 1990

We consent,

John Taylor
Kenneth Carlise
Two of the Lords Commissioners of Her Majesty's Treasury

22nd February 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Compensation for Restrictions on Mineral Working) Regulations 1985. The amendments are–

(a) amendments to regulations 3 and 4 (modifications to sections 164 and 170 of the Town and Country Planning Act 1971) to ensure that claimants are not able to include expenditure incurred by voluntary agreement in more than one compensation claim (regulations 3 and 4);

(b) the substitution in consequence of the revised valuation date for rateable values of 0.0094518 for 0.0428339 as the multiplier to be used in the calculation of the annual value of the right to win and work minerals (regulation 8(e));

(c) a revision of the figures of £2,500, £5,000 and £100,000 in regulations 5, 6 and 7 of the 1985 Regulations to £3,200, £6,400 and £128,000 respectively (regulations 5, 6, and 7);

(d) the replacement of references in Schedules 1 and 2 to the 1985 regulations to factors connected with the rating system under the General Rate Act 1967 (c.9) by reference to corresponding factors connected with the new rating system under the Local Government Finance Act 1988 and some consequential redrafting (regulations 8 and 9).

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