

## SCHEDULES

### SCHEDULE 6

Section 153

#### CHANGES TO, AND REVOCATION OF, ORDERS GRANTING DEVELOPMENT CONSENT

##### *Preliminary*

- 1 (1) This paragraph applies for the purposes of this Schedule.
- (2) “The applicant”, in relation to a development consent order, means the person who applied for the order.
- (3) “A successor in title of the applicant” means a person who—
  - (a) derives title to the land from the applicant (whether directly or indirectly), and
  - (b) has an interest in the land.
- (4) “The appropriate authority” means—
  - (a) in a case where a Panel or the Council made the order granting development consent, the Commission;
  - (b) in a case where the Secretary of State made the order, the Secretary of State.
- (5) “Development consent order” means an order granting development consent.
- (6) “The land”, in relation to a development consent order, means the land to which the order relates or any part of that land.

##### *Non-material changes*

- 2 (1) The appropriate authority may make a change to a development consent order if it is satisfied that the change is not material.  
  
This is subject to sub-paragraph (13).
- (2) In deciding whether a change is material, the appropriate authority must have regard to the effect of the change, together with any previous changes made under this paragraph, on the development consent order as originally made.
- (3) The power conferred by sub-paragraph (1) includes power—
  - (a) to impose new requirements in connection with the development for which consent is granted by the development consent order;
  - (b) to remove or alter existing requirements.
- (4) The power conferred by sub-paragraph (1) may be exercised only on an application made to the Commission by or on behalf of—
  - (a) the applicant or a successor in title of the applicant,
  - (b) a person with an interest in the land, or
  - (c) any other person for whose benefit the development consent order has effect.

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- (5) An application under sub-paragraph (4) must be made in the prescribed form and manner.
- (6) Sub-paragraph (7) applies in relation to an application under sub-paragraph (4) made by or on behalf of a person with an interest in some, but not all, of the land to which the development consent order relates.
- (7) The application may be made only in respect of so much of the order as affects the land in which the person has an interest.
- (8) The appropriate authority must comply with such requirements as may be prescribed as to consultation and publicity in relation to the exercise of the power conferred by sub-paragraph (1).

This is subject to sub-paragraphs (9) to (11).

- (9) If the development consent order was required to be contained in a statutory instrument, the power conferred by sub-paragraph (1) may be exercised only by order contained in a statutory instrument.
- (10) If the instrument containing the order is made by the Commission, the Statutory Instruments Act 1946 (c. 36) applies in relation to the instrument as if it had been made by a Minister of the Crown.
- (11) As soon as practicable after the instrument is made, the appropriate authority must deposit a copy of it in the office of the Clerk of the Parliaments.
- (12) If a change is made to a development consent order under the power conferred by sub-paragraph (1)—
  - (a) the order continues in force,
  - (b) the appropriate authority must give notice of the change to the order to such persons as may be prescribed, and
  - (c) the change to the order takes effect from the date on which the notice is issued, or, if the change to the order is required to be made by order contained in a statutory instrument, the date specified in the order making the change.
- (13) The power conferred by sub-paragraph (1) may not be exercised in relation to provision included in an order granting development consent by virtue of any of paragraphs 27 to 30 of Schedule 5 (deemed consent under Coast Protection Act 1949 (c. 74) and deemed licences under Food and Environment Protection Act 1985 (c. 48)).

*Changes to, and revocation of, orders granting development consent*

- 3 (1) The appropriate authority may by order make a change to, or revoke, a development consent order.
- (2) The power conferred by sub-paragraph (1) may be exercised only in accordance with—
  - (a) the following provisions of this paragraph, and
  - (b) paragraphs 4 and 5.
- (3) The power may be exercised without an application being made if the appropriate authority is satisfied that—
  - (a) the development consent order contains a significant error, and

- (b) it would not be appropriate for the error to be corrected by means of the power conferred by paragraph 1 of Schedule 4 or paragraph 2 of this Schedule.
- (4) The power may be exercised on an application made by or on behalf of—
  - (a) the applicant or a successor in title of the applicant,
  - (b) a person with an interest in the land, or
  - (c) any other person for whose benefit the development consent order has effect.
- (5) The power may be exercised on an application made by a local planning authority if the appropriate authority is satisfied that—
  - (a) the development consent order grants development consent for development on land all or part of which is in the local planning authority's area,
  - (b) the development has begun but has been abandoned, and
  - (c) the amenity of other land in the local planning authority's area or an adjoining area is adversely affected by the condition of the land.
- (6) Where the appropriate authority is the Commission, the power may be exercised on an application made by the Secretary of State if the Commission is satisfied that—
  - (a) if the development were carried out in accordance with the development consent order, there would be a contravention of Community law or any of the Convention rights, or
  - (b) there are other exceptional circumstances that make it appropriate to exercise the power.
- (7) Where the appropriate authority is the Secretary of State, the power may be exercised without an application being made if the Secretary of State is satisfied that—
  - (a) if the development were carried out in accordance with the development consent order, there would be a contravention of Community law or any of the Convention rights, or
  - (b) there are other exceptional circumstances that make it appropriate to exercise the power.
- (8) In this paragraph—
  - “Community law” means—
    - (a) all the rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Community Treaties, and
    - (b) all the remedies and procedures from time to time provided for by or under the Community Treaties;
  - “the Convention rights” has the same meaning as in the Human Rights Act 1998 (c. 42).

*Changes to, and revocation of, orders: supplementary*

- 4 (1) An application under paragraph 3 must be—
  - (a) made in the prescribed form and manner, and
  - (b) accompanied by information of a prescribed description.
- (2) Sub-paragraph (3) applies in relation to an application under paragraph 3(4) made by or on behalf of a person with an interest in some, but not all, of the land to which the development consent order relates.

