

SCHEDULES

SCHEDULE 1

Section 34(4).

SIMPLIFIED PLANNING ZONES

1. Where a council decides under section 34 to make or alter a simplified planning zone scheme it must—

- (a) notify the Department of its decision as soon as practicable, and
- (b) determine the date on which the council will begin to prepare the scheme or the alterations.

2.—(1) A council proposing to make or alter a simplified planning zone scheme must, before determining the content of its proposals, comply with this paragraph.

(2) The council must consult or notify such persons as regulations may require it to consult or, as the case may be, notify.

(3) The council must take such steps as may be prescribed or as the Department may, in a particular case, direct to publicise—

- (a) the fact that the council proposes to make or alter a simplified planning zone scheme, and
- (b) the matters which it is considering including in the proposals.

(4) The council must consider any representations that are made in accordance with regulations.

3. Where a council has prepared a proposed simplified planning zone scheme, or proposed alterations to a simplified planning zone scheme, it must—

- (a) make copies of the proposed scheme or alterations available for inspection at such places as may be prescribed,
- (b) take such steps as may be prescribed for the purpose of advertising the fact that the proposed scheme or alterations are so available and the places at which, and times during which, they may be inspected,
- (c) take such steps as may be prescribed for inviting objections to be made within such period as may be prescribed, and
- (d) send a copy of the proposed scheme or alterations to the Department and such other persons as may be prescribed.

4.—(1) Where objections to the proposed scheme or alterations are made, the council may—

- (a) for the purpose of considering the objections, cause an independent examination to be carried out by—
 - (i) the planning appeals commission; or
 - (ii) a person appointed by the council and approved by the Department;
or
 - (b) require the objections to be considered by a person appointed by the council and approved by the Department.
- (2) Regulations may—
- (a) make provision with respect to the appointment, and qualifications for appointment, of persons for the purposes of this paragraph;
 - (b) include provision enabling the Department to direct a council to appoint a particular person, or one of a prescribed list or class of persons.
- (3) Any person who makes objections to a proposed simplified planning zone scheme or proposed alterations to a simplified planning zone scheme must, if that person so requests, be given the opportunity to appear before and be heard by—
- (a) the planning appeals commission; or
 - (b) the person appointed by the council and approved by the Department under sub-paragraph (1)(a)(ii).
- (4) A council must exercise the power under sub-paragraph (1), or head (a) or (b) of that sub-paragraph, if directed to do so by the Department.
- 5.—**(1) After the expiry of the period for making objections or, if objections have been made in accordance with the regulations, after considering those objections and the views of the planning appeals commission or any other person holding an independent examination or considering those objections under paragraph 4, the council may by resolution adopt the proposals (subject to the following provisions of this paragraph and paragraph 6).
- (2) The council may adopt the proposals as originally prepared or as modified so as to take account of—
- (a) any such objections as are mentioned in sub-paragraph (1) or any other objections to the proposals, or
 - (b) any other considerations which appear to the council to be material.
- (3) If, before the proposals have been adopted by the council, it appears to the Department that they are unsatisfactory, the Department may direct the council to modify the proposals in such respects as are indicated in the direction.
- (4) A council to which such a direction is given shall not adopt the proposals unless—
- (a) it satisfies the Department that it has made the modifications necessary to conform with the direction; or

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(b) the direction is withdrawn.

6.—(1) Before the proposals have been adopted by the council the Department may direct that they must be submitted to the Department for its approval.

(2) If the Department gives such a direction—

- (a) the council must not take any further steps for the adoption of the proposals, and in particular must not hold or proceed with an independent examination or any consideration of objections in respect of the proposals under paragraph 4; and
- (b) the proposals shall not have effect unless approved by the Department and shall not require adoption by the council.

7.—(1) The Department may, after considering proposals submitted to it under paragraph 6, either approve them, in whole or in part and with or without modifications, or reject them.

(2) In considering the proposals the Department may take into account any matters it thinks are relevant, whether or not they were taken into account in the proposals as submitted to it.

(3) Where on taking the proposals into consideration the Department does not determine then to reject them it shall, before determining whether or not to approve them, consider any objections made in accordance with regulations (and not withdrawn) except objections which—

- (a) have already been considered by the council or a person appointed by the council; or
- (b) have already been considered in the course of an independent examination carried out under paragraph 4.

(4) The Department may, for the purpose of considering any objections and the views of the council and of such other persons as it thinks fit—

- (a) cause an independent examination to be carried out by the planning appeals commission or such other person appointed by the Department; or
- (b) require such objections and views to be considered by a person appointed by the Department.

(5) In considering the proposals the Department may consult with, or consider the views of, any council or any other person; but the Department need not do so, or give an opportunity for the making or consideration of representations or objections, except so far as it is required to do so by sub-paragraph (3).

8.—(1) Without prejudice to the previous provisions of this Schedule, the Department may make regulations with respect—

- (a) to the form and content of simplified planning zone schemes, and

- (b) to the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making or alteration.
- (2) Any such regulations may in particular—
- (a) provide for the notice to be given of, or the publicity to be given to—
 - (i) matters included or proposed to be included in a simplified planning zone scheme, and
 - (ii) the adoption or approval of such a scheme, or of any alteration of it, or any other prescribed procedural step,and for publicity to be given to the procedure to be followed in these respects;
 - (b) make provision with respect to the making and consideration of representations as to matters to be included in, or objections to, any such scheme or proposals for its alteration;
 - (c) make provision with respect to the circumstances in which representations with respect to the matters to be included in such a scheme or proposals for its alteration are to be treated, for the purposes of this Schedule, as being objections made in accordance with regulations;
 - (d) without prejudice to head (a), provide for notice to be given to particular persons of the adoption or approval of a simplified planning zone scheme, or an alteration to such a scheme, if they have objected to the proposals and have notified the council of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;
 - (e) provide for notice to be given to the Department and such other persons as may be prescribed of the council's decision to hold or not to hold an independent examination in accordance with paragraph 4;
 - (f) require or authorise a council to consult with, or consider the views of, other persons before taking any prescribed procedural step;
 - (g) require a council, in such cases as may be prescribed or in such particular cases as the Department may direct, to provide persons making a request with copies of any document which has been made public, subject (if the regulations so provide) to the payment of a reasonable charge;
 - (h) provide for the publication and inspection of a simplified planning zone scheme which has been adopted or approved, or any document adopted or approved altering such a scheme, and for copies of any such scheme or document to be made available on sale.
- (3) Subject to the previous provisions of this Schedule and to any regulations under this paragraph, the Department may give directions to any council or to councils generally—
- (a) for formulating the procedure for the carrying out of their functions under this Schedule;

- (b) for requiring them to give the Department such information as the Department may require for carrying out any of its functions under this Schedule.

SCHEDULE 2

Section 129(1).

REVIEW OF OLD MINERAL PLANNING PERMISSION

Interpretation

1.—(1) In this Schedule—

“dormant site” means a Phase I or Phase II site in, on or under which no minerals development has been carried out to any substantial extent at any time within the period of 15 years ending on the date on which this Schedule comes into operation;

“first list” means, in relation to a council, the list prepared by the council under paragraph 3;

“mineral site” has the meaning given by sub-paragraph (2);

“Phase I site” and “Phase II site” have the meanings given by paragraph 2;

“relevant planning permission” means any planning permission for minerals development; and

“second list” means, in relation to a council, the list prepared by the council under paragraph 4.

(2) For the purposes of this Schedule “mineral site” means—

(a) in a case where it appears to the council to be expedient to treat as a single site the aggregate of the land to which any two or more relevant planning permissions relate, the aggregate of the land to which those permissions relate; and

(b) in any other case, the land to which a relevant planning permission relates.

(3) In determining whether it appears to it to be expedient to treat as a single site the aggregate of land to which two or more planning permissions relate a council must have regard to any guidance issued for the purpose by the Department.

(4) Any reference (however expressed) in this Schedule to a relevant planning permission relating to a mineral site is a reference to the mineral site, or some part of it, being the land to which the permission relates; and where any such permission authorises the carrying out of development consisting of the winning and working of minerals but only in respect of any particular mineral or minerals, that permission shall not be taken, for the purposes of this Schedule, as relating to any other mineral in, on or under the land to which the permission relates.

(5) For the purposes of this Schedule, a mineral site which is a Phase I site or a Phase II site is active if it is not a dormant site.

(6) For the purposes of this Schedule, working rights are restricted in respect of a mineral site if any of—

- (a) the size of the area which may be used for the winning and working of minerals or the depositing of mineral waste;
- (b) the depth to which operations for the winning and working of minerals may extend;
- (c) the height of any deposit of mineral waste;
- (d) the rate at which any particular mineral may be extracted;
- (e) the rate at which any particular mineral waste may be deposited;
- (f) the period at the expiry of which any winning or working of minerals or depositing of mineral waste is to cease; or
- (g) the total quantity of minerals which may be extracted from, or of mineral waste which may be deposited on, the site,

is restricted or reduced in respect of the mineral site in question.

(7) For the purposes of this Schedule, where an application is made under paragraph 9 for the determination of the conditions to which the relevant planning permissions relating to the mineral site to which the application relates are to be subject, those conditions are finally determined when—

- (a) the proceedings on the application have been determined, and
- (b) any time for appealing under paragraph 11(1), or applying or further applying under paragraph 9, (where there is a right to do so) has expired.

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 nor a Phase II site where—

- (a) all the relevant planning permissions which relate to the site have been granted after 31st December 1993; or
- (b) some only of the relevant planning permissions which relate to the site have been granted after 31st December 1993, 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—

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- (a) all the relevant planning permissions which relate to a mineral site were granted before 31st December 1980; or
- (b) some only of the relevant planning permissions which relate to the site were granted before 31st December 1980 and the parts of the site to which those permissions relate constitute the greater part of that site,

that mineral 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 were granted after 31st December 1980 but before 31st December 1993; or
- (b) some only of the relevant planning permissions which relate to the site were granted after 31st December 1980 but before 31st December 1993, and the parts of the site to which those permissions relate constitute the greater part of the site,

the mineral site is a Phase II site.

(6) 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 which is a part where minerals development has been (but is no longer being) carried out and which has, in the opinion of the council, been satisfactorily restored; but no part of a site shall be treated as being not so included in the site unless the council is satisfied that any after care conditions which relate to that part have, so far as relating to that part, been complied with.

