

## SCHEDULE 3

### NATURAL HABITATS

#### **Provision for the protection of European sites: review of existing permissions**

3.—(1) Where—

- (a) before the date on which a site becomes a European site, the regulator has granted permission under these Regulations for a project which the regulator considers would have constituted a habitats project, had the European site been designated at the date when the application for the permission was determined; and
- (b) none of the circumstances mentioned in sub-paragraph (2) apply;

the regulator shall, as soon as reasonably practicable after the date on which the site becomes a European site, review the permission.

(2) The circumstances referred to in sub-paragraph (1)(b) are—

- (a) the dredging to which the permission relates has been completed before the site became a European site;
- (b) the permission was granted subject to a condition as to the period within which the dredging to which it relates was to be begun and that period has expired without the dredging having been begun, and the permission is no longer capable of implementation without being varied by the regulator; and
- (c) the permission was granted for a limited period and that period has expired.

(3) The regulator shall, for the purpose of reviewing the permission, make an appropriate assessment of the implications of the dredging for the site in view of its conservation objectives; and the provisions of sub-paragraphs (3), (4), (5) and (6) of paragraph 2 shall apply, with appropriate modifications, in relation to such a review.

(4) Where a permission is reviewed under this regulation, the regulator may request the owner or the holder of the permission, as the case may be, to provide, within a specified period, any additional information which the regulator requires in order to carry out the review and if that information is not provided within the period specified, or such further period as the regulator may allow, the regulator may revoke the permission without completing the review.

(5) Having reviewed a permission under this paragraph, the regulator shall—

- (a) affirm or vary it in accordance with sub-paragraph (6), (7) or (8); or
- (b) in any other case revoke it.

(6) The permission may be affirmed if the regulator is satisfied that the project will not adversely affect the integrity of the European site.

(7) The permission may be varied if the regulator is satisfied that any adverse effects on the integrity of the European site of the carrying out or, as the case may be, the continuation of the project, would be avoided by a variation of the permission.

(8) Subject to sub-paragraph (10), if the regulator is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of overriding public interest (which, except in cases to which sub-paragraph (9) applies, may be of a social or economic nature), the permission may be affirmed, notwithstanding a negative assessment of the implications for the site.

(9) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in sub-paragraph (8) must be—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; or

- (b) other reasons of overriding public interest, provided the regulator has had due regard to the opinion of the European Commission in concluding that there are such reasons.
- (10) The regulator shall not affirm a permission under sub-paragraph (8) in any case where sub-paragraph (6) or (7) applies.
- (11) Nothing in this paragraph shall affect anything done under the permission before the date on which the site became a European site.