
STATUTORY INSTRUMENTS

1994 No. 2595

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**

**The Town and Country Planning General
Development (Amendment) (No. 2) Order 1994**

<i>Made</i>	- - - -	<i>6th October 1994</i>
<i>Laid before Parliament</i>		<i>10th October 1994</i>
<i>Coming into force</i>	- -	<i>31st October 1994</i>

he 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 on them by sections 59, 60, 61(1), 65, 74 and 333(7) of the Town and Country Planning Act 1990⁽¹⁾, section 54 of the Coal Industry Act 1994⁽²⁾ and all other powers enabling them in that behalf, hereby make the following Order—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Town and County Planning General Development (Amendment) (No. 2) Order 1994 and shall come into force on 31st October 1994.

(2) In this Order “the 1988 Order” means the Town and Country Planning General Development Order 1988⁽³⁾.

Notification of mineral applications

2. In article 13 of the 1988 Order (notification of mineral applications)—

- (a) in paragraph (1)(a), for “British Coal Corporation”, substitute “Coal Authority”;
- (b) in paragraph (1)(b), for “Secretary of State for Energy”, substitute “Secretary of State for Trade and Industry”⁽⁴⁾;
- (c) for paragraph (2), substitute—

“(2) In this article, “coal” means coal other than that—

(1) 1990 c. 8.
(2) 1994 c. 21.
(3) S.I.1988/1813; relevant amending instruments are S.I. 1992/1493, 1992/2450.
(4) See the Transfer of Functions (Energy) Order 1992 (S.I. 1992/1314).

- (a) won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal, or
- (b) which it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal.”.

Consultations before the grant of permission

- 3. In article 18 of the 1988 Order (consultations before the grant of permission)—
 - (a) in paragraph (i) of the table, for “British Coal Corporation”, substitute “Coal Authority” in each place where it occurs;
 - (b) omit paragraph (k) of the table.

Development ancillary to mining operations

- 4. In Part 19 of Schedule 2 to the 1988 Order (development ancillary to mining operations)—
 - (a) in paragraph C.1, for “British Coal Corporation, or any lessee or licensee of theirs”, substitute “Coal Authority or any licensed operator within the meaning of section 65 of the Coal Industry Act 1994”;
 - (b) in paragraph D.2, for the definition of “minerals”, substitute ““minerals” does not include any coal other than coal won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal or confined to the digging or carrying away of coal that it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal;”.

Coal mining development

- 5. In Part 20 of Schedule 2 to the 1988 Order (British Coal mining development)—
 - (a) for the heading to Part 20 and Class A substitute—

“PART 20

COAL MINING DEVELOPMENT BY THE COAL AUTHORITY AND ITS LICENSEES

Class A Permitted development

A. Development by a licensee of the Coal Authority, in a mine started before 1st July 1948, consisting of—

- (a) **the winning and working underground of coal or coal-related minerals in a designated seam area; or**
- (b) **the carrying out of development underground which is required in order to gain access to and work coal or coal-related minerals in a designated seam area.**

Conditions

A.1 Development is permitted by Class A subject to the following conditions—

- (a) subject to sub-paragraph (b)—

- (i) except in a case where there is an approved restoration scheme or mining operations have permanently ceased, the developer shall, before 31st December 1995 or before any later date which the mineral planning authority may agree in writing, apply to the mineral planning authority for approval of a restoration scheme;
- (ii) where there is an approved restoration scheme, reinstatement, restoration and aftercare shall be carried out in accordance with that scheme;
- (iii) if an approved restoration scheme does not specify the periods within which reinstatement, restoration or aftercare should be carried out, it shall be subject to conditions that—
 - (aa) reinstatement or restoration, if any, shall be carried out before the end of the period of 24 months from either the date when the mining operations have permanently ceased or the date when any application for approval of a restoration scheme under sub-paragraph (a)(i) has been finally determined, whichever is later, and
 - (bb) aftercare, if any, in respect of any part of a site, shall be carried out throughout the period of five years from either the date when any reinstatement or restoration in respect of that part is completed or the date when any application for approval of a restoration scheme under sub-paragraph (a)(i) has been finally determined, whichever is later;
- (iv) where there is no approved restoration scheme—
 - (aa) all buildings, plant, machinery, structures or erections used at any time for or in connection with any previous coal-mining operations at that mine shall be removed from any land which is an authorised site unless the mineral planning authority have otherwise agreed in writing, and
 - (bb) that land shall, so far as practicable, be restored to its condition before any previous coal-mining operations at that mine took place or to such condition as may have been agreed in writing between the mineral planning authority and the developer, before the end of the period specified in sub-paragraph (v);
- (v) the period referred to in sub-paragraph (iv) is—
 - (aa) the period of 24 months from the date when the mining operations have permanently ceased or, if an application for approval of a restoration scheme has been made under sub-paragraph (a)(i) before that date, 24 months from the date when that application has been finally determined, whichever is later, or
 - (bb) any longer period which the mineral planning authority have agreed in writing;
- (vi) for the purposes of sub-paragraph (a), an application for approval of a restoration scheme has been finally determined when the following conditions have been met—
 - (aa) any proceedings on the application, including any proceedings on or in consequence of an application under section 288 of the Town and Country Planning Act 1990, have been determined, and