The “first list”

3.—(1) A council must, in accordance with the following provisions of this paragraph, prepare a list of mineral sites in its district (“the first list”).

(2) A site shall, but shall only, be included in the first list if it is a mineral site in the council’s district and is either—

- (a) an active Phase I site;
- (b) an active Phase II site; or
- (c) a dormant site.

(3) In respect of each site included in the first list, the list shall indicate whether the site is an active Phase I site, an active Phase II site or a dormant site.

(4) In respect of each active Phase I site included in the first list, that list must specify the date by which an application is to be made to the council under paragraph 9.

(5) Any date specified pursuant to sub-paragraph (4) must be a date not earlier than the date upon which expires the period of 12 months from the date on which the first list is first advertised in accordance with paragraph 5.

The “second list”

4.—(1) A council must, in accordance with the following provisions of this paragraph, prepare a list of active Phase II sites in its district (“the second list”).

(2) The second list must include each mineral site in the council’s district which is an active Phase II site.

(3) In respect of each site included in the second list, that list must specify the date by which an application is to be made to the council under paragraph 9.

(4) Any date specified pursuant to sub-paragraph (3) must be a date not earlier than the date upon which expires the period of 12 months from the date on which the second list is first advertised in accordance with paragraph 5.

Advertisement of the first and second lists

5.—(1) This paragraph makes provision for the advertisement of the first and second lists by a council.

(2) The council must advertise each of the first and second lists by causing to be published, in each of two successive weeks, in one or more newspapers circulating throughout Northern Ireland, notice of the list having been prepared.

(3) In respect of each of those lists, such notice must—

- (a) state that the list has been prepared by the council; and
- (b) specify one or more places within the council’s district at which the list may be inspected, and in respect of each such place specify the times (which must be reasonable times) during which facilities for inspection of the list will be afforded.

(4) In respect of the first list, such notice must—

- (a) explain the general effect of a mineral site being classified as a dormant site or, as the case may be, as an active Phase I site or an active Phase II site;
- (b) explain the consequences which will occur if no application is made under paragraph 9 in respect of an active Phase I site included in the list by the date specified in the list for that site;
- (c) explain the effects for any dormant or active Phase I or II site not included in the list of its not being included in the list and—
 - (i) set out the right to make an application to the council for that site to be included in the list;
 - (ii) set out the date by which such an application must be made; and
 - (iii) state that the owner of such a site has a right of appeal against any decision of the council upon such an application; and
- (d) explain that the owner of an active Phase I site has a right to apply for postponement of the date specified in the list for the making of an

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application under paragraph 9, and set out the date by which an application for such postponement must be made.

(5) In respect of the second list, such notice must explain the consequences which will occur if no application is made under paragraph 9 in respect of an active Phase II site included in the list by the date specified in the list for that site.

Applications for inclusion in the first list of sites not included in that list as originally prepared and appeals from decisions upon such applications

6.—(1) Any person who is the owner of any land, or is entitled to an interest in a mineral, may, if that land or interest is not a mineral site included in the first list and does not form part of any mineral site included in that list, apply to the council for that land or interest to be included in that list.

(2) An application under sub-paragraph (1) must be made no later than the day upon which expires the period of 3 months from the day when the first list was first advertised in accordance with paragraph 5.

(3) Where the council considers that—

- (a) the land or interest is, or forms part of, any dormant site or active Phase I or II site, it must accede to the application; or
- (b) part only of the land or interest is, or forms part of, any dormant or active Phase I or II site, it must accede to the application so far as it relates to that part of the land or interest,

but it must otherwise refuse the application.

(4) On acceding, whether in whole or in part, to an application made under sub-paragraph (1), the council must amend the first list as follows—

- (a) where it considers that the land or interest, or any part of the land or interest, is a dormant site or an active Phase I or II site, it must add the mineral site consisting of the land or interest or, as the case may be, that part, to the first list and must cause the list to indicate whether the site is an active Phase I site, an active Phase II site or a dormant site;
- (b) where it considers that the land or interest, or any part of the land or interest, forms part of any mineral site included in the first list, it must amend the entry in the first list for that site accordingly.

(5) Where the council amends the first list in accordance with sub-paragraph (4), it must also—

- (a) in a case where an active Phase I site is added to the first list pursuant to paragraph (a) of that sub-paragraph, cause that list to specify, in respect of that site, the date by which an application is to be made to the council under paragraph 9;
- (b) in a case where—

- (i) the entry for an active Phase I site included in the first list is amended pursuant to paragraph (b) of that sub-paragraph; and
- (ii) the date specified in that list in respect of that site as the date by which an application is to be made to the council under paragraph 9 is a date falling less than 12 months after the date upon which the council makes its decision upon the application in question,

cause that date to be amended so as to specify instead the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the council's decision upon the application.

(6) Any date specified pursuant to sub-paragraph (5)(a) must be a date not earlier than the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the council's decision upon the application.

(7) On acceding, whether in whole or in part, to an application made under sub-paragraph (1), the council must, if the second list has been first advertised in accordance with paragraph 5 prior to the time at which it makes its decision on the application, amend the second list as follows—

- (a) where it considers that the land or interest, or any part of the land or interest, is an active Phase II site, it must add the mineral site consisting of the land or interest or, as the case may be, that part, to the second list;
- (b) where it considers that the land or interest, or any part of the land or interest, forms part of any active Phase II site included in the second list, it must amend the entry in that list for that site accordingly.

(8) Where the council amends the second list in accordance with sub-paragraph (7), it must also—

- (a) in a case where an active Phase II site is added to the second list pursuant to paragraph (a) of that sub-paragraph, cause that list to specify, in respect of that site, the date by which an application is to be made to the council under paragraph 9;
- (b) in a case where—
 - (i) the entry for an active Phase II site included in the second list is amended pursuant to paragraph (b) of that sub-paragraph; and
 - (ii) the date specified in that list in respect of that site as the date by which an application is to be made to the council under paragraph 9 is a date falling less than 12 months after the date upon which the council makes its decision upon the application in question,

cause that date to be amended so as to specify instead the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the council's decision upon the application.

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(9) Any date specified pursuant to sub-paragraph (8)(a) must be a date not earlier than the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the council's decision upon the application.

(10) When the council determines an application made under sub-paragraph (1) it must notify the applicant in writing of its decision and, in a case where it has acceded to the application, whether in whole or in part, must supply the applicant with details of any amendment to be made to the first or second list in accordance with sub-paragraph (4) or (8).

(11) Where the council—

- (a) refuses an application made under sub-paragraph (1); or
- (b) accedes to such an application only so far as it relates to part of the land or interest in respect of which it was made,

the applicant may by notice appeal to the planning appeals commission.

(12) A person who has made such an application may also appeal to the planning appeals commission if the council has not given notice to the applicant of its decision on the application within such period as may be prescribed or within such extended period as may at any time be agreed upon in writing between the applicant and the council.

(13) An appeal under sub-paragraph (11) or (12) must be made by giving notice of appeal in writing to the planning appeals commission before the end of the period of 6 months beginning with—

- (a) in the case of an appeal under sub-paragraph (11), the determination, or
- (b) in the case of an appeal under sub-paragraph (12), the end of the first period mentioned in that sub-paragraph or, as the case may be, the end of the extended period mentioned in that sub-paragraph.

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 council 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 council under paragraph 9 (in this paragraph referred to as “the specified date”).

(2) Subject to sub-paragraph (3), an application under sub-paragraph (1) must be made no later than the day upon which expires the period of 3 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) must be made no later than the day upon which expires the period of 3 months from the day on which notice was given under paragraph 6(10) of the council'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) must be in writing and must—

- (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
- (d) be accompanied by the appropriate certificate (within the meaning of sub-paragraph (5)).

(5) For the purposes of sub-paragraph (4), the appropriate certificate is such a certificate—

- (a) as would be required, under section 42 (notification of applications to certain persons), to accompany the application if it were an application for planning permission for minerals development, but
- (b) with such modifications as are required for the purposes of this paragraph,

and section 42(6) (offences) shall also have effect in relation to any certificate purporting to be the appropriate certificate.

(6) Where the council receives an application made under sub-paragraph (1)—

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- (a) if it considers the conditions referred to in sub-paragraph (4)(a) to be satisfactory it must agree to the specified date being postponed in which event the council must determine the date to be substituted for that date;
- (b) in any other case it must refuse the application.

(7) Where the council agrees to the specified date being postponed it must cause the first or, as the case may be, the second list to be amended accordingly.

(8) When the council determines an application made under sub-paragraph (1) it must notify the applicant in writing of its decision and, in a case where it has agreed to the postponement of the specified date, must notify the applicant of the date which it has determined should be substituted for the specified date.

(9) Where, within 3 months of the council 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 council, the council has not given notice, under sub-paragraph (8), to the applicant of its decision upon the application, the council 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.

Service on owners etc. of notice of preparation of the first and second lists

8.—(1) The council must, no later than the date upon which the first list is first advertised in accordance with paragraph 5, serve notice in writing of the first list having been prepared on each person appearing to it to be the owner of any land, or entitled to an interest in any mineral, included within a mineral site included in the first list, but this sub-paragraph is subject to sub-paragraph (7).

(2) A notice required to be served by sub-paragraph (1) must—

- (a) indicate whether the mineral site in question is a dormant site or an active Phase I or II site; and
- (b) where that site is an active Phase I site—
 - (i) indicate the date specified in the first list in relation to that site as the date by which an application is to be made to the council under paragraph 9;
 - (ii) explain the consequences which will occur if such an application is not made by the date so specified; and
 - (iii) explain the right to apply to have that date postponed, and indicate the date by which such an application must be made.

