

SCHEDULES

SCHEDULE 1 **N.I.**

Article 45(6).

LISTED BUILDING CONSENT-APPLICATIONS AND APPEALS

Form and content of applications **N.I.**

- 1.—(1) Any application to the Department for listed building consent—
 - (a) shall be made in such manner as may be prescribed; and
 - (b) shall include such particulars, and be verified by such evidence, as may be required by the regulations or by any directions given by the Department thereunder.
- (2) Provision shall be made by regulations for regulating the manner in which applications for listed building consent are to be dealt with by the Department and in particular—
 - (a) for requiring the Department before granting or refusing listed building consent to consult with the district council for the area in which the building is situated and with such authorities or persons as may be prescribed;
 - (b) for requiring the Department to give to any applicant for listed building consent within such time as may be prescribed such notice as may be prescribed as to the manner in which his application has been dealt with.
- (3) Sub-paragraphs (1) and (2)(b) shall apply to applications to the Department for any approval of the Department required by a condition imposed on a grant of listed building consent as they apply to applications for listed building consent.

Publication of notices of applications **N.I.**

2. Where an application for listed building consent is made to the Department, it—
 - (a) shall publish notice of the application in at least one newspaper circulating in the locality in which the building to which the application relates is situated; and
 - (b) shall not determine the application before the expiration of 14 days from the date on which notice of the application is first published in a newspaper in pursuance of sub-paragraph (a).

Notification of applications to certain persons **N.I.**

- 3.—(1) Article 22 shall, with appropriate modifications, apply to applications for listed building consent in relation to any building as it applies to applications for planning permission in relation to any land.
- (2) In the application of Article 22(7) by virtue of sub-paragraph (1) for the words “specified in a development order” and “form so specified” there shall be substituted the words “prescribed” and “prescribed form”.
- (3) References in the following provisions of this Schedule to Article 22 are to that Article as it applies by virtue of this paragraph.

Status: Point in time view as at 01/01/2006.

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Determination of application **N.I.**

4.—(1) In determining any application for listed building consent, the Department shall take into account any representations relating to that application which are received by it before the expiration of the period of 14 days from the date on which notice of the application is first published in a newspaper.

(2) Where an application for listed building consent is accompanied by such a certificate as is mentioned in Article 22(1)(c) or (d), the Department—

- (a) in determining the application, shall take into account any representations relating thereto which are made to it by any person who satisfies it that, in relation to the building to which the application relates, he is such a person as is described in Article 22(1)(c); and
- (b) shall give notice of its decision on the application to every person who made representations which it was required to take into account under head (a).

VALID FROM 10/06/2006

f¹ Power to decline to determine application

F1 Sch. 1 paras. 4A, 4B and preceding cross heading inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **9(3)** (with art. 9(5))

Power to decline to determine subsequent application **N.I.**

4A.—(1) The Department may decline to determine an application for a relevant consent if—

- (a) one or more of the conditions in sub-paragraphs (2) to (4) is satisfied; and
- (b) the Department thinks there has been no significant change in any material considerations since the relevant event.

(2) The condition is that in the period of 2 years ending with the date on which the application mentioned in sub-paragraph (1) is received the Department has refused a similar application made under paragraph 1.

(3) The condition is that in that period the planning appeals commission has dismissed an appeal—

- (a) against the refusal of a similar application; or
- (b) under paragraph 8 in respect of a similar application.

(4) The condition is that—

- (a) in that period the Department has refused more than one similar application; and
- (b) there has been no appeal to the planning appeals commission against any such refusal.

(5) Relevant consent is—

- (a) listed building consent; or
- (b) consent under Article 51 (conservation area consent).

(6) The relevant event is—

- (a) for the purposes of sub-paragraphs (2) and (4) the refusal of the similar application;
- (b) for the purposes of sub-paragraph (3) the dismissal of the appeal.

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(7) An application for relevant consent is similar to another application if (and only if) the Department thinks that the building and works to which the applications relate are the same or substantially the same.

(8) For the purposes of an application for consent under Article 51 (conservation area consent) a reference to a provision of this Order is a reference to that provision as excepted or modified by regulations under Article 51(5).

Power to decline to determine overlapping application **N.I.**

4B.—(1) The Department may decline to determine an application for a relevant consent which is made at a time when any of the conditions in sub-paragraphs (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the Department and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by the planning appeals commission on an appeal under paragraph 7 or 8 and the commission has not issued its decision.

(4) The condition is that a similar application—

- (a) has been granted by the Department;
- (b) has been refused by the Department; or
- (c) has not been determined by the Department within the determination period,

and the time within which an appeal could be made to the planning appeals commission under paragraph 7 or 8 has not expired.

