

*Status: Point in time view as at 30/11/2017.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Paragraph 7 is up to date with all changes known to be in force on or before 10 June 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

#### REVIEW OF OLD MINERAL PLANNING PERMISSIONS

*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*

- 7 (1) Any person who is the owner of any land, or of any interest in any mineral, comprised in—
- (a) an active Phase I site included in the first list, or
  - (b) an active Phase II site included in the second list,
- may apply to the planning authority for the postponement of 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 (in this paragraph referred to as “the specified date”).
- (2) Subject to sub-paragraph (3), 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—
- (a) in the case of an active Phase I site, the first list, or
  - (b) in the case of an active Phase II site, the second list,
- was first advertised in accordance with paragraph 5.
- (3) In the case of—
- (a) an active Phase I site—
    - (i) added to the first list in accordance with paragraph 6(4)(a); or
    - (ii) in respect of which the entry in the first list was amended in accordance with paragraph 6(4)(b);
- or
- (b) an active Phase II site—
    - (i) added to the second list in accordance with paragraph 6(7)(a); or
    - (ii) in respect of which the entry in the second list was amended in accordance with paragraph 6(7)(b),
- 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 on which notice was given under paragraph 6(10) of the planning authority’s decision to add the site to or, as the case may be, so to amend the list in question.
- (4) An application under sub-paragraph (1) shall be in writing and shall—
- (a) set out the conditions to which each relevant planning permission relating to the site is subject,
  - (b) set out the applicant’s reasons for considering those conditions to be satisfactory,
  - (c) set out the date which the applicant wishes to be substituted for the specified date, and

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- (d) be accompanied by the appropriate certificate.
- (5) For the purposes of sub-paragraph (4)(d), the appropriate certificate is each of the certificates which would be required, under or by virtue of sections 34 and 35, 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 34(3) and (4) and 35(5) shall have effect in relation to any certificate purporting to be the appropriate certificate.
- (6) Where the planning authority receive an application made under sub-paragraph (1)—
  - (a) if they consider the conditions referred to in sub-paragraph (4)(a) to be satisfactory they shall agree to the specified date being postponed in which event they shall determine the date to be substituted for that date,
  - (b) in any other case they shall refuse the application.
- (7) Where the planning authority agree to the specified date being postponed they shall cause the first or, as the case may be, the second list to be amended accordingly.
- (8) 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 agreed to the postponement of the specified date, shall notify the applicant of the date which they have determined should be substituted for the specified date.
- (9) Where, within three months of the planning authority having received an application under sub-paragraph (1), 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, under sub-paragraph (8), to the applicant of their decision upon the application, the authority shall be treated as—
  - (a) having agreed to the specified date being postponed, and
  - (b) having determined that the date referred to in sub-paragraph (4)(c) be substituted for the specified date,and sub-paragraph (7) shall apply accordingly.

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