

## SCHEDULE 1

Regulation 3(c)

### SPECIAL SITES

1. The families and groups of substances relevant for the purposes of regulation 3(c)(i) are—  
organohalogen compounds and substances which may form such compounds in the aquatic environment;  
organophosphorus compounds;  
organotin compounds;  
substances which possess carcinogenic, mutagenic or teratogenic properties in or via the aquatic environment;  
mercury and its compounds;  
cadmium and its compounds;  
mineral oil and other hydrocarbons;  
cyanides.
2. The formations of rocks relevant for the purposes of regulation 3(c)(ii) are—  
Pleistocene Norwich Crag;  
Upper Cretaceous Chalk;  
Lower Cretaceous Sandstones;  
Upper Jurassic Corallian;  
Middle Jurassic Limestones;  
Lower Jurassic Cotteswold Sands;  
Permo–Triassic Sherwood Sandstone Group;  
Upper Permian Magnesian Limestone;  
Lower Permian Penrith Sandstone;  
Lower Permian Collyhurst Sandstone;  
Lower Permian Basal Breccias, Conglomerates and Sandstones;  
Lower Carboniferous Limestones.

## SCHEDULE 2

Regulation 6

### COMPENSATION FOR RIGHTS OF ENTRY ETC

#### Interpretation

1. In this Schedule—  
“the 1961 Act” means the Land Compensation Act 1961(1);  
“grantor” means a person who has granted, or joined in the granting of, any rights pursuant to section 78G(2); and  
“relevant interest” means an interest in land out of which rights have been granted pursuant to section 78G(2).

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(1) 1961 c. 33.

*Status: This is the original version (as it was originally made).*

### **Period for making an application**

2. An application for compensation must be made within the period beginning with the date of the grant of the rights in respect of which compensation is claimed and ending on the expiry of whichever is the latest of the following periods—

- (a) twelve months after the date of the grant of those rights;
- (b) where an appeal is made against a remediation notice in respect of which the rights in question have been granted, and the notice is of no effect by virtue of regulation 12, twelve months after the date of the final determination or abandonment of the appeal; or
- (c) six months after the date on which the rights were first exercised.

### **Manner of making an application**

3.—(1) An application must be made in writing and delivered at or sent by pre-paid post to the last known address for correspondence of the appropriate person to whom the rights were granted.

(2) The application must contain, or be accompanied by—

- (a) a copy of the grant of rights in respect of which the grantor is applying for compensation, and of any plans attached to that grant;
- (b) a description of the exact nature of any interest in land in respect of which compensation is applied for; and
- (c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each of sub-paragraphs (a) to (e) of paragraph 4, and showing how the amount applied for under each sub-paragraph has been calculated.

### **Loss and damage for which compensation payable**

4. Subject to paragraph 5(3) and (5)(b), compensation is payable under section 78G(5) for loss and damage of the following descriptions—

- (a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;
- (b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;
- (c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—
  - (i) is attributable to the grant of the rights or the exercise of them;
  - (ii) does not consist of depreciation in the value of that interest; and
  - (iii) is loss or damage of a kind in respect of which compensation for disturbance, or any other matter not directly based on the value of that interest, is payable on a compulsory acquisition;
- (d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which results from the grant of the rights or the exercise of them; and
- (e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.

### **Basis on which compensation assessed**

5.—(1) The following provisions have effect for the purpose of assessing the amount to be paid by way of compensation under section 78G(5).

(2) The rules set out in section 5(2) of the 1961 Act (rules for assessing compensation), so far as applicable and subject to any necessary modifications, have effect for the purpose of assessing any such compensation as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(3) No account must be taken of any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made on any land in which the grantor is, or was at the time of erection, doing or making, directly or indirectly concerned, if the Lands Tribunal is satisfied that the erection of the building, the doing of the work, the making of the improvement or the alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of any loss under paragraph 4(e), expenditure incurred in the preparation of plans or on other similar preparatory matters must be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage—

- (a) the compensation must be assessed as if the interest were not subject to the mortgage; and
- (b) no compensation is payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(6) Compensation under section 78G(5) must include an amount equal to the grantor's reasonable valuation and legal expenses.

### **Payment of compensation and determination of disputes**

6.—(1) Compensation payable under section 78G(5) in respect of an interest which is subject to a mortgage must be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and must, in either case, be applied by him as if it were proceeds of sale.

(2) Amounts of compensation determined under this Schedule are payable—

- (a) where the appropriate person and the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;
- (b) where the appropriate person and the grantor or mortgagee agree that payment is to be made in instalments on different dates, on the date agreed as regards each instalment; and
- (c) in any other case, subject to any direction of the Lands Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been finally determined.

(3) Any question as to the application of paragraph 5(3) or of disputed compensation must be referred to and determined by the Lands Tribunal.

(4) In relation to the determination of any such question, sections 2(3) and 4 of the 1961 Act (which provide for the procedure on reference to the Lands Tribunal and costs) apply as if—

- (a) the reference in section 2(1) of that Act to section 1 of that Act were a reference to subparagraph (3) of this paragraph; and
- (b) references in section 4 of that Act to the acquiring authority were references to the appropriate person.

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(2) Section 5 was amended by the Planning and Compensation Act 1991 (c. 43), sections 70 and 84, Schedule 15, paragraph 1, and Schedule 19, Part 3.

(3) Section 2 was amended by the Local Government, Planning and Land Act 1980 (c. 65), section 193, and Schedule 33, paragraph 5.