- (bb) any time for appealing under section 78, or applying or further applying under section 288, of that Act (where there is a right to do so) has expired;
- (b) sub-paragraph (a) shall not apply to land in respect of which there is an extant planning permission which—
 - (i) has been granted on an application under Part III of the Town and Country Planning Act 1990, and
 - (ii) has been implemented.

Interpretation

A.2 For the purposes of Class A—

“a licensee of the Coal Authority” means any person who is for the time being authorised by a licence under Part II of the Coal Industry Act 1994 to carry on coal-mining operations to which section 25 of that Act applies;

“approved restoration scheme” means a restoration scheme which is approved when an application made under paragraph A.1(a)(i) is finally determined, as approved (with or without conditions), or as subsequently varied with the written approval of the mineral planning authority (with or without conditions);

“coal-related minerals” means minerals other than coal which are, or may be, won and worked by coal-mining operations;

“designated seam area” means land identified, in accordance with paragraph (a) of the definition of “seam plan”, in a seam plan which was deposited with the mineral planning authority before 30th September 1993;

“previous coal-mining operations” has the same meaning as in section 54(3) of the Coal Industry Act 1994 and references in this Class to the use of anything in connection with any such operations shall include references to its use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations;

“restoration scheme” means a scheme which makes provision for the reinstatement, restoration or aftercare (or a combination of these) of any land which is an authorised site and has been used at any time for or in connection with any previous coal-mining operations at that mine;

“seam plan” means a plan or plans on a scale of not less than 1 to 25,000 showing—

- (a) land comprising the maximum extent of the coal seam or seams that can be worked from shafts or drifts existing at a mine at 13th November 1992, without further development on an authorised site other than development permitted by Class B;
- (b) any active access used in connection with the land referred to in paragraph (a) of this definition;
- (c) the National Grid lines and reference numbers shown on Ordnance Survey maps;
- (d) a typical stratigraphic column showing the approximate depths of the coal seams referred to in paragraph (a) of this definition.”;

(b) in paragraphs B and C—

- (i) for “the British Coal Corporation, their lessees or licensees”, substitute “a licensed operator” in each place where it occurs;

- (ii) for “coal industry activities”, substitute “coal-mining operations” in each place where it occurs;
- (c) in paragraph E, for “British Coal Corporation, their lessees or licensees”, substitute “Coal Authority or a licensed operator”;
- (d) in paragraph F.1—
 - (i) for the definition of “coal industry activities”, substitute ““coal-mining operations” has the same meaning as in section 65 of the Coal Industry Act 1994 and references to any development or use in connection with coal-mining operations shall include references to development or use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations.”;
 - (ii) after the definition of “coal-mining operations”, as inserted by sub-paragraph (i), insert ““licensed operator” has the same meaning as in section 65 of the Coal Industry Act 1994.”;
- (e) in paragraph F.2, for “coal industry activities”, substitute “coal-mining operations” in each place where it occurs.

Waste tipping at a mine

- 6. In Part 21 of Schedule 2 to the 1988 Order (waste tipping at a mine)—
 - (a) in paragraph B, for “colliery production activities”, substitute “coal-mining operations”;
 - (b) in paragraph B.2, for the definition of “colliery production activities”, substitute ““coal-mining operations” has the same meaning as in section 65 of the Coal Industry Act 1994.”.