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- (3) The application may be made only in respect of so much of the order as affects the land in which the person has an interest.
  - (4) The Secretary of State may by regulations make provision about—
    - (a) the procedure to be followed before an application under paragraph 3 is made;
    - (b) the making of such an application;
    - (c) the decision-making process in relation to the exercise of the power conferred by paragraph 3(1);
    - (d) the making of the decision as to whether to exercise that power;
    - (e) the effect of a decision to exercise that power.
  - (5) Paragraphs (c) to (e) of sub-paragraph (4) apply in relation to the exercise of the power conferred by paragraph 3(1)—
    - (a) on an application under paragraph 3, or
    - (b) on the initiative of the appropriate authority under paragraph 3(3) or (7).
  - (6) If a development consent order is changed or revoked in the exercise of the power conferred by paragraph 3(1), the appropriate authority must give notice of the change or revocation to such persons as may be prescribed.
  - (7) If a development consent order was required to be contained in a statutory instrument, an order changing or revoking the development consent order made in the exercise of the power conferred by paragraph 3(1) must also be contained in a statutory instrument.
  - (8) If the instrument containing the order is made by the Commission, the Statutory Instruments Act 1946 (c. 36) applies in relation to the instrument as if it had been made by a Minister of the Crown.
  - (9) As soon as practicable after the instrument is made, the appropriate authority must deposit a copy of it in the office of the Clerk of the Parliaments.
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- (1) This paragraph applies in relation to the power conferred by paragraph 3(1) to make a change to, or revoke, a development consent order.
  - (2) The power may not be exercised after the end of the period of 4 years beginning with the date on which the relevant development was substantially completed.
  - (3) Sub-paragraph (2) does not prevent the exercise of the power—
    - (a) in relation to requirements imposed by the development consent order in connection with the relevant development, or
    - (b) to revoke the development consent order.
  - (4) The power includes power—
    - (a) to require the removal or alteration of buildings or works;
    - (b) to require the discontinuance of a use of land;
    - (c) to impose specified requirements in connection with the continuance of a use of land;
    - (d) to impose new requirements in connection with the relevant development;
    - (e) to remove or alter existing requirements.

- (5) Subject to sub-paragraph (4)(a), the exercise of the power does not affect any building or other operations carried out in pursuance of the development consent order before the power is exercised.
- (6) The power may not be exercised in relation to provision included in an order granting development consent by virtue of any of paragraphs 27 to 30 of Schedule 5 (deemed consent under Coast Protection Act 1949 (c. 74) and deemed licences under Food and Environment Protection Act 1985 (c. 48)).
- (7) “The relevant development” is the development for which consent is granted by the development consent order.

### *Compensation*

- 6 (1) This paragraph applies if—
- (a) in exercise of the power conferred by paragraph 3, the appropriate authority makes a change to, or revokes, a development consent order,
  - (b) the case in which the power is exercised is one falling within sub-paragraph (3), (6) or (7) of that paragraph,
  - (c) on a claim for compensation under this paragraph it is shown that a person with an interest in the land, or for whose benefit the development consent order has effect—
    - (i) has incurred expenditure in carrying out work which is rendered abortive by the change or revocation, or
    - (ii) has otherwise sustained loss or damage which is directly attributable to the change or revocation, and
  - (d) the claim is made to the appropriate authority in the prescribed manner and before the end of the prescribed period.
- (2) Compensation in respect of the expenditure, loss or damage is payable to the person by—
- (a) the appropriate authority, if the change or revocation is made in a case falling within paragraph 3(3);
  - (b) the Secretary of State, if the change or revocation is made in a case falling within paragraph 3(6) or (7).
- (3) The reference in sub-paragraph (1)(c)(i) to expenditure incurred in carrying out any work includes a reference to expenditure incurred —
- (a) in the preparation of plans for the purposes of the work, or
  - (b) on other similar matters preparatory to carrying out the work.
- (4) Subject to sub-paragraph (3), no compensation is to be paid under this paragraph—
- (a) in respect of any work carried out before the development consent order was made, or
  - (b) in respect of any other loss or damage arising out of anything done or omitted to be done before the development consent order was made (other than loss or damage consisting of depreciation of the value of an interest in land).
- (5) The Secretary of State may by regulations make provision about the assessment of compensation payable under this paragraph.
- (6) The regulations may in particular include provision—

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- (a) for the reference of disputes about compensation for depreciation to, and the determination of such disputes by, the Lands Tribunal, the Lands Tribunal for Scotland, the First-tier Tribunal or the Upper Tribunal;
  - (b) applying, with or without modifications, a provision of or made under an Act.
- 7 (1) In this paragraph “compensation for depreciation” means compensation payable under paragraph 6 in respect of loss or damage consisting of depreciation of the value of an interest in land.
- (2) The Secretary of State may by regulations make provision about the apportionment of compensation for depreciation between different parts of the land to which the claim for the compensation relates.
- (3) The regulations may in particular include provision about—
  - (a) who is to make an apportionment;
  - (b) the persons to whom notice of an apportionment is to be given;
  - (c) how an apportionment is to be made;
  - (d) the reference of disputes about an apportionment to, and the determination of such disputes by, the Lands Tribunal, the Lands Tribunal for Scotland, the First-tier Tribunal or the Upper Tribunal.
- (4) The Secretary of State may by regulations make provision for, and in connection with, the giving of notice of compensation for depreciation.
- (5) The regulations may in particular include provision about—
  - (a) the persons to whom notice of compensation for depreciation is to be given;
  - (b) the status of such a notice;
  - (c) the registration of such a notice.