(3) Where, in relation to any land or mineral included in an active Phase I site, the council—

- (a) has served notice on any person under sub-paragraph (1); and
 - (b) has received no application under paragraph 9 from that person by the date falling 8 weeks before the date specified in the first list as the date by which such applications should be made in respect of the site in question,
- the council must serve a written reminder on that person, and such a reminder must—
- (i) indicate that the land or mineral in question is included in an active Phase I site;
 - (ii) comply with the requirements of sub-paragraph (2)(b)(i) and (ii); and
 - (iii) be served on that person on or before the date falling 4 weeks before the date specified in the first list in respect of that site as the date by which an application is to be made to the council under paragraph 9.
- (4) The council must, no later than the date upon which the second list is first advertised in accordance with paragraph 5, serve notice in writing of the second list having been prepared on each person appearing to it to be the owner of any land, or entitled to an interest in any mineral, included within an active Phase II site included in the second list, but this sub-paragraph is subject to sub-paragraph (7).
- (5) A notice required to be served by sub-paragraph (4) must—
- (a) indicate that the mineral site in question is an active Phase II site; and
 - (b) indicate the date specified in the second list in relation to that site as the date by which an application is to be made to the council under paragraph 9;
 - (c) explain the consequences which will occur if such an application is not made by the date so specified; and
 - (d) explain the right to apply to have that date postponed, and indicate the date by which such an application must be made.
- (6) Where, in relation to any land or mineral included in an active Phase II site, the council—
- (a) has served notice on any person under sub-paragraph (4), and
 - (b) has received no application under paragraph 9 from that person by the date falling 8 weeks before the date specified in the second list as the date by which such applications should be made in respect of the site in question,
- the council must serve a written reminder on that person, and such a reminder must—
- (i) comply with the requirements of sub-paragraph (5)(a) to (c); and
 - (ii) be served on that person on or before the date falling 4 weeks before the date specified in the second list in respect of that site as the date by which an application is to be made to the council under paragraph 9.
- (7) Sub-paragraph (1) or (4) shall not require the council to serve notice under that sub-paragraph upon any person whose identity or address for service is not

known to and cannot practicably, after reasonable inquiry, be ascertained by it, but in any such case the council must cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the notice which it would (apart from the provisions of this sub-paragraph) have had to serve under that sub-paragraph on the owner of that land or interest.

(8) If, in a case where sub-paragraph (7) applies, no person makes an application to the council under paragraph 9 in respect of the active Phase I or II site which includes the land or interest in question by the date falling 8 weeks before the date specified in the first or, as the case may be, the second list as the date by which such applications should be made in respect of that site, the council must cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the written reminder that would, in a case not falling within sub-paragraph (7), have been served under sub-paragraph (3) or (6).

(9) Where by sub-paragraph (7) or (8) a copy of any notice is required to be affixed to an object on any land that copy must—

- (a) be displayed in such a way as to be easily visible and legible;
- (b) be first displayed—
 - (i) in a case where the requirement arises under sub-paragraph (7), no later than the date upon which the first or, as the case may be, the second list is first advertised in accordance with paragraph 5; or
 - (ii) in a case where the requirement arises under sub-paragraph (8), no later than the date falling 4 weeks before the date specified in the first or, as the case may be, the second list in respect of the site in question as the date by which an application is to be made to the council under paragraph 9; and
- (c) be left in position for at least the period of 21 days from the date when it is first displayed, but where the notice is, without fault or intention of the council, removed, obscured or defaced before that period has elapsed, that requirement shall be treated as having been complied with if the council has taken reasonable steps for protection of the notice and, if need be, its replacement.

(10) In sub-paragraphs (7) and (8), any reference to a conspicuous object on any land includes, in a case where the person serving a notice considers that there are no or insufficient such objects on the land, a reference to a post driven into or erected upon the land by the person serving the notice for the purpose of having affixed to it the notice in question.

(11) Where the council, being required—

- (a) by sub-paragraph (3) or (6) to serve a written reminder on any person; or

- (b) by sub-paragraph (8) to cause a copy of such a reminder to be displayed in the manner set out in that sub-paragraph,

fails to comply with that requirement by the date specified for the purpose, it may at any later time serve or, as the case may be, cause to be displayed, such a written reminder and, in any such case, the date by which an application in relation to the mineral site in question is to be made under paragraph 9 is the date upon which expires the period of 3 months from the date when the reminder was served or posted in accordance with the provisions of this sub-paragraph.

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 council to determine the conditions to which the relevant planning permissions relating to that site are to be subject.

(2) An application under this paragraph must be in writing and must—

- (a) identify the mineral site to which the application relates;
- (b) 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;
- (c) identify any relevant planning permission relating to the site;
- (d) identify, and give a postal 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;
- (e) set out the conditions to which the applicant proposes the permissions referred to in paragraph (c) should be subject; and
- (f) be accompanied by the appropriate certificate (within the meaning of sub-paragraph (3)).

(3) For the purposes of sub-paragraph (2), the appropriate certificate is such a certificate—

- (a) as would be required, under section 42 (notification of applications for planning provisions to certain persons) to accompany the application if it were an application for planning permission for minerals development, but
- (b) with such modifications as are required for the purposes of this paragraph, and section 42(6) (offences) shall also have effect in relation to any certificate purporting to be the appropriate certificate.

(4) Section 41 shall have effect, with any necessary modifications, in relation to an application under this paragraph as it has effect in relation to an application for planning permission.

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(5) Where the council receives an application under this paragraph in relation to a dormant site or an active Phase I or II site it must 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.

(6) The conditions imposed by virtue of a determination under sub-paragraph (5)

- (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.

(7) 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 council must have regard to any guidance issued by the Department.

(8) Subject to sub-paragraph (10), where, within the period of 6 months from the council 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 council, the council has not—

- (a) given notice to the applicant of its decision upon the application; or
- (b) given notice to the applicant that the application has been referred to the Department in accordance with directions given under paragraph 13,

the council 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.

(9) Where the council, having received an application under this paragraph, is of the opinion that it is unable to determine the application unless further details are supplied to it, it must within the period of one month from having received the application give notice to the applicant—

- (a) stating that it is of such opinion; and
- (b) specifying the further details which it requires,

and where the council so serves such a notice the period of 6 months referred to in sub-paragraph (8) shall run not from the council having received the application but from the time when the council has received all the further details specified in the notice.

(10) Without prejudice to the generality of sub-paragraph (9), 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 council in respect of the application in question,

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

*Notice of determination of conditions to be
accompanied by additional information in certain cases*

10.—(1) This paragraph applies in a case where—

- (a) on an application made to the council under paragraph 9 in respect of an active Phase I or II site the council determines under that paragraph the conditions to which the relevant planning permissions relating to the site are to be subject;
- (b) those conditions differ in any respect from the proposed conditions set out in the application; and
- (c) the effect of the conditions, other than any restoration or aftercare conditions, so determined by the council, as compared with the effect of the conditions, other than any restoration or aftercare conditions, to which the relevant planning permissions in question were subject immediately prior to the council making the determination, is to restrict working rights in respect of the site.

(2) In a case where this paragraph applies, the council must, upon giving to the applicant notice of the conditions determined by the council under paragraph 9, also give to the applicant notice—

- (a) stating that the conditions determined by the council differ in some respect from the proposed conditions set out in the application;
- (b) stating that the effect of the conditions, other than any restoration or aftercare conditions, determined by the council, as compared with the effect of the conditions, other than any restoration or aftercare conditions, to which the relevant planning permissions relating to the site in question were subject immediately prior to the making of the council's determination, is to restrict working rights in respect of the site;
- (c) identifying the working rights so restricted; and
- (d) stating whether, in the opinion of the council, the effect of that restriction of working rights would be such as to prejudice adversely to an unreasonable degree—
 - (i) the economic viability of operating the site; or
 - (ii) the asset value of the site.

(3) In this paragraph, “the applicant” means the person who made the application in question under paragraph 9.

Right to appeal against council’s determination of conditions etc.

11.—(1) Where the council—

- (a) on an application under paragraph 9 determines under that paragraph conditions that differ in any respect from the proposed conditions set out in the application; or
- (b) gives notice, under paragraph (d) of paragraph 10(2), stating that, in its opinion, the restriction of working rights in question would not be such as to prejudice adversely to an unreasonable degree either of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (d),

the person who made the application may appeal to the planning appeals commission.

(2) An appeal under sub-paragraph (1) shall be made by giving notice of appeal in writing to the planning appeals commission before the end of the period of 6 months beginning with the date on which the council gives notice to the applicant of its determination or, as the case may be, stating its opinion.

Permissions ceasing to have effect

12.—(1) Subject to paragraph 8(11), where no application under paragraph 9 in respect of an active Phase I or II site has been served on the council by the date specified in the first or, as the case may be, the second list as the date by which applications under that paragraph in respect of that site are to be made, or by such later date as may at any time be agreed upon in writing between the applicant and the council, each relevant planning permission relating to the site shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the last date on which such an application may be made.

(2) The reference in sub-paragraph (1) to the date specified in the first or, as the case may be, the second list as the date by which applications under paragraph 9 are to be made in respect of any Phase I or II site is a reference to the date specified for that purpose in respect of that site in that list as prepared by the council or, where that date has been varied by virtue of any provision of this Schedule, to that date as so varied.

(3) Subject to sub-paragraph (4), no relevant planning permission which relates to a dormant site shall have effect to authorise the carrying out of minerals development unless—

- (a) an application has been made under paragraph 9 in respect of that site; and

(b) that permission has effect in accordance with sub-paragraph (5) of that paragraph.

(4) A relevant planning permission which relates to a Phase I or II site not included in the first list shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the last date on which an application under sub-paragraph (1) of paragraph 6 may be made in respect of that site unless an application has been made under that sub-paragraph by that date in which event, unless the site is added to that list, such a permission shall cease to have effect when the following conditions are met—

- (a) the proceedings on that application have been determined, and
- (b) any time for appealing under paragraph 6(11) or (12), or applying or further applying under paragraph 6(1), (where there is a right to do so) has expired.

Call in of applications to Department

13.—(1) The Department may give directions requiring applications under paragraph 9 to any council to be referred to it for determination instead of being dealt with by the council.

(2) A direction under sub-paragraph (1)—

- (a) may be given either to a particular council or to councils generally; and
- (b) may relate either to a particular application or to applications of a class specified in the direction.

(3) Where an application is referred to the Department in accordance with such a direction, the following provisions of this Schedule—

- (a) paragraph 9(5) and (6),
- (b) paragraph 10, and
- (c) paragraph 14 so far as relating to applications under paragraph 9,

shall apply, with any necessary modifications, as they apply to applications which fall to be determined by the council.

(4) For the purpose of considering representations made in respect of an application referred to it under this paragraph, the Department may cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(5) Where a public local inquiry is not held under sub-paragraph (4), the Department must, before determining the application, serve a notice on the applicant and the appropriate council indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service of the notice), the applicant or

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the council so requests in writing, the Department must afford to each of them an opportunity of appearing before and being heard by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(6) In determining an application referred to it under this paragraph, the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(7) The decision of the Department on an application referred to it under this paragraph shall be final.

