

*Status: Point in time view as at 21/04/2006.*

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## SCHEDULES

### SCHEDULE 9 **S**

#### REVIEW OF OLD MINERAL PLANNING PERMISSIONS

*Applications for inclusion in the first list of sites not included in that list as originally prepared and appeals from decisions upon such applications*

- 6 (1) Any person who is the owner of any land, or is entitled to an interest in a mineral, may, if that land or interest is not a mineral site included in the first list and does not form part of any mineral site included in that list, apply to the planning authority for that land or interest to be included in that list.
- (2) An application under sub-paragraph (1) shall be made no later than the day upon which expires the period of three months from the day when the first list was first advertised in accordance with paragraph 5.
- (3) Where the planning authority consider that—
- (a) the land or interest is, or forms part of, any dormant or active Phase I or II site, they shall accede to the application, or
  - (b) part only of the land or interest is, or forms part of, any dormant or active Phase I or II site, they shall accede to the application so far as it relates to that part of the land or interest,
- but shall otherwise refuse the application.
- (4) On acceding, whether in whole or in part, to an application made under sub-paragraph (1), the planning authority shall amend the first list as follows—
- (a) where they consider that the land or interest, or any part of the land or interest, is a dormant site or an active Phase I or II site, they shall add the mineral site consisting of the land or interest or, as the case may be, that part, to the first list and shall cause the list to indicate whether the site is an active Phase I site, an active Phase II site or a dormant site;
  - (b) where they consider that the land or interest, or any part of the land or interest, forms part of any mineral site included in the first list, they shall amend the entry in the first list for that site accordingly.
- (5) Where the planning authority amend the first list in accordance with sub-paragraph (4), they shall also—
- (a) in a case where an active Phase I site is added to the first list pursuant to sub-paragraph (4)(a), cause that list to specify, in respect of that site, the date by which an application is to be made to the planning authority under paragraph 9;
  - (b) in a case where—
    - (i) the entry for an active Phase I site included in the first list is amended pursuant to sub-paragraph (4)(b), and
    - (ii) the date specified in that list in respect of that site as the date by which an application is to be made to the planning authority under

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paragraph 9 is a date falling less than 12 months after the date upon which the authority make their decision upon the application in question,

cause that date to be amended so as to specify instead the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the authority's decision upon his application.

- (6) Any date specified pursuant to sub-paragraph (5)(a) shall be a date—
- (a) not earlier than the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the planning authority's decision upon his application, and
  - (b) not later than the later of—
    - (i) the date upon which expires the period of three years from the date upon which the provisions of this Schedule come into force; and
    - (ii) the date mentioned in paragraph (a).
- (7) On acceding, whether in whole or in part, to an application made under sub-paragraph (1), the planning authority shall, if the second list has been first advertised in accordance with paragraph 5 prior to the time at which they make their decision on the application, amend the second list as follows—
- (a) where they consider that the land or interest, or any part of the land or interest, is an active Phase II site, they shall add the mineral site consisting of the land or interest or, as the case may be, that part, to the second list;
  - (b) where they consider that the land or interest, or any part of the land or interest, forms part of any active Phase II site included in the second list, they shall amend the entry in that list for that site accordingly.
- (8) Where the planning authority amend the second list in accordance with sub-paragraph (7), they shall also—
- (a) in a case where an active Phase II site is added to the second list pursuant to sub-paragraph (7)(a), cause that list to specify, in respect of that site, the date by which an application is to be made to the authority under paragraph 9;
  - (b) in a case where—
    - (i) the entry for an active Phase II site included in the second list is amended pursuant to sub-paragraph (7)(b), and
    - (ii) the date specified in that list in respect of that site as the date by which an application is to be made to the authority under paragraph 9 is a date falling less than 12 months after the date upon which the authority make their decision upon the application in question,
 cause that date to be amended so as to specify instead the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the authority's decision upon his application.
- (9) Any date specified pursuant to sub-paragraph (8)(a) shall be a date—
- (a) not earlier than the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the planning authority's decision upon his application, and
  - (b) not later than the later of—

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- (i) the date upon which expires the period of six years from the date upon which the provisions of this Schedule come into force, and
  - (ii) the date mentioned in paragraph (a).
- (10) When a planning authority determine an application made under sub-paragraph (1), they shall notify the applicant in writing of their decision and, in a case where they have acceded to the application, whether in whole or in part, shall supply the applicant with details of any amendment to be made to the first or second list in accordance with sub-paragraph (4) or (8).
- (11) Where a planning authority—
  - (a) refuse an application made under sub-paragraph (1), or
  - (b) accede to such an application only so far as it relates to part of the land or interest in respect of which it was made,the applicant may by notice appeal to the Secretary of State.
- (12) A person who has made such an application may also appeal to the Secretary of State if the planning authority have not given notice to the applicant of their decision on the application within eight weeks of their having received the application or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.
- (13) An appeal under sub-paragraph (11) or (12) must be made by giving notice of appeal to the Secretary of State before the end of the period of six months beginning with—
  - (a) in the case of an appeal under sub-paragraph (11), the determination, or
  - (b) in the case of an appeal under sub-paragraph (12), the end of the period of eight weeks mentioned in that sub-paragraph or, as the case may be, the end of the extended period mentioned in that sub-paragraph.

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