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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 34**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (General Permitted Development) (Domestic Microgeneration) (Scotland) Amendment Order 2009**

<i>Made</i>	- - - -	<i>5th February 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>6th February 2009</i>
<i>Coming into force</i>	- -	<i>12th March 2009</i>

The Scottish Ministers make the following Order, in exercise of the powers conferred by sections 30 and 31 of the Town and Country Planning (Scotland) Act 1997<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

**1.** This Order may be cited as the Town and Country Planning (General Permitted Development) (Domestic Microgeneration) (Scotland) Amendment Order 2009 and comes into force on 12th March 2009.

**Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992**

**2.—(1)** The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (“the 1992 Order”)<sup>(2)</sup> is amended in accordance with paragraph (2).

(2) The provisions in the Schedule to this Order are inserted after Part 1 (Development within the curtilage of a dwellinghouse) of Schedule 1 to the 1992 Order.

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<sup>(1)</sup> 1997 c. 8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).  
<sup>(2)</sup> S.I.1992/223, to which there are amendments not relevant to this Order.

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St Andrew's House,  
Edinburgh  
5th February 2009

*STEWART STEVENSON*  
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2(2).

“PART 1A

**INSTALLATION OF DOMESTIC MICROGENERATION EQUIPMENT**

**Class 6A–**

- (1) **The installation, alteration or replacement of solar PV or solar thermal equipment on–**
  - (a) **a dwellinghouse or a building containing a flat; or**
  - (b) **a building within the curtilage of a dwellinghouse.**
- (2) Development is not permitted by this class, in the case of solar PV or solar thermal equipment installed on a wall or pitched roof of a dwellinghouse, if:
  - (a) any part of the solar PV or solar thermal equipment would protrude more than 200mm beyond the external surface of the wall or the plane of the roof; or
  - (b) any part of the solar PV or solar thermal equipment would project higher than the highest point of the roof (excluding any chimney) on which the equipment is fixed.
- (3) Development is not permitted by this class, in the case of a building containing a flat, if–
  - (a) the solar PV or solar thermal equipment would be installed on any part of the external walls of the building; or
  - (b) in the case of solar PV or solar thermal equipment installed on a pitched roof, if the solar PV or solar thermal equipment would–
    - (i) protrude more than 200mm beyond the plane of the roof; or
    - (ii) project higher than the highest point of the roof (excluding any chimney) on which the equipment is fixed.
- (4) Development is not permitted by this class, in the case of solar PV or solar thermal equipment installed on a flat roof of a dwellinghouse or building containing a flat, if the solar PV or solar thermal equipment would–
  - (a) be situated within 1 metre from the edge of the roof; or
  - (b) protrude more than 1 metre above the plane of the roof.
- (5) Development is not permitted by this class, in the case of land within a conservation area or World Heritage Site, if the solar PV or solar thermal equipment would be installed on a wall or part of a roof which–
  - (a) forms the principal elevation of the dwellinghouse or the building containing the flat; and
  - (b) is visible from a road.
- (6) Development is permitted by this class, subject to the following conditions–
  - (a) solar PV or solar thermal equipment must, so far as reasonably practicable, be sited so as to minimise its effect on the amenity of the area; and
  - (b) solar PV or solar thermal equipment no longer needed for or capable of domestic microgeneration must be removed as soon as reasonably practicable.

**Class 6B**

- (1) **The installation, alteration or replacement of a free-standing solar within the curtilage of a dwellinghouse.**

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- (2) Development is not permitted by this class if—
  - (a) it would result in the presence within the curtilage of a dwellinghouse of more than one free-standing solar;
  - (b) the surface area of the solar panels forming part of the free-standing solar would exceed 9 square metres;
  - (c) any part of the free-standing solar would exceed 4 metres in height; or
  - (d) the distance from the boundary of the curtilage of the dwellinghouse to the free standing solar would be less than the height of the free-standing solar.
- (3) Development is not permitted by this class in the case of land within a conservation area or World Heritage Site, if the free-standing solar would be visible from a road.
- (4) Development is not permitted by this class if the free standing solar would be within the curtilage of a listed building.
- (5) Development is permitted by this class, subject to the following conditions—
  - (a) the free-standing solar must, so far as reasonably practicable, be sited so as to minimise its effect on the amenity of the area; and
  - (b) a free-standing solar no longer needed for or capable of domestic microgeneration must be removed as soon as reasonably practicable.

#### **Class 6C**

- (1) **The installation, alteration or replacement of a flue, forming part of a biomass heating system, on a dwellinghouse or building containing a flat.**
- (2) Development is not permitted by this class if—
  - (a) the height of the flue would protrude more than one metre above the highest part of the roof (excluding any chimney) on which the flue is fixed;
  - (b) in the case of land within a conservation area or a World Heritage Site, the flue would be installed on the principal elevation of the dwellinghouse or building containing a flat; or
  - (c) the flue would be within an Air Quality Management Area.

#### **Class 6D**

**The installation, alteration or replacement of a ground source heat pump within the curtilage of a dwellinghouse or building containing a flat.**

#### **Class 6E**

**The installation, alteration or replacement of a water source heat pump within the curtilage of a dwellinghouse or building containing a flat.**

#### **Class 6F**

- (1) **The installation, alteration or replacement of a flue, forming part of a combined heat and power system, on a dwellinghouse or building containing a flat.**
- (2) Development is not permitted by this class if—
  - (a) the height of the flue would protrude more than 1 metre above the highest part of the roof (excluding any chimney) on which the flue is fixed;

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- (b) in the case of land within a conservation area or World Heritage Site, the flue would be installed on the principal elevation of the dwellinghouse, or building containing a flat; or
- (c) in the case of a combined heat and power system fuelled by biomass sources, the flue would be within an Air Quality Management Area.

### **Interpretation of Part 1A**

For the purposes of Part 1A–

“Air Quality Management Area”, has the meaning given in section 83(1) of the Environment Act 1995<sup>(3)</sup>;

“free-standing solar” means solar photovoltaics or solar thermal equipment which is not installed on a building;

“microgeneration” has the meaning given in section 82(6) of the Energy Act 2004<sup>(4)</sup> and “domestic microgeneration” means the production of electricity or heat for domestic consumption using microgeneration equipment;

“solar PV” means solar photovoltaics; and

“World Heritage Site” means land appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage<sup>(5)</sup>.”

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Schedule 1 confers permitted development rights in respect of certain development and where such rights apply, no specific application for planning permission is needed. This Order extends permitted development rights to certain individual microgeneration technologies.

Article 2(2) and the Schedule inserts a new Part 1A into Schedule 1 of the 1992 Order. It provides permitted development rights for the installation of specified types of microgeneration equipment on or within the curtilage of dwellinghouses or flats, subject to certain criteria. These types of microgeneration equipment include: solar thermal and photovoltaic panels; flues for biomass systems; ground source heat pumps; water source heat pumps and flues for combined heat and power devices.

A regulatory impact assessment has been prepared in relation to this Order and can be obtained free of charge from the Scottish Government Planning Directorate, Area 2H, Victoria Quay, Edinburgh, EH6 6QQ.

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(3) 1995 c. 25.

(4) 2004 c. 20.

(5) See command paper 9424.