SCHEDULE 3

Regulation 13(1)

PARTICULARS PRESCRIBED FOR THE PURPOSE OF SECTION 78R(1)

**Remediation notices**

1. In relation to a remediation notice served by the enforcing authority—
  - (a) the name and address of the person on whom the notice is served;
  - (b) the location and extent of the contaminated land to which the notice relates, in sufficient detail to enable it to be identified whether by reference to a plan or otherwise;
  - (c) the significant harm, harm or pollution of controlled waters by reason of which the contaminated land in question is contaminated land;
  - (d) the substances by reason of which the contaminated land in question is contaminated land and, if any of the substances have escaped from other land, the location of that other land;
  - (e) the current use of the contaminated land in question;
  - (f) what each appropriate person is to do by way of remediation and the periods within which they are required to do each of the things; and
  - (g) the date of the notice.

**Appeals against remediation notices**

2. Any appeal against a remediation notice served by the enforcing authority.
3. Any decision on such an appeal.

**Remediation declarations**

4. Any remediation declaration prepared and published by the enforcing authority under section 78H(6).
5. In relation to any such remediation declaration—
  - (a) the location and extent of the contaminated land in question, in sufficient detail to enable it to be identified, whether by reference to a plan or otherwise; and
  - (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1.

**Remediation statements**

6. Any remediation statement prepared and published by the responsible person under section 78H(7) or by the enforcing authority under section 78H(9).
7. In relation to any such remediation statement—
  - (a) the location and extent of the contaminated land in question, in sufficient detail to enable it to be identified, whether by reference to a plan or otherwise; and
  - (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1.

**Appeals against charging notices**

8. Any appeal under section 78P(8) against a charging notice served by the enforcing authority.
9. Any decision on such an appeal.

### **Designation of special sites**

**10.** In the case of the Environment Agency, as respects any land in relation to which it is the enforcing authority, and in the case of a local authority, as respects any land in its area—

- (a) any notice given by a local authority under subsection (1)(b) or (5)(a) of section 78C, or by the Secretary of State under section 78D(4)(b), which, by virtue of section 78C(7) or section 78D(6) respectively, has effect as the designation of any land as a special site;
- (b) the provisions of regulation 2 or 3 by virtue of which the land is required to be designated as a special site;
- (c) any notice given by the Environment Agency under section 78Q(1)(a) of its decision to adopt a remediation notice; and
- (d) any notice given by or to the enforcing authority under section 78Q(4) terminating the designation of any land as a special site.

### **Notification of claimed remediation**

**11.** Any notification given to the enforcing authority for the purposes of section 78R(1)(h) or (j).

### **Convictions for offences under section 78M**

**12.** Any conviction of a person for any offence under section 78M in relation to a remediation notice served by the enforcing authority, including the name of the offender, the date of conviction, the penalty imposed and the name of the Court.

### **Guidance issued under section 78V(1)**

**13.** In the case of the Environment Agency, the date of any guidance issued by it under subsection (1) of section 78V and, in the case of a local authority, the date of any guidance issued by the Agency to it under that subsection.

### **Other environmental controls**

**14.** Where the enforcing authority is precluded by virtue of section 78YB(1) or 78YB(2B)(4) from serving a remediation notice—

- (a) the location and extent of the contaminated land in question, in sufficient detail to enable it to be identified, whether by reference to a plan or otherwise;
- (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1; and
- (c) any steps of which the authority has knowledge, carried out under section 27(5) or by means of enforcement action (within the meaning of section 78YB(2C)(6)), towards remedying any significant harm, harm or pollution of controlled waters by reason of which the land in question is contaminated land.

**15.** Where the enforcing authority is precluded by virtue of section 78YB(3) from serving a remediation notice in respect of land which is contaminated land by reason of the deposit of controlled waste or any consequences of its deposit—

- (a) the location and extent of the contaminated land in question, in sufficient detail to enable it to be identified whether by reference to a plan or otherwise;

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(4) Subsection (2B) of section 78YB was inserted, in relation to England and Wales, by S.I.2000/1973, regulation 39 and Schedule 10, Part 1, paragraphs 2 and 6.

(5) Section 27 was amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 60.

(6) Subsection (2C) of section 78YB was inserted, in relation to England and Wales, by S.I. 2000/1973, regulation 39 and Schedule 10, Part 1, paragraphs 2 and 6.

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- (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1; and
- (c) any steps of which the enforcing authority has knowledge, carried out under section 59(7), in relation to that waste or the consequences of its deposit, and in a case where a waste collection authority (within the meaning of section 30(3)(8)) took those steps or required the steps to be taken, the name of that authority.

**16.** Where, as a result of a consent given under Chapter 2 of Part 3 of the Water Resources Act 1991 (pollution offences), the enforcing authority is precluded by virtue of section 78YB(4) from specifying in a remediation notice any particular thing by way of remediation which it would otherwise have specified in such a notice,—

- (a) the consent;
- (b) the location and extent of the contaminated land in question, in sufficient detail to enable it to be identified, whether by reference to a plan or otherwise; and
- (c) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1.

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(7) Section 59 was amended, in relation to England and Wales, by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 43(2).

(8) Subsection (3) of section 30 was amended by the Local Government (Wales) Act 1994 (c. 19), sections 22(3) and 66(8) and Schedule 9, paragraph 17(3), and Schedule 18, and by the Local Government etc (Scotland) Act 1994 (c. 39), section 180(1) and Schedule 13, paragraph 167(3).