Transitionals and savings

7.—(1) Any notice which has been given for the purposes of article 13 of the 1988 Order by the British Coal Corporation before the date of the coming into force of this Order shall be treated as if it were a notice given for the purposes of that article by the Coal Authority on or after that date, and, in relation to a particular application for planning permission made before that date, the mineral planning authority are not required to notify the Coal Authority, before determining the application, if they have already notified the British Coal Corporation that that application has been made.

(2) For the purposes of paragraph (i) of the table in article 18 of the 1988 Order, where an area of coal working has been notified by the British Coal Corporation to the local planning authority before the date of the coming into force of this Order, such notification shall be treated as if it had been made by the Coal Authority on or after that date, and, in relation to a particular application for planning permission made before that date, the local planning authority are not required to consult the Coal Authority if they have already consulted the British Coal Corporation.

- (a) (3) (a) Class A of Part 20 of Schedule 2 to the 1988 Order, as substituted by article 5(b) of this Order, shall not apply with respect to development by licensees of the British Coal Corporation, and accordingly the provisions of Class A of Part 20 of Schedule 2 to the 1988 Order shall continue to apply to such development in the form in which they were in force immediately before the date of the coming into force of this Order subject to the amendments in paragraph (3)(b) below.
- (b) For the purposes of paragraph (3)(a) of this article, Class A of Part 20 of Schedule 2 to the 1988 Order, in the form in which it was in force immediately before the date of the coming into force of this Order, is amended as follows—
 - (i) in paragraph A, for “the British Coal Corporation, their lessees and licensees”, substitute “a licensee of the British Coal Corporation”;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (ii) in paragraph A.2, in the definition of “coal-related minerals”, for “referred to in paragraph 1(2) of Schedule 1 to the Coal Industry Nationalisation Act 1946”(5), substitute “which can only be economically worked in association with the working of coal or which can only be economically brought to the surface by the use of a mine of coal;”;
 - (iii) at the end of paragraph A.2, insert ““a licensee of the British Coal Corporation” means any person who is for the time being authorised by virtue of section 25(3) of the Coal Industry Act 1994 to carry on coal-mining operations to which section 25 of that Act applies”.
- (c) In paragraph (3)(a) “licensees of the British Coal Corporation” means persons who are for the time being authorised by virtue of section 25(3) of the Coal Industry Act 1994 to carry on coal-mining operations to which section 25 of that Act applies.

Signed by authority of the Secretary of State for the Environment

Department of the Environment
5th October 1994

Paul Beresford
Parliamentary Under-Secretary of State,

6th October 1994

John Redwood
Secretary of State for Wales

(5) 1946 c. 59; Schedule 1 is repealed by section 67 of, and Part II of Schedule 11 to, the Coal Industry Act 1994 (c. 21) with effect from 31st October 1994.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning General Development Order 1988 (“the 1988 Order”) as a result of the restructuring of the coal industry, and the establishment of the Coal Authority and a new licensing system, by the Coal Industry Act 1994 (c. 21).

Articles 2 and 3 make amendments to articles 13 and 18 of the 1988 Order (notification and consultation provisions).

Article 4 amends Part 19 of Schedule 2 to the 1988 Order (development ancillary to mining operations), including defining minerals to include coal which is not the subject of coal-mining operations which have to be carried on in accordance with a licence (see section 25(2) of the 1994 Act).

Article 5 amends Part 20 of Schedule 2 to the 1988 Order (coal mining development). It substitutes a new Class A, providing new permitted development rights for certain underground coal mining development by Coal Authority licensees. It includes provisions for the reinstatement, restoration or aftercare (or a combination of these) of any land which is an authorised site and has been used at any time in connection with previous coal-mining operations at the mine, in accordance with an approved restoration scheme. Provision is made for restoration where no restoration scheme has been approved. There are transitional and saving provisions, which do not include restoration provisions, for underground coal mining development by British Coal licensees (see article 7).

Article 6 makes minor amendments to Part 21 of Schedule 2 to the 1988 Order (waste tipping at a mine).