Two or more applicants

14.—(1) Where the council has received from any person a duly made application under paragraph 7(1) or 9—

- (a) that person may not make any further application under the paragraph in question in respect of the same site; and
- (b) if the application has been determined, whether or not in the case of an application under paragraph 9 it has been finally determined, no other person may make an application under the paragraph in question in respect of the same site.

(2) Where—

- (a) the council has received from any person in respect of a mineral site a duly made application under paragraph 7(1) or 9; and
- (b) the council receives from another person a duly made application under the paragraph in question in respect of the same site,

then for the purpose of the determination of the applications and any appeal against such a determination, this Schedule shall have effect as if the applications were a single application received by the council on the date on which the later application was received by the council and references to the applicant shall be read as references to either or any of the applicants.

Compensation

15.—(1) This paragraph applies in a case where—

- (a) an application made under paragraph 9 in respect of an active Phase I or II site is finally determined; and
- (b) the requirements of sub-paragraph (2), (3) or (4) are satisfied.

(2) The requirements, referred to in sub-paragraph (1)(b), of this sub-paragraph are—

- (a) that the conditions to which the relevant planning permissions relating to the site are to be subject were determined by the council;
- (b) no appeal was made under paragraph 11(1)(a) in respect of that determination or any such appeal was withdrawn or dismissed; and
- (c) the council gave notice under paragraph (d) of paragraph 10(2) and either—
 - (i) that notice stated that, in the council’s opinion, the restriction of working rights in question would be such as to prejudice adversely to an unreasonable degree either of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (d); or
 - (ii) that notice stated that, in the council’s opinion, the restriction in question would not be such as would so prejudice either of those matters but an appeal under paragraph 11(1)(b) in respect of the giving of the notice has been allowed.

(3) The requirements, referred to in sub-paragraph (1)(b), of this sub-paragraph are that the conditions to which the relevant planning permissions are to be subject were determined by the Department and the Department gave notice under paragraph (d) of paragraph 10(2) stating that, in its opinion, the restriction of working rights in question would be such as to prejudice adversely to an unreasonable degree either of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (d).

(4) The requirements, referred to in sub-paragraph (1)(b), of this sub-paragraph are that the conditions to which the relevant planning permissions are to be subject were determined by the planning appeals commission upon an appeal under paragraph 11(1)(a) and either—

- (a) the council gave notice under paragraph (d) of paragraph 10(2) stating that, in its opinion, the restriction of working rights in question would be such as to prejudice adversely to an unreasonable degree either of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (d); or
- (b) the council gave a notice under paragraph (d) stating that, in its opinion, the restriction in question would not be such as would so prejudice either of those matters but an appeal under paragraph 11(1)(b) in respect of the giving of that notice has been allowed.

(5) In a case to which this paragraph applies, section 26 of the Act of 1965 shall have effect as if an order having effect under section 68 of this Act had effect to modify those permissions to the extent specified in sub-paragraph (6).

(6) For the purposes of sub-paragraph (5), the order which is treated by virtue of that sub-paragraph as having effect under section 68 is one whose only effect adverse to the interests of any person having an estate or interest in the land or minerals comprised in the mineral site is to restrict working rights in respect of the site to the same extent as the relevant restriction.

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Appeals: general procedural provisions

16.—(1) This paragraph applies to appeals under any of the following provisions of this Schedule—

- (a) paragraph 6(11) or (12); or
- (b) paragraph 11(1).

(2) Subsections (4) and (5) of section 58 (appeals) shall apply to an appeal to which this paragraph applies as those subsections apply to an appeal under that section.

SCHEDULE 3

Section 129(1).

PERIODIC REVIEW OF MINERAL PLANNING PERMISSIONS

Duty to carry out periodic reviews

1. The council must, in accordance with the provisions of this Schedule, cause periodic reviews to be carried out of the mineral permissions relating to a mining site.

Interpretation

2.—(1) For the purposes of this Schedule—

“first review date”, in relation to a mining site, shall, subject to paragraphs 4 and 6, be ascertained in accordance with paragraph 3;

“mineral permission” means any planning permission for minerals development;

“mining site” means—

- (a) in a case where it appears to the council to be expedient to treat as a single site the aggregate of the land to which any two or more mineral permissions relate, the aggregate of the land to which those permissions relate; and
- (b) in any other case, the land to which a mineral permission relates.

(2) In determining whether it appears to it to be expedient to treat as a single site the aggregate of the land to which two or more mineral permissions relate a council must have regard to any guidance issued for the purpose by the Department.

(3) Any reference (however expressed) in this Schedule to a mining site being a site to which relates a mineral permission, is a reference to the mining site, or some part of it, being the land to which the permission relates.

(4) For the purposes of this Schedule, an application made under paragraph 7 is finally determined when—

- (a) the proceedings on the application have been determined, and
- (b) any time for appealing under paragraph 9(1), or applying or further applying under paragraph 7, (where there is a right to do so) has expired.

The first review date

3.—(1) Subject to sub-paragraph (5), in the case of a mining site which is a Phase I or II site within the meaning of Schedule 2, the first review date means the date falling 15 years after the date upon which, pursuant to an application made under paragraph 9 of that Schedule, there is determined under that paragraph the conditions to which the relevant planning permissions (within the meaning of that Schedule) relating to the site are to be subject.

(2) Subject to sub-paragraphs (3) and (6), in the case of a mining site which is not a Phase I or II site within the meaning of Schedule 2, the first review date is the date falling 15 years after the date upon which was granted the most recent mineral permission which relates to the site.

(3) Where, in the case of a mining site falling within sub-paragraph (2), the most recent mineral permission relating to that site relates, or the most recent such permissions (whether or not granted on the same date) between them relate, to part only of the site, and in the opinion of the council it is expedient, for the purpose of ascertaining, under that sub-paragraph, the first review date in respect of that site, to treat that permission or those permissions as having been granted at the same time as the last of the other mineral permissions relating to the site, the first review date for that site shall be ascertained under that sub-paragraph accordingly.

(4) A council must, in deciding whether it is of such an opinion as is mentioned in sub-paragraph (3), have regard to any guidance issued by the Department for the purpose.

(5) Subject to sub-paragraph (6), in the case of a mining site—

- (a) to which relates a mineral permission in respect of which an order has been made under section 68, or
- (b) in respect of which, or any part of which, an order has been made under section 73,

the first review date shall be the date falling 15 years after the date upon which the order took effect or, in a case where there is more than one such order, upon which the last of those orders to take effect took effect.

(6) In the case of a mining site for which the preceding provisions of this paragraph have effect to specify two or more different dates as the first review date, the first review date shall be the latest of those dates.

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4.—(1) The Department may by order subject to negative resolution specify a first review date different from the first review date found in pursuance of paragraph 3(1).

(2) Sub-paragraph (3) applies if no first review date is found in pursuance of paragraph 3(1).

(3) The Department may by order subject to negative resolution specify a first review date.

Service of notice of first periodic review

5.—(1) The council must, in connection with the first periodic review of the mineral permissions relating to a mining site, no later than 12 months before the first review date, serve notice upon each person appearing to it to be the owner of any land, or entitled to an interest in any mineral, included in that site.

(2) A notice required to be served under sub-paragraph (1) must—

- (a) specify the mining site to which it relates;
- (b) identify the mineral permissions relating to that site;
- (c) state the first review date;
- (d) state that the first review date is the date by which an application must be made for approval of the conditions to which the mineral permissions relating to the site are to be subject and explain the consequences which will occur if no such application is made by that date; and
- (e) explain the right to apply for postponement of the first review date and give the date by which such an application has to be made.

(3) Where, in relation to any land or mineral included in a mining site, the council—

- (a) has served notice on any person under sub-paragraph (1); and
- (b) has received no application under paragraph 7 from that person by the date falling 8 weeks before the first review date,

the council must serve a written reminder on that person.

(4) A reminder required to be served under sub-paragraph (3) must—

- (a) indicate that the land or mineral in question is included in a mining site;
- (b) comply with the requirements of sub-paragraph (2)(a) to (d); and
- (c) be served on the person in question on or before the date falling 4 weeks before the first review date.

(5) Sub-paragraph (1) shall not require the council to serve notice under that sub-paragraph upon any person whose identity or address for service is not known to and cannot practicably, after reasonable inquiry, be ascertained by it, but in any such case the council must cause to be firmly affixed, to each of one or more conspicuous

objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the notice which it would (apart from the provisions of this sub-paragraph) have had to serve under that sub-paragraph on the owner of that land or interest.

(6) If, in a case where sub-paragraph (5) applies, no person makes an application to the council under paragraph 7 in respect of the mining site which includes the land or interest in question by the date falling 8 weeks before the first review date, the council must cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the written reminder that would, in a case not falling within sub-paragraph (5), have been served under sub-paragraph (3).

(7) Where by sub-paragraph (5) or (6) a copy of any notice is required to be affixed to an object on any land that copy must—

- (a) be displayed in such a way as to be easily visible and legible;
- (b) be first displayed—
 - (i) in a case where the requirement arises under sub-paragraph (5), no later than 12 months before the first review date; or
 - (ii) in a case where the requirement arises under sub-paragraph (6), no later than the date falling 4 weeks before the first review date;

and

- (c) be left in position for at least the period of 21 days from the date when it is first displayed, but where the notice is, without fault or intention of the council, removed, obscured or defaced before that period has elapsed, that requirement shall be treated as having been complied with if the council has taken reasonable steps for protection of the notice and, if need be, its replacement.

(8) In sub-paragraphs (5) and (6), any reference to a conspicuous object on any land includes, in a case where the person serving a notice considers that there are no or insufficient such objects on the land, a reference to a post driven into or erected upon the land by the person serving the notice for the purpose of having affixed to it a copy of the notice in question.

Application for postponement of the first review date

6.—(1) Any person who is the owner of any land, or of any interest in any mineral, comprised in a mining site may, no later than the day upon which expires the period of 3 months from the day upon which notice was served on that person under paragraph 5, apply under this paragraph to the council for the postponement of the first review date.