(5) Relevant consent is—

- (a) listed building consent; or
- (b) consent under Article 51 (conservation area consent).

(6) An application for relevant consent is similar to another application if (and only if) the Department thinks that the building and works to which the applications relate are the same or substantially the same.

(7) The determination period is—

- (a) the period prescribed for the determination of the application; or
- (b) such longer period as the applicant and the Department have agreed for the determination of the application.

(8) For the purposes of an application for consent under Article 51 (conservation area consent) a reference to a provision of this Order is a reference to that provision as excepted or modified by regulations under Article 51(5).]

Consent to execute works without compliance with conditions previously attached **N.I.**

5.—(1) This paragraph applies to applications for listed building consent for the execution of works to a building without complying with conditions subject to which a previous listed building consent was granted.

(2) Regulations may make special provision with respect to—

- (a) the form and content of such applications; and
- (b) the procedure to be followed in connection with such applications.

(3) On such an application the Department shall consider only the question of the conditions subject to which listed building consent should be granted, and—

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- (a) if it decides that listed building consent should be granted subject to conditions differing from those subject to which the previous consent was granted, or that it should be granted unconditionally, the Department shall grant listed building consent accordingly; and
- (b) if it decides that listed building consent should be granted subject to the same conditions as those subject to which the previous consent was granted, the Department shall refuse the application.

(4) This paragraph does not apply where the application is made after the previous listed building consent has become time-expired, that is to say, the previous consent having been granted subject to a condition as to the time within which the works to which it related were to be begun, that time has expired without the works having been begun.

Effect of listed building consent **N.I.**

6. Without prejudice to Articles 46 and 47, any grant of listed building consent shall (except in so far as the consent otherwise provides) enure for the benefit of the building and of all persons for the time being having an estate therein.

Appeals **N.I.**

7.—(1) Where an application is made to the Department—

- (a) for listed building consent; or
- (b) for any approval of the Department required by a condition imposed on a grant of listed building consent,

then if that consent or approval is refused or is granted subject to conditions, the applicant may by notice in writing under this paragraph appeal to the planning appeals commission.

(2) Any notice under this paragraph shall be served on the planning appeals commission within six months from the date of notification of the decision to which it relates or such longer period as the commission may allow.

(3) Where an appeal is brought under this paragraph from a decision of the Department, the planning appeals commission, subject to sub-paragraphs (4) and (5), may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not and may deal with the application as if it had been made to it in the first instance.

(4) Before determining an appeal under this Article, the planning appeals commission shall if either the applicant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(5) Subject to sub-paragraph (4), paragraphs 2 to 5 shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this paragraph as they apply to an application for listed building consent.

Appeal in default of planning decision **N.I.**

8. Where any such application as is mentioned in paragraph 7(1) is made to the Department, then unless within such period as may be prescribed, or within such extended period as may be agreed upon in writing between the applicant and the Department, the Department gives notice to the applicant of its decision on the application, paragraph 7 shall apply in relation to the application—

- (a) as if the consent or approval to which it relates had been refused by the Department; and
- (b) as if notification of the Department's decision had been received by the applicant at the end of the said prescribed period, or at the end of the said extended period, as the case may be.

^{F2}SCHEDULE 1A **N.I.**

REVIEW OF OLD MINERAL PLANNING PERMISSIONS

F2 Sch. 1A repealed (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), s. 254(1)(2), [Sch. 7](#) (with s. 211); [S.R. 2015/49](#), art. 3, [Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2) (Sch. 1A was inserted (prosp.) by The Planning Reform (Northern Ireland) Order (S.I. 2006/1252 (N.I. 7)), arts. 1(3)(d), 27(2), Sch. 3 and was never in operation.)

^{F2}*Interpretation*

^{F2}1.

^{F2}*Phase I and II sites*

^{F2}2.

^{F2}*The “first list”*

^{F2}3.

^{F2}*The “second list”*

^{F2}4.

^{F2}*Advertisement of the first and second lists*

^{F2}5.

^{F2}*Applications for inclusion in the first list of sites not included in that list as originally prepared and appeals from decisions upon such applications*

^{F2}6.

^{F2}*Postponement of the date specified in the first or second list for review of the permissions relating to a Phase I or II site in cases where the existing conditions are satisfactory*

^{F2}7.

^{F2}*Service on owners etc. of notice of preparation of the first and second lists*

^{F2}8.

^{F2}*Applications for approval of conditions and appeals in cases where the conditions approved are not those proposed*

^{F2}9.

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^{F2}*Notice of determination of conditions to be accompanied by additional information in certain cases*

^{F2}10.

