

SCHEDULES

SCHEDULE 2

CROWN APPLICATION – TRANSITIONAL PROVISIONS

PART 3

HAZARDOUS SUBSTANCES

12.—(1) This paragraph applies if at any time during the establishment period a hazardous substance was present on, over or under Crown land.

(2) The appropriate authority shall make a claim in the prescribed form before the end of the transitional period.

(3) The claim shall contain the prescribed information as to—

- (a) the presence of the substance during the establishment period;
- (b) how and where the substance was kept and used.

(4) Unless sub-paragraph (5) or (7) applies, the Department is deemed to have granted the hazardous substances consent claimed in pursuance of sub-paragraph (2).

(5) This sub-paragraph applies if the Department thinks that a claim does not comply with sub-paragraph (3).

(6) If sub-paragraph (5) applies, the Department shall, before the end of the period of two weeks from its receipt of the claim—

- (a) notify the claimant that in the Department's opinion the claim is invalid;
- (b) give the claimant the Department's reasons for that opinion.

(7) This sub-paragraph applies if at no time during the establishment period was the aggregate quantity of the substance equal to or greater than the controlled quantity.

(8) Hazardous substances consent which is deemed to be granted under this paragraph is subject—

- (a) to the condition that the maximum aggregate quantity of the substance that may be present for the purposes of this sub-paragraph at any one time shall not exceed the established quantity;
- (b) to such other conditions (if any) as are prescribed for the purposes of this paragraph and are applicable in the case of the consent.

(9) A substance is present for the purposes of sub-paragraph (8)(a) if—

- (a) it is on, over or under land to which the claim for consent relates,
- (b) it is on, over or under other land which is within 500 metres of it and is controlled by the Crown, or
- (c) it is in or on a structure controlled by the Crown any part of which is within 500 metres of it,

and in calculating whether the established quantity is exceeded a quantity of a substance which falls within more than one of heads (a) to (c) shall be counted only once.

Status: This is the original version (as it was originally made).

(10) The establishment period is the period of 12 months ending on the day before the date of the coming into operation of Article 21(1) of the Planning Reform (Northern Ireland) Order 2006.

(11) The transitional period is the period of 6 months starting on the day before the date of the coming into operation of that Article.

(12) The established quantity in relation to any land is the maximum quantity which was present on, over or under the land at any one time within the establishment period.

(13) In this paragraph, “appropriate authority” has the same meaning as in Part XII of the principal Order.