(2) An application under this paragraph must be in writing and must set out—

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- (a) the conditions to which each mineral permission relating to the site is subject;
 - (b) the applicant's reasons for considering those conditions to be satisfactory; and
 - (c) the date which the applicant wishes to have substituted for the first review date.
- (3) Where the council receives an application made under this paragraph—
- (a) if it considers the conditions referred to in sub-paragraph (2)(a) to be satisfactory it must agree to the first review date being postponed in which event it must determine the date to be substituted for that date;
 - (b) in any other case it must refuse the application.
- (4) When the council determines an application made under this paragraph, it must notify the applicant in writing of its decision and, in a case where the council has agreed to the postponement of the first review date, it must notify the applicant of the date which it has determined should be substituted for the first review date.
- (5) Where, within the period of 3 months of the council 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 council, the council has not given notice, under sub-paragraph (4), to the applicant of its decision upon the application, the council shall be treated as having, at the end of that period or, as the case may be, that extended period—
- (a) agreed to the first review date being postponed; and
 - (b) determined that the date referred to in sub-paragraph (2)(c) be substituted for the first review date.

*Application to determine the conditions to which the mineral
permissions relating to a mining site are to be subject*

- 7.—(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 mining site, apply to the council to determine the conditions to which the mineral permissions relating to that site are to be subject.
- (2) An application under this paragraph must be in writing and must—
- (a) identify the mining site in respect of which the application is made and state that the application is made in connection with the first periodic review of the mineral permissions relating to that site;
 - (b) 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;
 - (c) identify the mineral permissions relating to the site;

- (d) identify, and give a postal 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;
 - (e) set out the conditions to which the applicant proposes the permissions referred to in paragraph (c) should be subject; and
 - (f) be accompanied by the appropriate certificate (within the meaning of sub-paragraph (3)).
- (3) For the purposes of sub-paragraph (2)(f), the appropriate certificate is such a certificate—
- (a) as would be required, under section 42, to accompany the application if it were an application for planning permission for minerals development, but
 - (b) with such modifications as are required for the purposes of this paragraph, and section 42(6) (offences) shall also have effect in relation to any certificate purporting to be the appropriate certificate.
- (4) Section 41 shall have effect, with any necessary modifications, in relation to an application under this paragraph as it has effect in relation to an application for planning permission.
- (5) Where the council receives an application under this paragraph in relation to a mining site it must determine the conditions to which each mineral permission relating to the site is to be subject.
- (6) The conditions imposed by virtue of a determination under sub-paragraph (5) —
- (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.
- (7) In determining that a mineral permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the council must have regard to any guidance issued for the purpose by the Department.
- (8) Subject to sub-paragraph (9), where, within the period of 6 months of the council 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 council, the council has not—
- (a) given notice to the applicant of its decision upon the application; or
 - (b) given notice to the applicant that the application has been referred to the Department in accordance with directions given under paragraph 10,
- the council 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 mineral

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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.

(9) Where the council, having received an application under this paragraph, is of the opinion that it is unable to determine the application unless further details are supplied to it, the council must within the period of one month from having received the application give notice to the applicant—

- (a) stating that it is of such opinion; and
- (b) specifying the further details which it requires,

and where the council so serves such a notice the period of 6 months referred to in sub-paragraph (8) shall run not from the council having received the application but from the time when the council has received all the further details specified in the notice.

(10) Without prejudice to the generality of sub-paragraph (9), 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 council in respect of the application in question,

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

Permissions ceasing to have effect

8. Where no application under paragraph 7 in respect of a mining site has been served on the council by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the council, each mineral permission—

- (a) relating to the site; and
- (b) identified in the notice served in relation to the site under paragraph 5,

shall cease to have effect, except insofar as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date.

Appeals

9.—(1) Where on an application under paragraph 7 the council determines conditions that differ in any respect from the proposed conditions set out in the application, the applicant may appeal to the planning appeals commission.

(2) An appeal under sub-paragraph (1) shall be made by giving notice of appeal in writing to the planning appeals commission before the end of the period of 6

months beginning with the date on which the council gives notice to the applicant of its determination.

(3) Subsections (4) and (5) of section 58 (determination of appeals) shall apply to appeals under sub-paragraph (1) as those subsections apply to appeals under that section.

Call in of applications to Department

10.—(1) The Department may give directions requiring applications made under paragraph 7 to any council to be referred to the Department for determination instead of being dealt with by the council.

(2) A direction under sub-paragraph (1) may—

- (a) be given either to a particular council or to councils generally; and
- (b) may relate either to a particular application or to applications of a class specified in the direction.

(3) Where an application is referred to the Department in accordance with a direction under sub-paragraph (1), paragraph 7(5) and (6), and paragraph 12 so far as relating to applications under paragraph 7, shall apply, with any necessary modifications, to the Department's determination of the application as they apply to the determination of applications by the council.

(4) For the purpose of considering representations made in respect of an application referred to it under this paragraph, the Department may cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(5) Where a public local inquiry is not held under sub-paragraph (4), the Department must, before determining the application, serve a notice on the applicant and the appropriate council indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service of the notice), the applicant or the council so requests in writing, the Department must afford to each of them an opportunity of appearing before and being heard by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(6) In determining an application referred to it under this paragraph, the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(7) The decision of the Department on an application referred to it under this paragraph shall be final.

Time from which conditions determined under this Schedule are to take effect

11.—(1) Where an application has been made under paragraph 7 in respect of a mining site, each of the mineral permissions relating to the site shall, from the time when the application is finally determined, have effect subject to the conditions to which it is determined under this Schedule that that permission is to be subject.

(2) Sub-paragraph (1) is without prejudice to paragraph 7(8).

Two or more applicants

12.—(1) Where the council has received from any person a duly made application under paragraph 6 or 7—

- (a) that person may not make any further application under the paragraph in question in respect of the same site; and
- (b) if the application has been determined, whether or not in the case of an application under paragraph 7 it has been finally determined, no other person may make an application under the paragraph in question in respect of the same site.

(2) Where—

- (a) the council has received from any person in respect of a mineral site a duly made application under paragraph 6 or 7; and
- (b) the council receives from another person a duly made application under the paragraph in question in respect of the same site,

then for the purpose of the determination of the applications and any appeal against such a determination, this Schedule shall have effect as if the applications were a single application received by the council on the date on which the later application was received by the council and references to the applicant shall be read as references to either or any of the applicants.

Second and subsequent periodic reviews

13.—(1) In this paragraph, in relation to a mining site, but subject to paragraph 6 as applied by sub-paragraph (2) below, “review date” means—

- (a) in the case of the second periodic review, the date falling 15 years after the date upon which was finally determined an application made under paragraph 7 in respect of the site; and
- (b) in the case of subsequent periodic reviews, the date falling 15 years after the date upon which there was last finally determined under this Schedule an application made in respect of that site under paragraph 7 as applied by sub-paragraph (2) below.

(2) Paragraphs 5 to 12 shall apply in respect of the second or any subsequent periodic review of the mineral permissions relating to a mining site as they apply to the first such periodic review, but as if—

- (a) any reference in those paragraphs to the “first review date” were a reference to the review date; and
- (b) the references in paragraphs 5(1) and 7(2)(a) to the first periodic review were references to the periodic review in question.

Compensation

14.—(1) This paragraph applies where—

- (a) an application made under paragraph 7 in respect of a mining site is finally determined; and
- (b) the conditions to which the mineral permissions relating to the site are to be subject, as determined under this Schedule, differ in any respect from the proposed conditions set out in the application; and
- (c) the effect of the new conditions, except insofar as they are restoration or aftercare conditions, as compared with the effect of the existing conditions, except insofar as they were restoration or aftercare conditions, is to restrict working rights in respect of the site.

(2) For the purposes of this paragraph—

“the new conditions”, in relation to a mining site, means the conditions, determined under this Schedule, to which the mineral permissions relating to the site are to be subject; and

“the existing conditions”, in relation to a mining site, means the conditions to which the mineral permissions relating to the site were subject immediately prior to the final determination of the application made under paragraph 7 in respect of that site.

(3) For the purposes of this paragraph, working rights are restricted in respect of a mining site if any of—

- (a) the size of the area which may be used for the winning and working of minerals or the depositing of mineral waste;
- (b) the depth to which operations for the winning and working of minerals may extend;
- (c) the height of any deposit of mineral waste;
- (d) the rate at which any particular mineral may be extracted;
- (e) the rate at which any particular mineral waste may be deposited;
- (f) the period at the expiry of which any winning or working of minerals or depositing of mineral waste is to cease; or

(g) the total quantity of minerals which may be extracted from, or of mineral waste which may be deposited on, the site, is restricted or reduced in respect of the mining site in question.

(4) In a case to which this paragraph applies, section 26 of the Act of 1965 shall have effect as if an order having effect under section 68 of this Act had effect to modify those permissions to the extent specified in sub-paragraph (5).

(5) For the purposes of this paragraph, the order referred to in sub-paragraph (4) is one whose only effect adverse to the interests of any person having an interest in the land or minerals comprised in the mineral site is to restrict working rights in respect of the site to the same extent as the relevant restriction.

SCHEDULE 4

Section 179(4).

AMENDMENTS TO THE LAND DEVELOPMENT VALUES (COMPENSATION) ACT (NORTHERN IRELAND) 1965 (C. 23)

1. In section 15—
 - (a) in subsection (1) for “a development plan for the area in which the land is situated” substitute “a local development plan”;
 - (b) in subsection (5) for the words from “Article 32” to the end substitute “section 58 of the Planning Act in respect of that decision”.
2. In section 18(3) and (4) for “Article 38 of the Planning Order” substitute “section 68 or 72 of the Planning Act”.
3. In section 18(4) for “Order” substitute “Act”.
4. In sections 26(1), (4), (5) and (6), 27(5) and 30 for “Article 38 of the Planning Order” substitute “section 68 or 72 of the Planning Act”.
5. In section 26, after subsection (7) insert—

“(8) Claims under this section shall be made to and paid by the council which made the order in question or, where the order was made by the Department under section 72 of the Planning Act, the council which is treated as having made it under that section.”.
6. In section 27(5), for the words from “with the substitution” to the end substitute “with the substitution—
 - (a) for references to a planning decision, of references to the order under section 68 or 72 of the Planning Act in consequence of which the compensation for depreciation is payable;
 - (b) for paragraph (a) of subsection (1) of the following paragraph—
 - “(a) the council must serve on—

(i) any person making a claim in relation to the compensation;
and

(ii) the Department,

a notice in the prescribed form containing particulars of the payment and, if an apportionment has been made under section 21, of that apportionment;”.