^{F2}*Right to appeal against Department's determination of conditions etc.*

^{F2}11.

^{F2}*Permissions ceasing to have effect*

^{F2}12.

^{F2}*Special procedure for major applications under paragraph 9*

^{F2}13.

^{F2}*Two or more applicants*

^{F2}14.

^{F2}*Compensation*

^{F2}15.

^{F2}*Appeals: general procedural provisions*

^{F2}16.

PROSPECTIVE

^{F3}SCHEDULE 1B **N.I.**

PERIODIC REVIEW OF MINERAL PLANNING PERMISSIONS

F3 Sch. 1B repealed (1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), s. 254(1)(2), [Sch. 7](#) (with s. 211); [S.R. 2015/49](#), art. 3, [Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2) (Sch. 1B was inserted (prosp.) by The Planning Reform (Northern Ireland) Order (S.I. 2006/1252 (N.I. 7)), arts. 1(3)(d), 27(2), Sch. 3 and was never in operation.)

^{F3}*Duty to carry out periodic reviews*

^{F3}1.

^{F3}*Interpretation*

^{F3}2.

^{F3}*The first review date*

^{F3}3.

^{F3}4.

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	<i>F3</i> Service of notice of first periodic review
<i>F3</i> 5.
	<i>F3</i> Application for postponement of the first review date
<i>F3</i> 6.
	<i>F3</i> Application to determine the conditions to which the mineral permissions relating to a mining site are to be subject
<i>F3</i> 7.
	<i>F3</i> Permissions ceasing to have effect
<i>F3</i> 8.
	<i>F3</i> Appeals
<i>F3</i> 9.
	<i>F3</i> Special procedure for major applications under paragraph 7
<i>F3</i> 10.
	<i>F3</i> Time from which conditions determined under this Schedule are to take effect
<i>F3</i> 11.
	<i>F3</i> Two or more applicants
<i>F3</i> 12.
	<i>F3</i> Second and subsequent periodic reviews
<i>F3</i> 13.
	<i>F3</i> Compensation
<i>F3</i> 14.

SCHEDULE 2 **N.I.**

Article 87(3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT
(NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 87(3)

1. References to the Ministry or to the council shall be construed as references to the Department within the meaning of this Order.
2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.
3. Omit paragraph 1 of that Schedule.
4. In paragraph 2 of that Schedule—

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- (a) for the words “Notice of the application” substitute the words “ Notice of the Department's intention to acquire the land compulsorily ”;
 - (b) omit the words “in such form and manner as the Ministry directs”;
 - (c) in sub-paragraph (c) for the words “as may be prescribed” substitute the words “ as the Department considers fit ”.
5. In paragraph 3(1)(b) after the word “held” insert the words “ by the planning appeals commission or by any other person ”.
 6. In paragraph 4 omit the words from “and may provide” onwards.
 7. In paragraph 5—
 - (a) in sub-paragraph (1)(a) omit the words “in the prescribed form and manner”;
 - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
 - (c) in sub-paragraph (1)(d) omit the words “in the prescribed form”;
 - (d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “ as the Department considers fit ”.
 8. in paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” substitute the words “ Consolidated Fund ” and for the words “out of the compensation fund” substitute the words “ ;made by the Department ”.
 9. In paragraph 11(3) omit the words “in the prescribed form”.
 10. In paragraph 12—
 - (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;
 - (b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “ Department as correct, and publish ”.
 11. In paragraph 14(1) omit the words “in the prescribed form”.
 12. In paragraph 15(1) for the words “in the prescribed form” substitute the words “ in such form as may be approved by the Department ”.
 13. Omit paragraph 19.
 14. Omit paragraph 20(2).

SCHEDULE 3 **N.I.**

Article 105(3).

THE HISTORIC BUILDINGS COUNCIL

1. The Council shall consist of a Chairman appointed by the Head of the Department and such number of other members so appointed as the Head of the Department may determine.
2. A member of the Council shall hold office for a maximum period of three years but shall be eligible for re-appointment.
3. The Department may pay to the Chairman and members of the Council allowances for travelling and other out-of-pocket expenses incurred in connection with the business of the Council at such rates as the Department, with the approval of the Department of Finance and Personnel, may determine.

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4.—(1) The Council shall, subject to sub-paragraph (4), appoint such committees as the Department may determine.

(2) A committee appointed under this paragraph may include persons who are not members of the Council.

(3) Every member of a committee appointed under this paragraph, who, at the time of his appointment, was a member of the Council shall, if he ceases to be a member of the Council, also cease to be a member of the committee.

