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SCHEDULES

SCHEDULE 13

REVIEW OF OLD MINERAL PLANNING PERMISSIONS

Applications for approval of conditions and appeals in cases where the conditions approved are not those proposed

- 9 (1) Any person who is the owner of any land, or who is entitled to an interest in a mineral, may, if that land or mineral is or forms part of a dormant site or an active Phase I or II site, apply to the mineral planning authority to determine the conditions to which the relevant planning permissions relating to that site are to be subject.
- (2) An application under this paragraph shall be in writing and shall—
- identify the mineral site to which the application relates;
 - specify the land or minerals comprised in the site of which the applicant is the owner or, as the case may be, in which the applicant is entitled to an interest;
 - identify any relevant planning permissions relating to the site;
 - identify, and give an address for, each other person that the applicant knows or, after reasonable inquiry, has cause to believe to be an owner of any land, or entitled to any interest in any mineral, comprised in the site;
 - set out the conditions to which the applicant proposes the permissions referred to in paragraph (c) above should be subject; and
 - be accompanied by the appropriate certificate (within the meaning of sub-paragraph (3) or (4) below).
- (3) For the purposes of sub-paragraph (2) above, as respects England and Wales the appropriate certificate is such a certificate—
- as would be required, under section 65 of the 1990 Act (notice etc. of applications for planning permission) and any provision of a development order made by virtue of that section, to accompany the application if it were an application for planning permission for minerals development, but
 - with such modifications as are required for the purposes of this paragraph, and section 65(6) of that Act (offences) shall also have effect in relation to any certificate purporting to be the appropriate certificate.
- (4) For the purposes of sub-paragraph (2) above, the appropriate certificate is, as respects Scotland, each of the certificates which would be required, under or by virtue of sections 23 and 24 of the 1972 Act (notice etc. of applications for planning permission), to accompany the application if it were an application for planning permission for minerals development, but with such modifications as are required for the purposes of this paragraph; and sections 23(3) and 24(5) of that Act (offences) shall have effect in relation to any certificate purporting to be the appropriate certificate.

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- (5) Section 65 of the 1990 Act or, as respects Scotland, section 24 of the 1972 Act (by virtue of which a development order may provide for publicising applications for planning permission) shall have effect, with any necessary modifications, as if subsection (1) of that section also authorised a development order to provide for publicising applications under this paragraph.
- (6) Where the mineral planning authority receive an application under this paragraph in relation to a dormant site or an active Phase I or II site they shall determine the conditions to which each relevant planning permission relating to the site is to be subject; and any such permission shall, from the date when the conditions to which it is to be subject are finally determined, have effect subject to the conditions which are determined under this Schedule as being the conditions to which it is to be subject.
- (7) The conditions imposed by virtue of a determination under sub-paragraph (6) above—
 - (a) may include any conditions which may be imposed on a grant of planning permission for minerals development;
 - (b) may be in addition to, or in substitution for, any existing conditions to which the permission in question is subject.
- (8) In determining that a relevant planning permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the mineral planning authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (9) Subject to sub-paragraph (10) below, where, within the period of three months from the mineral planning authority having received an application under this paragraph, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority have not given notice to the applicant of their decision upon the application, the authority shall be treated as having at the end of that period or, as the case may be, that extended period, determined that the conditions to which any relevant planning permission to which the application relates is to be subject are those specified in the application as being proposed in relation to that permission; and any such permission shall, from that time, have effect subject to those conditions.
- (10) Where a mineral planning authority, having received an application under this paragraph, are of the opinion that they are unable to determine the application unless further details are supplied to them, they shall within the period of one month from having received the application give notice to the applicant—
 - (a) stating that they are of such opinion; and
 - (b) specifying the further details which they require,
 and where the authority so serve such a notice the period of three months referred to in sub-paragraph (9) above shall run not from the authority having received the application but from the time when the authority have received all the further details specified in the notice.
- (11) Without prejudice to the generality of sub-paragraph (10) above, the further details which may be specified in a notice under that sub-paragraph include any—
 - (a) information, plans or drawings; or
 - (b) evidence verifying any particulars of details supplied to the authority in respect of the application in question,

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which it is reasonable for the authority to request for the purpose of enabling them to determine the application.

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Commencement Information

- II** [Sch. 13](#) wholly in force at 1.1.1997; [Sch. 13](#) not in force at Royal Assent see [s. 125\(3\)](#); [Sch. 13](#) in force for E.W. at 1.11.1995 by [S.I. 1995/2765](#), [art. 2](#); [Sch. 13](#) in force for S. at 1.1.1997 by [S.I. 1996/2857](#), [art. 2](#)

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