7. In section 43(1), in the definition of “planning decision” for “Part 4 of the Planning Order” substitute “Part 3 of the Planning Act” and after that definition insert—

““the Planning Act” means the Planning Act (Northern Ireland) 2011;”.

8. In Schedule 1—

(a) in paragraph 10(b) for “the Planning Order” substitute “the Planning Act”;

(b) in paragraph 12(2) for “Article 68 of the Planning Order” substitute “section 138 or 139 of the Planning Act”;

(c) in paragraph 12(3)—

(i) for “Planning Order” substitute “Planning Act”;

(ii) for “that Order” substitute “that Act”.

SCHEDULE 5

Section 198(3).

THE HISTORIC BUILDINGS COUNCIL

1. The Historic Buildings Council (in this Schedule referred to as “the Council”) shall consist of a Chair appointed by the Minister and such number of other members so appointed as the Minister may determine.

2. A member of the Council shall hold office for a maximum period of 3 years but shall be eligible for re-appointment.

3. The Department may pay to the Chair and members of the Council allowances for travelling and other out-of-pocket expenses incurred in connection with the business of the Council at such rates as the Department, with the approval of the Department of Finance and Personnel, may determine.

4.—(1) The Council shall, subject to sub-paragraph (4), appoint such committees as the Department may determine.

(2) A committee appointed under this paragraph may include persons who are not members of the Council.

(3) Every member of a committee appointed under this paragraph, who, at the time of his or her appointment, was a member of the Council shall, if he or she ceases to be a member of the Council, also cease to be a member of the committee.

(4) The Department may, by regulations or direction, make provision with respect to the appointment, constitution or functions of committees appointed under this paragraph.

5. The Council may regulate its own quorum and procedure and that of its committees which shall be subject to the approval of the Department.

6. The Council must, at such times and in respect of such periods as the Department may direct, prepare and submit to the Department a report on its activities and the Department shall lay a copy of every such report before the Assembly.

7. The secretary to the Council shall be such person as the Department may appoint.

SCHEDULE 6

Section 252.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Caravans Act (Northern Ireland) 1963 (c. 17)

1. In section 3(3) for “the Planning Order” substitute “the Planning Act”.
2. In section 4—
 - (a) in subsection (1) for “the Planning Order” substitute “the Planning Act”;
 - (b) in subsection (2) for “Article 32 of the Planning Order” substitute “section 58 of the Planning Act”.
3. In section 5(3) for “the Planning Order” substitute “the Planning Act”.
4. In section 8(10) for “the Planning Order” substitute “the Planning Act”.
5. In section 25(1) for the definition of “the Planning Order” substitute—

““the Planning Act” means the Planning Act (Northern Ireland) 2011;”.
6. In section 25(4) for “the Planning Order” substitute “the Planning Act”.
7. In the Schedule in paragraph 9 for “the Planning Order” substitute “the Planning Act”.

The Local Government Act (Northern Ireland) 1972 (c. 9)

8. In section 47A (delegation of functions to officers) after subsection (3) add—

“(4) A district council’s function of determining planning permission for a development of a class mentioned in section 30(1) of the Planning (Northern Ireland) Act 2011 shall be discharged only by the council.”.

The Planning (Northern Ireland) Order 1972 (NI 17)

9. In Article 2(2)—
- (a) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”;
 - (b) for “that Order” substitute “that Act”.
10. In Article 68(1) for “Order” substitute “Act”.
11. For Article 69B(1) substitute—
- “(1) In this Part “the Planning Act” means the Planning Act (Northern Ireland) 2011.”.

The House of Commons Disqualification Act 1975 (c. 24)

12. In Schedule 1 in Part 2 for “The Planning Appeals Commission constituted under Article 110 of the Planning (Northern Ireland) Order 1991” substitute “The Planning Appeals Commission constituted under section 203 of the Planning Act (Northern Ireland) 2011”.

The Rates (Northern Ireland) 1977 (NI 28)

13. In Article 26 in paragraph (2B)(d) for “the **Planning (Northern Ireland) Order 1991 (NI 11)**” substitute “the Planning Act (Northern Ireland) 2011”.
14. In Part 1 of Schedule 12 in paragraph 8—
- (a) in the definition of “development” for “Article 2(2) of the Planning Order” substitute “section 250(1) of the Planning Act”;
 - (b) for the definition of “Planning Order” substitute—
““Planning Act” means the Planning Act (Northern Ireland) 2011;”;
 - (c) in the definition of “planning permission” for “Article 2(2) of the Planning Order” substitute “section 250(1) of the Planning Act”.

The Property (Northern Ireland) Order 1978 (NI 4)

15. In Article 5(5)—
- (a) in sub-paragraph (c) for “development plan adopted under Part III of the Planning (Northern Ireland) Order 1991 for the area” substitute “local development plan (within the meaning of section 6(1) of the Planning Act (Northern Ireland) 2011) for the district”;

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

- (b) in sub-paragraph (d) for “that Planning Order” substitute “that Planning Act”.

The Planning (Amendment) (Northern Ireland) Order 1978 (NI 18)

16. In Article 2(2) omit the definition of “the Planning Order”.
17. In Article 2(3)—
- (a) for “the Planning Order” substitute “the Planning Act (Northern Ireland) 2011”;
- (b) for “that Order” substitute “that Act”.
18. In Article 3(a) for “Part IV of the Planning Order” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

*The Pollution Control and Local Government
(Northern Ireland) Order 1978 (NI 19)*

19. In Article 65(6) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.
20. In Article 66(7) for “Article 2(2) of the Planning (Northern Ireland) Order 1991” substitute “section 250(1) of the Planning Act (Northern Ireland) 2011”.

The Estate Agents Act 1979 (c. 38)

21. In section 1(2)(e) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

The Building Regulations (Northern Ireland) Order 1979 (NI 16)

22. In Article 3A(2)—
- (a) in sub-paragraph (a), for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”;
- (b) in sub-paragraph (b), for “that Order” substitute “that Act”.
23. In Article 9(3)(b) for “Parts IV and V of the Planning (Northern Ireland) Order 1991” substitute “Parts 3 and 4 of the Planning Act (Northern Ireland) 2011”.

The Mineral Exploration (Northern Ireland) Order 1979 (NI 18)

24. In Article 3(2) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Private Streets (Northern Ireland) Order 1980 (NI 12)

25. In Article 2—

- (a) in paragraph (2) for the definition of “the Planning Order” substitute—
 ““the Planning Act” means the Planning Act (Northern Ireland) 2011;”;
 - (b) in paragraph (5) for “Planning Order” substitute “Planning Act”.
- 26.** In Article 3—
- (a) in paragraph (1) for “Part IV of the Planning Order” substitute “Part 3 of the Planning Act”;
 - (b) in paragraph (6) for “Planning Order” substitute “Planning Act”.
- 27.** In Article 4(1)—
- (a) for “Planning Order” substitute “Planning Act”;
 - (b) for “that Order” substitute “that Act”.
- 28.** In Article 4(2) for “Planning Order” substitute “Planning Act”.
- 29.** In Article 4(3)—
- (a) for “Article 32 of the Planning Order” substitute “section 58 of the Planning Act”;
 - (b) for “that Article” substitute “that section”.
- 30.** In Article 4(4)—
- (a) for “Part VI of the Planning Order” substitute “Part 5 of the Planning Act”;
 - (b) for “or the Planning Order” substitute “or the Planning Act”.
- 31.** In Article 24(8)(b) for “Planning Order” substitute “Planning Act”.
- 32.** In Article 25(2)(b) for “Planning Order” substitute “Planning Act”.

The Housing (Northern Ireland) Order 1981 (NI 3)

- 33.** In Article 38(5) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

The Enterprise Zones (Northern Ireland) Order 1981 (NI 15)

- 34.** For Article 9(2) substitute—
- “(2) Sections 236(5) and 237 of the Planning Act (Northern Ireland) 2011 (giving notice, compensation for damage, etc.) shall apply in relation to paragraph (1) as they apply in relation to section 236 of that Act”.

The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16)

- 35.** In Article 2(2) after the definition of ““the Planning Order” insert—
- ““the Planning Act” means the Planning Act (Northern Ireland) 2011;”.

36. In Article 3—

(a) in paragraph (1)—

(i) in sub-paragraph (g) for the words from “indicated” to “Order” substitute “indicated in a development plan document (within the meaning of section 6(2) of the Planning Act)”;

(ii) for sub-paragraph (h) substitute—

“(h) is land indicated in a plan (not being a local development plan) as land which may be required for the purposes of any function of a government department, district council or authority possessing compulsory purchase powers, being land in respect of which the council intends to exercise its powers of planning control under Part 3 of the Planning Act by reference to such a plan;”;

(iii) for sub-paragraph (i) substitute—

“(i) is land in respect of which a council—

(a) has resolved to take action to safeguard it for development for the purposes of any function mentioned in sub-paragraph (h); or

(b) has been directed by the Department to restrict the grant of planning permission in order to safeguard it for such development;”;

(b) for paragraph (2) substitute—

“(2) In paragraph (1)(g) the reference to a development plan document is a reference to—

(a) a development plan document adopted or approved for the purposes of Part 2 of the Planning Act;

(b) a revision of a development plan document in pursuance of section 14 of the Planning Act which is adopted or approved for the purposes of Part 2 of that Act;

(c) a development plan document which has been submitted to the Department for independent examination under section 10 of the Planning Act;

(d) a revision of a development plan document in pursuance of section 14 of the Planning Act if the document has been submitted to the Department for independent examination under section 10 of that Act.

(2A) But paragraph (2)(c) and (d) does not apply if the document is withdrawn under section 11 of the Planning Act at any time after it has been submitted for independent examination.

(2B) In paragraph (2)(c) and (d) the submission of a development plan document to the Department for independent examination is to be taken to include the holding of an independent examination by the planning appeals commission or a person appointed by the Department.”;”;

(c) in paragraph (4) for “adopted by the Department” substitute “adopted or approved”;

(d) in paragraph (5) after “adopted”, wherever that word occurs, insert “or approved”.

