

Status: Point in time view as at 21/04/2006.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Phase I and II sites is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 9 **S**

REVIEW OF OLD MINERAL PLANNING PERMISSIONS

Phase I and II sites

- 2 (1) This paragraph has effect for the purposes of determining which mineral sites are Phase I sites, which are Phase II sites, and which are neither Phase I nor Phase II sites.
- (2) A mineral site is neither a Phase I site nor a Phase II site where—
- (a) all the relevant planning permissions which relate to the site have been granted after 21st February 1982, or
 - (b) some only of the relevant planning permissions which relate to the site have been granted after 21st February 1982, and the parts of the site to which those permissions relate constitute the greater part of that site.
- (3) With the exception of those mineral sites which, by virtue of sub-paragraph (2), are neither Phase I nor Phase II sites, every mineral site is either a Phase I site or a Phase II site.
- (4) Subject to sub-paragraph (2), where any part of a mineral site is situated within—
- (a) a site in respect of which a notification under section 28 of the ^{M1}Wildlife and Countryside Act 1981 (sites of special scientific interest) is in force,
 - (b) an area designated as a National Scenic Area under section 262C of the 1972 Act, or
 - (c) an area designated as a Natural Heritage Area under section 6 of the ^{M2}Natural Heritage (Scotland) Act 1991,
- that site is a Phase I site.
- (5) Subject to sub-paragraphs (2) and (4), where—
- (a) all the relevant planning permissions which relate to a mineral site, and which were not granted after 21st February 1982, were granted after 7th December 1969, or
 - (b) the parts of a mineral site to which relate such of the relevant planning permissions relating to the site as were granted after 7th December 1969 but before 22nd February 1982 constitute a greater part of the site than is constituted by those parts of the site to which no such relevant planning permission relates but to which a relevant planning permission granted on or before 7th December 1969 does relate,
- the mineral site is a Phase II site.
- (6) Every other mineral site, that is to say any mineral site other than one—
- (a) which is, by virtue of sub-paragraph (2), neither a Phase I nor a Phase II site,
 - (b) which is a Phase I site by virtue of sub-paragraph (4), or
 - (c) which is a Phase II site by virtue of sub-paragraph (5),

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is a Phase I site.

(7) In ascertaining, for the purposes of sub-paragraph (2) or (5), whether any parts of a mineral site constitute the greater part of that site, or whether a part of a mineral site is greater than any other part, that mineral site shall be treated as not including any part of the site—

- (a) to which an old mining permission relates, or
- (b) which is a part where minerals development has been (but is no longer being) carried out and which has, in the opinion of the planning authority, been satisfactorily restored;

but no part of a site shall be treated, by virtue of paragraph (b), as being not included in the site unless the planning authority are satisfied that any aftercare conditions which relate to that part have, so far as relating to that part, been complied with.

Marginal Citations

M1 1981 c. 69.

M2 1991 c. 28.

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