(4) The Department may, by regulations or direction, make provision with respect to the appointment, constitution or functions of committees appointed under this paragraph.

5. The Council may regulate its own quorum and procedure and that of its committees which shall be subject to the approval of the Department.

6. The Council shall, at such times and in respect of such periods as the Department may direct, prepare and submit to the Department a report on its activities and the Department shall lay a copy of every such report before the Assembly.

7. The secretary to the Council shall be such person as the Department may appoint.

SCHEDULE 4 **N.I.**

Article 132.

TRANSITIONAL PROVISIONS

1. Where by virtue of paragraph (1) of Article 12 of the Amendment Order an object or structure ceased to be treated as part of a listed building the transitional provisions in paragraph 1 of Schedule 2 to that Order shall, notwithstanding the repeal of that Schedule, continue to apply for the purposes of provisions of this Order as they applied for the purposes of the corresponding provisions of the Planning (Northern Ireland) Order 1972.

2. Any daily fine mentioned in this Order shall apply to every day after the coming into operation of Article 13 of the Amendment Order, notwithstanding that the offence began before.

3. Article 23 shall not apply in relation to any development which was begun before the coming into operation of Article 7 of the Amendment Order; and the provisions of Article 36(1) apply in determining for the purposes of this paragraph when development shall be taken to be begun.

N.I.

4. —(1) Until the end of the transitional period—

(a) no offence is committed under Article 61; and

(b) no hazardous substances contravention notice may be issued, in relation to a hazardous substance which is on, over or under any land,

if the substance was present on, over or under the land at any time within the establishment period and—

(i) in a case in which at the commencement date notification in respect of the substance was required by any of the Notification Regulations, both the conditions specified in sub-paragraph (2) were satisfied; and

(ii) in a case in which at that date such notification was not so required, the condition specified in head (b) of that sub-paragraph is satisfied.

(2) The conditions mentioned in sub-paragraph (1) are—

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- (a) that notification required by the Notification Regulations was given before the commencement date; and
 - (b) that the substance has not been present during the transitional period in a quantity greater in aggregate than the established quantity.
- (3) Where a hazardous substance was present on, over or under any land at any time within the establishment period, hazardous substances consent may be claimed in respect of its presence.
- (4) A claim shall be made in the prescribed form before the end of the transitional period and shall contain the prescribed information as to the presence of the substance during the establishment period and as to how and where it was kept and used during that period.
- (5) Subject to sub-paragraphs (6) to (8), the Department shall be deemed to have granted any hazardous substances consent which is claimed under sub-paragraph (3).
- (6) If at the commencement date notification in respect of the substance was required by regulation 3 or 5 of the Notification Regulations, hazardous substances consent is only to be deemed to be granted under this paragraph if notification in respect of the substance was given before that date in accordance with those regulations.
- (7) If at the commencement date such a notification was not so required, hazardous substances consent is only to be deemed to be granted under this paragraph if an aggregate quantity of the substance not less than the controlled quantity was present at any one time within the establishment period.
- (8) If it appears to the Department that a claim for hazardous substances consent does not comply with sub-paragraph (4), it shall be the Department's duty, before the end of the period of two weeks from its receipt of the claim,—
- (a) to notify the claimant that in the Department's opinion the claim is invalid; and
 - (b) to give him the Department's reasons for that opinion.
- (9) Hazardous substances consent which is deemed to be granted under this paragraph is subject to such conditions as may be prescribed.
- (10) In this paragraph—
- “commencement date” means the date on which Article 53 comes into operation;
 - “the establishment period” means the period of 12 months immediately preceding the commencement date;
 - “established quantity” means, in relation to any land—
- (a) where before the commencement date there has been a notification in respect of a substance in accordance with any of the Notification Regulations—
 - (i) the quantity notified or last notified before the commencement date; or
 - (ii) a quantity equal to twice the quantity which was so notified or last notified before the start of the establishment period,whichever is the greater;
 - (b) where a notification was not required before that date by any of those regulations, a quantity exceeding by 50 per cent, the maximum quantity which was present on, over or under the land at any one time within the establishment period;
- “Notification Regulations” means the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984;
- “the transitional period” means the period of 6 months beginning with the commencement date.

5. The right of appeal under Articles 69 and 78 conferred on a person mentioned in paragraph (2) of each of those Articles shall apply only in relation to any notice (whenever issued) which is

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expressed to take effect after the coming into operation of Articles 15 and 16 of the Amendment Order.

6. Article 116 shall apply to any development carried out after the day on which the Amendment Order was made.

7. In this Schedule “the Amendment Order” means the Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990.

N.I.

Schedule 5—Amendments;

N.I.

Schedule 6—Repeals

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