37. In Article 15A(2) for “Part 12 of the Planning Order” substitute “Part 11 of the Planning Act”.

The Civil Aviation Act 1982 (c. 16)

38. In section 53(7) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

The Land Compensation (Northern Ireland) Order 1982 (NI 9)

39. In Article 2(2) for “Article 110 of the Planning (Northern Ireland) Order 1991” substitute “section 203 of the Planning Act (Northern Ireland) 2011”.

40. In Article 7(2) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

41. In Articles 14 and 15 for “development plan” wherever those words occur substitute “local development plan”.

42. In Article 15(1) for “Department of the Environment” substitute “council within whose district the land is situated”.

43. In Article 15(4), for “Department”, where that word occurs for the second and third times, substitute “council”.

44. In Article 15(4), (5), (7) and (8) and in Article 16, for “Department of the Environment” substitute “council”.

45. In Article 17, for paragraph (2) substitute—

“(2) Regulations under paragraph (1) may include provisions—

(a) as to the manner in which notices of appeals are to be given and the time for giving any such notice; and

(b) requiring councils to furnish the Department of the Environment and such other persons (if any) as may be prescribed by the regulations, with such information as may be so prescribed with respect to applications under Article 15.””

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

The Housing (Northern Ireland) Order 1983 (NI 15)

46. In Schedule 2, in paragraph 3 for “Article 11 of the Planning (Northern Ireland) Order 1991” substitute “section 23 of the Planning Act (Northern Ireland) 2011”.

The Access to the Countryside (Northern Ireland) Order 1983 (NI 18)

47. In Article 2(2)—

- (a) in the definition of “development” for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”;
- (b) in the definition of “planning permission” for “Article 2(2) of the Planning (Northern Ireland) Order 1991” substitute “section 250(1) of the Planning Act (Northern Ireland) 2011”.

*The Nature Conservation and Amenity
Lands (Northern Ireland) Order 1985 (NI 1)*

48. In Article 8(3)—

- (a) for “development plan” substitute “local development plan”;
- (b) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

The Betting, Gaming, Lotteries and Amusements (Northern Ireland) 1985 (NI 11)

49. In Article 2(2), in the definition of “planning permission”, for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

*The Local Government (Miscellaneous
Provisions) (Northern Ireland) Order 1985 (NI 15)*

50. In Article 18(9) for “Article 67 of the Planning (Northern Ireland) Order 1991” substitute “section 130 of the Planning Act (Northern Ireland) 2011”.

51. For Article 18(11) substitute—

“(11) This Article and Article 19 are without prejudice to sections 130 and 175 of the Planning Act (Northern Ireland) 2011 (control of advertisements) and to any regulations made under that Act by virtue of those sections.”.

52. In Schedule 1, in paragraph 17(a) for the definition of “educational institution” substitute—

““educational institution” means any of the following—

- (a) a university;

- (b) a school within the meaning of the Education and Libraries (Northern Ireland) Order 1986;
- (c) a college of education or other establishment for the training of teachers maintained in pursuance of Article 66 of that Order or in respect of which grants are paid under that Article; or
- (d) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 or an institution providing further education in respect of which grants are paid under Article 5(1) (b) of that Order.”.

The Lagside Development (Northern Ireland) Order 1989 (NI 2)

53. In Article 16 for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

*The Planning and Building Regulations
(Amendment) (Northern Ireland) Order 1990 (NI 14)*

54. In Article 29—

- (a) in paragraph (2), for “Articles 64 to 66 of the Planning Order” substitute “sections 181 to 183 of the Planning Act (Northern Ireland) 2011”;
- (b) in paragraph (3), for “Part 12 of the Planning Order” substitute “Part 11 of the Planning Act (Northern Ireland) 2011”.

The Planning (Northern Ireland) Order 1991 (NI 11)

55. In Article 2 (interpretation)—

- (a) for paragraph (2) substitute—
 - “(2) In this Order, “the Department”—
 - (a) in relation to any function under, or for the purposes of, Part 7, and so far as relating to that Part, Articles 102 to 104, 121, 122, 125, 125A and 130, means the Department for Social Development;
 - (b) in relation to any function under, or for the purposes of, Articles 100 and 101 and Article 103 so far as relating to the making of an order under Article 100, means the Department for Regional Development.”;
- (b) for paragraph (2A) substitute—
 - “(2A) Section 250(1) of the Planning Act (Northern Ireland) 2011, in so far as it relates to the definition of words or expressions used in that Act and in this Order, shall apply for the purposes of this Order as it applies for the purposes of that Act.”.

56. After Article 85 (development schemes) insert—

“Power of Department to survey land for purposes of this Part

85A. The Department may undertake, or cause to be undertaken, such surveys or studies as it may consider necessary for the purposes of this Part, including surveys or studies relating to any of the following matters—

- (a) the physical and economic characteristics of any area, including the purposes for which land is used;
- (b) the size, composition and distribution of the population of an area;
- (c) the communications, transport system and traffic of an area;
- (d) any changes in relation to the foregoing matters and the effect which the changes are likely to have on the development of Northern Ireland or any part thereof or the planning of that development.”.

57. In Article 93, for “development plan” substitute “local development plan”.

58. In Article 125A (information as to estates in Crown land), in paragraph (4) (b) for “as to any of the matters mentioned in Article 123A(3)” substitute “as to national security or the measures taken or to be taken to ensure the security of any premises or property”.

The Electricity (Northern Ireland) Order 1992 (NI 1)

59. In Article 65(1)(b) for “Articles 20 to 24 of the Planning (Northern Ireland) Order 1991” substitute “sections 40 to 44 of the Planning Act (Northern Ireland) 2011”.

60. In Schedule 3 in paragraph 2(2)(b) for “Part IV of the Planning (Northern Ireland) Order 1991” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

61. In Schedule 4 in paragraph 1(1) in the definition of “planning permission” for “Part IV of the Planning (Northern Ireland) Order 1991” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

62. In Schedule 4 in paragraph 15(5) in the definition of “statutory undertakers” for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

63. In Schedule 8—

- (a) in paragraph 1A(5)(b) for “Article 111(5) of the Planning (Northern Ireland) Order 1991” substitute “section 204(5) of the Planning Act (Northern Ireland) 2011”;
- (b) in paragraph 3(2)—

- (i) for “Planning (Northern Ireland) Order 1991 (except Article 32” substitute “Planning Act (Northern Ireland) 2011 (except section 58”;
and
 - (ii) for “the Department of the Environment on an application under that Order” substitute “a council on an application under that Act”;
- (c) in paragraph 3(5)—
- (i) for “Planning (Northern Ireland) Order 1991 (except Article 57” substitute “Planning Act (Northern Ireland) 2011 (except section 115”;
and
 - (ii) for “the Department of the Environment on an application under that Order” substitute “a council on an application under that Act”;
- (d) in paragraph 3(6)—
- (i) for “Article 124 of the Planning (Northern Ireland) Order 1991” substitute “Section 242 of the Planning Act (Northern Ireland) 2011”;
and
 - (ii) for “that Article” substitute “that Act”.

The Taxation of Chargeable Gains Act 1992 (c. 12)

64. In Schedule 2 in paragraph 10(3) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Roads (Northern Ireland) Order 1993 (NI 15)

65. In Article 2(2) in the definition of “planning permission” for “Article 25(1) of the Planning Order” substitute “section 45(1) of the Planning Act (Northern Ireland) 2011”.

66. In Article 80(13), in the definition of “development order”, for “the Planning Order” substitute “the Planning Act (Northern Ireland) 2011”.

67. In Article 87—

- (a) in paragraph (6) for “Article 67 of the Planning Order” substitute “section 130 of the Planning Act (Northern Ireland) 2011”;
- (b) in paragraph (8) for “Article 67 of the Planning Order” substitute “section 130 of the Planning Act (Northern Ireland) 2011”;
- (c) in paragraph (10) in the definition of “advertisement” for “Article 2(2) of the Planning Order” substitute “section 250(1) of the Planning Act (Northern Ireland) 2011”.

The Value Added Tax Act 1994 (c. 23)

68. In Schedule 8, in Group 6—

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

- (a) in Note (1)(a)(iii) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”;
- (b) in Note (6)(c)(iii) for “Part V of the Planning (Northern Ireland) Order 1991” substitute “Part 4 of the Planning Act (Northern Ireland) 2011”.

The Airports (Northern Ireland) Order 1994 (NI 1)

69. In Article 14—

- (a) in paragraph (2)(a) for “Part VIII of the Planning (Northern Ireland) Order 1972” substitute “Part 6 of the Planning Act (Northern Ireland) 2011”;
- (b) in paragraph (4) for “Part IV of the Planning (Northern Ireland) Order 1991” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

70. In Article 15(1)(b)(ii) for “Articles 20 to 22 of the Planning (Northern Ireland) Order 1991” substitute “sections 40 to 42 of the Planning Act (Northern Ireland) 2011”.

71. In Schedule 3 in paragraph 3(2) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9)

72. In Article 2(2) in the definition of “works” for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

73. In Article 9(8)—

- (a) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”;
- (b) for “Article 13(3)(a) of that Order” substitute “section 32(3)(a) of that Act”.

The Street Works (Northern Ireland) Order 1995 (NI 19)

74. In Article 2(2) in the definition of “the planning appeals commission” for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Gas (Northern Ireland) Order 1996 (NI 2)

75. In Article 47(1)(b) for “Articles 20 to 24 of the Planning (Northern Ireland) Order 1991” substitute “sections 40 to 44 of the Planning Act (Northern Ireland) 2011”.

76. In Schedule 2 in paragraph 2(2)(b) for “Part IV of the Planning (Northern Ireland) Order 1991” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

77. In Schedule 3 in paragraph 1 in the definition of “planning permission” for “Part IV of the Planning (Northern Ireland) Order 1991” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

78. In Schedule 3 in paragraph 14(6) in the definition of “statutory undertakers” for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Business Tenancies (Northern Ireland) Order 1996 (NI 5)

79. In Article 12(2) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

80. In Schedule 2 in paragraph 12 for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Ombudsman (Northern Ireland) Order 1996 (NI 8)

81. In Schedule 3 for “Article 110 of the Planning (Northern Ireland) Order 1991” substitute “section 203 of the Planning Act (Northern Ireland) 2011”.

