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SCHEDULES

PROSPECTIVE

SCHEDULE 2

REVIEW OF OLD MINERAL PLANNING PERMISSION

Modifications etc. (not altering text)

- C1** Schs. 1-3: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Service on owners etc. of notice of preparation of the first and second lists

8.—(1) The council must, no later than the date upon which the first list is first advertised in accordance with paragraph 5, serve notice in writing of the first list having been prepared on each person appearing to it to be the owner of any land, or entitled to an interest in any mineral, included within a mineral site included in the first list, but this sub-paragraph is subject to sub-paragraph (7).

(2) A notice required to be served by sub-paragraph (1) must—

- (a) indicate whether the mineral site in question is a dormant site or an active Phase I or II site; and
- (b) where that site is an active Phase I site—
 - (i) indicate the date specified in the first list in relation to that site as the date by which an application is to be made to the council under paragraph 9;
 - (ii) explain the consequences which will occur if such an application is not made by the date so specified; and
 - (iii) explain the right to apply to have that date postponed, and indicate the date by which such an application must be made.

(3) Where, in relation to any land or mineral included in an active Phase I site, the council—

- (a) has served notice on any person under sub-paragraph (1); and

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(b) has received no application under paragraph 9 from that person by the date falling 8 weeks before the date specified in the first list as the date by which such applications should be made in respect of the site in question, the council must serve a written reminder on that person, and such a reminder must—

- (i) indicate that the land or mineral in question is included in an active Phase I site;
- (ii) comply with the requirements of sub-paragraph (2)(b)(i) and (ii); and
- (iii) be served on that person on or before the date falling 4 weeks before the date specified in the first list in respect of that site as the date by which an application is to be made to the council under paragraph 9.

(4) The council must, no later than the date upon which the second list is first advertised in accordance with paragraph 5, serve notice in writing of the second list having been prepared on each person appearing to it to be the owner of any land, or entitled to an interest in any mineral, included within an active Phase II site included in the second list, but this sub-paragraph is subject to sub-paragraph (7).

(5) A notice required to be served by sub-paragraph (4) must—

- (a) indicate that the mineral site in question is an active Phase II site; and
- (b) indicate the date specified in the second list in relation to that site as the date by which an application is to be made to the council under paragraph 9;
- (c) explain the consequences which will occur if such an application is not made by the date so specified; and
- (d) explain the right to apply to have that date postponed, and indicate the date by which such an application must be made.

(6) Where, in relation to any land or mineral included in an active Phase II site, the council—

- (a) has served notice on any person under sub-paragraph (4), and
- (b) has received no application under paragraph 9 from that person by the date falling 8 weeks before the date specified in the second list as the date by which such applications should be made in respect of the site in question,

the council must serve a written reminder on that person, and such a reminder must—

- (i) comply with the requirements of sub-paragraph (5)(a) to (c); and
- (ii) be served on that person on or before the date falling 4 weeks before the date specified in the second list in respect of that site as the date by which an application is to be made to the council under paragraph 9.

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(7) Sub-paragraph (1) or (4) shall not require the council to serve notice under that sub-paragraph upon any person whose identity or address for service is not known to and cannot practicably, after reasonable inquiry, be ascertained by it, but in any such case the council must cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the notice which it would (apart from the provisions of this sub-paragraph) have had to serve under that sub-paragraph on the owner of that land or interest.

(8) If, in a case where sub-paragraph (7) applies, no person makes an application to the council under paragraph 9 in respect of the active Phase I or II site which includes the land or interest in question by the date falling 8 weeks before the date specified in the first or, as the case may be, the second list as the date by which such applications should be made in respect of that site, the council must cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the written reminder that would, in a case not falling within sub-paragraph (7), have been served under sub-paragraph (3) or (6).

(9) Where by sub-paragraph (7) or (8) a copy of any notice is required to be affixed to an object on any land that copy must—

- (a) be displayed in such a way as to be easily visible and legible;
- (b) be first displayed—
 - (i) in a case where the requirement arises under sub-paragraph (7), no later than the date upon which the first or, as the case may be, the second list is first advertised in accordance with paragraph 5; or
 - (ii) in a case where the requirement arises under sub-paragraph (8), no later than the date falling 4 weeks before the date specified in the first or, as the case may be, the second list in respect of the site in question as the date by which an application is to be made to the council under paragraph 9; and
- (c) be left in position for at least the period of 21 days from the date when it is first displayed, but where the notice is, without fault or intention of the council, removed, obscured or defaced before that period has elapsed, that requirement shall be treated as having been complied with if the council has taken reasonable steps for protection of the notice and, if need be, its replacement.

(10) In sub-paragraphs (7) and (8), any reference to a conspicuous object on any land includes, in a case where the person serving a notice considers that there are no or insufficient such objects on the land, a reference to a post driven into or erected upon the land by the person serving the notice for the purpose of having affixed to it the notice in question.

(11) Where the council, being required—

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- (a) by sub-paragraph (3) or (6) to serve a written reminder on any person; or
- (b) by sub-paragraph (8) to cause a copy of such a reminder to be displayed in the manner set out in that sub-paragraph,

fails to comply with that requirement by the date specified for the purpose, it may at any later time serve or, as the case may be, cause to be displayed, such a written reminder and, in any such case, the date by which an application in relation to the mineral site in question is to be made under paragraph 9 is the date upon which expires the period of 3 months from the date when the reminder was served or posted in accordance with the provisions of this sub-paragraph.

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