
STATUTORY INSTRUMENTS

2006 No. 1252

The Planning Reform (Northern Ireland) Order 2006

PART V

MINERAL PLANNING PERMISSIONS

Aftercare conditions

26. After Article 27 of the principal Order (conditional grant of planning permission) insert—

“Power to impose aftercare conditions on grant of mineral planning permission

27A.—(1) Where—

- (a) planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste or waste materials is granted, and
- (b) the permission is subject to a condition requiring that after the winning and working is completed or the depositing has ceased, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material,

it may be granted subject also to any such condition as the Department thinks fit requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely—

- (i) use for agriculture;
- (ii) use for forestry; or
- (iii) use for amenity.

(2) In this Order—

- (a) a condition such as is mentioned in sub-paragraph (b) of paragraph (1) is referred to as “a restoration condition”; and
- (b) a condition requiring such steps to be taken as are mentioned in that paragraph is referred to as “an aftercare condition”.

(3) An aftercare condition may either—

- (a) specify the steps to be taken; or
- (b) require that the steps be taken in accordance with a scheme (in this Order referred to as an “aftercare scheme”) approved by the Department.

(4) The Department may approve an aftercare scheme in the form in which it is submitted to it or may modify it and approve it as modified.

(5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.

(6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.

(7) In paragraph (6) “the aftercare period” means a period of 5 years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.

(8) In a case where—

- (a) the use specified in an aftercare condition is a use for agriculture; and
- (b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

(9) In any other case where the use specified in an aftercare condition is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.

(10) Where the use specified in an aftercare condition is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.

(11) Where the use specified in an aftercare condition is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or other plants.

(12) In this Article—

“authorised” means authorised by planning permission;

“forestry” means the growing of a utilisable crop of timber.”.

Review of mineral planning permissions

27.—(1) After Article 63 of the principal Order insert—

“Review of mineral planning permissions

63A.—(1) Schedules 1A and 1B shall have effect.

(2) Without prejudice to the generality of Article 13, a development order may make, in relation to any planning permission which is granted by a development order for minerals development, provision similar to any provision made by Schedule 1A or 1B.

(3) In this Article and in Schedules 1A and 1B “minerals development” means development consisting of mining operations or involving the deposit of mineral waste.”.

(2) The provisions set out in Schedule 3 to this Order shall be inserted after Schedule 1 to the principal Order as Schedules 1A and 1B to that Order.

(3) In Article 124 of the principal Order (planning register), in paragraph (1) after subparagraph (n) (as inserted by Article 13(3) of this Order) add—

“(o) applications for a determination under paragraph 9 of Schedule 1A or paragraph 7 of Schedule 1B.”.

(4) In Article 2(2) of the principal Order (interpretation) there shall be inserted, in the appropriate places in alphabetical order, the following definitions—

““aftercare condition” has the meaning given in Article 27A(2);

“aftercare scheme” has the meaning given in Article 27A(3);

“depositing of mineral waste” means any process whereby a mineral working deposit is created or enlarged and “depositing of refuse or waste materials” includes the depositing of mineral waste;

“mineral working deposit” means any deposit of material remaining after materials have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land;

“restoration condition” has the meaning given in Article 27A(2);

“the winning and working of minerals” includes the extraction of minerals from a mineral working deposit;”.