The Licensing (Northern Ireland) Order 1996 (NI 22)

82. In Article 84(a) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Registration of Clubs (Northern Ireland) Order 1996 (NI 23)

83. In Article 2(2) in the definition of “planning permission” for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2)

84. In Article 35(9)(a) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Industrial Pollution Control (Northern Ireland) Order 1997 (NI 18)

85. In Schedule 2—

- (a) in paragraph 1(2) for “paragraphs (1), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “subsections (1), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”;

- (b) in paragraph 2(5)—
 - (i) for “Paragraphs (2), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “Subsections (2), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”;
 - (ii) for “that Order” substitute “that Act”;
- (c) in paragraph 3(2) for “paragraphs (1), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “subsections (1), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”.
- (d) in paragraph 4(6)—
 - (i) for “Paragraphs (2), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “Subsections (2), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”;
 - (ii) for “that Order” substitute “that Act”.

The Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19)

86. In Article 8(3) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

87. In Article 31(3) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

88. In Schedule 2—

- (a) in paragraph 1(2) for “paragraphs (1), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “subsection (1), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”;
- (b) in paragraph 2(2) for “paragraphs (1), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “subsection (1), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”;
- (c) in paragraph 4(2) for “paragraphs (2), (3) and (5) of Article 111 of the Planning (Northern Ireland) Order 1991” substitute “subsections (2), (3) and (5) of section 204 of the Planning Act (Northern Ireland) 2011”.

The Competition Act 1998 (c. 41)

89. In Schedule 3 in paragraph 1(1)(c) for “Article 40 of the Planning (Northern Ireland) Order 1991” substitute “section 76 of the Planning Act (Northern Ireland) 2011”.

The Strategic Planning (Northern Ireland) Order 1999 (NI 4)

90. In Article 2(3) for “the Planning (Northern Ireland) Order 1991” substitute “the Planning Act (Northern Ireland) 2011”.

The Water (Northern Ireland) Order 1999 (NI 6)

91. In Schedule 1 in paragraph 3—

- (a) in sub-paragraph (4) for “by the Planning Appeals Commission under Article 31 of the Planning Order (major planning applications)” substitute “under section 26 of the Planning Act (developments of regional significance)”;
- (b) in sub-paragraph (6) for “Planning Order” substitute “Planning Act”;
- (c) in sub-paragraph (8) at the end add “or other person appointed to hold a public local inquiry under section 26 of the Planning Act”;
- (d) for sub-paragraph (9) substitute—

“(9) In this paragraph, “the Planning Act” means the Planning Act (Northern Ireland) 2011.”.

The Postal Services Act 2000 (c. 26)

92. In Schedule 6 in paragraph 3(6) for “Article 2(2) of the Planning (Northern Ireland) Order 1991” substitute “section 250(1) of the Planning Act (Northern Ireland) 2011”.

The Capital Allowances Act 2001 (c. 2)

93. In section 436(2)(c) for “Article 2(2) of the Planning (Northern Ireland) Order 1991” substitute “section 250(1) of the Planning Act (Northern Ireland) 2011”.

The Environment (Northern Ireland) Order 2002 (NI 7)

94. In Article 34(6)—

- (a) for “development plan” substitute “local development plan”;
- (b) for “Planning (Northern Ireland) Order 1991” substitute “Planning Act (Northern Ireland) 2011”.

95. In Article 38(3)(d) for “the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “the Planning Act (Northern Ireland) 2011”.

96. In Article 46—

- (a) in paragraph (4)(a) for “Part IV of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”;
- (b) in paragraph (7)(a) for “Part IV of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “Part 3 of the Planning Act (Northern Ireland) 2011”.

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

*The Strategic Investments and Regeneration
of Sites (Northern Ireland) Order 2003 (NI 1)*

97. In Article 25(2) for “[Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “[Planning Act \(Northern Ireland\) 2011](#)”.

The Finance Act 2003 (c. 14)

98. For section 60(5)(c) substitute—

“(c) in relation to Northern Ireland, has the same meaning as in the [Planning Act \(Northern Ireland\) 2011](#) (see section 23 of that Act).”.

99. For section 61(2)(c) substitute—

“(c) in relation to Northern Ireland—

“[planning obligation](#)” means a planning agreement within the meaning of section 76 of the [Planning Act \(Northern Ireland\) 2011](#) that is entered into in accordance with subsection (10) of that section, and

“[modification of a planning obligation](#)” means modification as mentioned in section 77(1) of that Act.”.

The Rates (Capital Values, etc.) (Northern Ireland) Order 2006 (NI 4)

100. In Schedule 2, in paragraph 2—

(a) for “[Article 2\(2\) of the Planning Order](#)”, in both places where it occurs, substitute “[section 250\(1\) of the Planning Act](#)”;

(b) for the definition of “[Planning Order](#)” substitute—

““[Planning Act](#)” means the [Planning Act \(Northern Ireland\) 2011](#).”.

The Water and Sewerage Services (Northern Ireland) Order 2006 (NI 21)

101. In Article 298(3)(a) for “[Article 2\(2\) of the Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “[section 250\(1\) of the Planning Act \(Northern Ireland\) 2011](#)”.

The Climate Change Act 2008 (c. 27)

102. In section 70(1)(c) for “[the Planning \(Northern Ireland\) Order 1991 \(S.I. 1991/1220 \(N.I. 11\)\)](#) (see [Article 2\(1\) of that Order](#))” substitute “[the Planning Act \(Northern Ireland\) 2011](#) (see [section 250 of that Act](#))”.

The Financial Assistance Act (Northern Ireland) 2009 (c. 2)

103. In section 5 in the definition of “public body” in sub-paragraph (c) for “the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “the [Planning Act \(Northern Ireland\) 2011](#)”.

The Marine and Coastal Access Act 2009 (c. 23)

104. In section 322(2) in the definition of “statutory undertaker” for paragraph (c) substitute—

“(c) the [Planning Act \(Northern Ireland\) 2011](#).”.

The Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (c. 2)

105. In Article 13(3)(b) for “Article 83A or 83B of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “section 169 or 170 of the [Planning Act \(Northern Ireland\) 2011](#)”.

106. In Article 18(7)(b) for “Article 83A or 83B of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#)” substitute “section 169 or 170 of the [Planning Act \(Northern Ireland\) 2011](#)”.

The Forestry Act (Northern Ireland) 2010 (c. 10)

107. In section 15(2)—

- (a) in paragraph (l), after “consent” insert “of a council or”;
- (b) in paragraph (m), for “Article 66B of the [Planning \(Northern Ireland\) Order 1991](#) applies” substitute “section 127 of the [Planning Act \(Northern Ireland\) 2011](#) applies”.

The Caravans Act (Northern Ireland) 2011 (c. 12)

108. In section 17(1), in the definition of “planning permission”, for “Part 4 of the [Planning \(Northern Ireland\) Order 1991](#)” substitute “Part 3 of the [Planning Act \(Northern Ireland\) 2011](#)”.

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23)

109. In section 26—

- (a) in subsection (3) for “Article 84(2) of the [Planning \(Northern Ireland\) Order 1991](#)” substitute “section 175(2) of the [Planning Act \(Northern Ireland\) 2011](#)”;
- (b) in subsection (10)—

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

- (i) in the definition of “advertisement” for “Article 2(2) of the Planning (Northern Ireland) Order 1991” substitute “section 250(1) of the Planning Act (Northern Ireland) 2011”;
- (ii) in the definition of “relevant offence”, for the words from “Article 84(2)” to “that Order)” substitute “section 175(2) of the Planning Act (Northern Ireland) 2011 (displaying advertisements in contravention of regulations made under section 130 of that Act)”.

110. In section 31(1), for “Article 67 of the Planning (Northern Ireland) Order 1991” substitute “section 130 of the Planning Act (Northern Ireland) 2011”.

111. In section 38, omit subsections (1), (2) and (3).

SCHEDULE 7

Section 253.

REPEALS

Short Title	Extent of repeal
The Planning (Northern Ireland) Order 1972 (NI 17).	Articles 65, 65A, 66, 66A, 67, 67A, 67B, 69 and 69B(2). In Schedule 6, paragraph 4(1).
The Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990 (NI 14).	Article 21.
The Planning (Northern Ireland) Order 1991 (NI 11).	Articles 2A, 87(8), 112, 112B(2) to (7), 112D, 115 to 117, 119 and 120. Parts 2 to 6, 8, 10 and 11. In Article 121, paragraphs (1)(a)(i), (ii), (iv) and (v), 1(b), (c) and (d) and 3(b). Articles 123, 123A, 123B, 124, 126 to 129, 131 and 132. Schedules 1, 1A, 1B, 3 and 4.
The Electricity (Northern Ireland) Order 1992 (NI 1).	In Schedule 12, paragraph 36.
The Roads (Northern Ireland) Order 1993 (NI 15).	In Schedule 10, the amendment to Article 9 of the Planning (Northern Ireland) Order 1991.

Short Title	Extent of repeal
The Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9).	In Schedule 3, paragraph 3.
The Gas (Northern Ireland) Order 1996 (NI 2).	In Schedule 6, the amendment to Article 22 of the Planning (Northern Ireland) Order 1991.
The Further Education (Northern Ireland) Order 1997 (NI 15).	In Schedule 4, the amendment to the Planning (Northern Ireland) Order 1991.
The Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (NI 18).	In Schedule 1, paragraphs 22 and 23.
The Strategic Planning (Northern Ireland) Order 1999 (NI 4).	Paragraphs 3 and 4 of the Schedule.
The Planning (Compensation, etc.) Act (Northern Ireland) 2001 (c. 2).	In section 4, the words “, except section 5,”. Section 5. In Schedule 1, paragraphs 3, 5 and 6.
The Environment (Northern Ireland) Order 2002 (NI 7).	In Part 3 of Schedule 5, paragraph 10.
The Planning (Amendment) (Northern Ireland) Order 2003 (NI 8).	Articles 3 to 16, 17(1), 18 to 30 and 32 to 35. In Schedule 1, paragraphs 1 to 18.
The Planning Reform (Northern Ireland) Order 2006 (NI 7).	Articles 3 to 20, 21(2), 22, 23, 26 and 27. In Schedule 1, paragraphs 1 to 3 and 6 to 11. Schedules 3 and 4.
The Water and Sewerage Services (Northern Ireland) Order 2006 (NI 21).	In Schedule 12, in paragraph 29, subparagraphs (2) and (3).
The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23).	In section 38, subsections (1), (2) and (3).
The Planning (Northern Ireland) Act 2011 (c. 25).	Section 249.