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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 155**

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

PART 1

Introductory

**Citation and commencement**

1. These Regulations may be cited as the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and come into force on 30th June 2013.

**Application**

2.—(1) Subject to Part 10 and paragraphs (2) to (4), these Regulations apply to—

- (a) applications for planning permission;
- (b) applications for approval, consent or agreement required by a condition imposed on a grant of planning permission; and
- (c) applications for a certificate under sections 150 (certificate of lawfulness of existing use or development) or 151 (certificate of lawfulness of proposed use or development) of the Act,

made on or after 3rd August 2009.

(2) If a special development order is made, or has been made before the commencement of these Regulations, in relation to any land, these Regulations apply to that order only to such extent and subject to such modifications as may be specified in the order.

(3) These Regulations apply to an application for planning permission relating to marine fish farm development in accordance with regulation 36.

(4) These Regulations do not apply to applications for planning permission made under section 31A of the Act (planning permission in respect of the operation of a marine fish farm).

**Interpretation**

3.—(1) In these Regulations—

“the Act” means the Town and Country Planning (Scotland) Act 1997;

“appointed officer” means a person appointed by virtue of a scheme of delegation under section 43A(1) of the Act (local developments: schemes of delegation) by the planning authority to determine the application;

“category A listed building” means a listed building specified as being category A in a list of buildings compiled or approved and amended as the case may be by the Scottish Ministers

in accordance with section 1(4) of the Listed Buildings Act<sup>(1)</sup> (listing of buildings of special architectural or historic interest);

“cemetery” includes a burial ground or any other place of interment for the dead;

“community council” means a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973<sup>(2)</sup>;

“Crown land” has the meaning given in section 242(1) the Act (Crown land: preliminary definitions);

“design statement” and “design and access statement” have the meaning given in regulation 13;

“dwellinghouse” includes a building containing one or more flats, or a flat contained within such a building.”

“environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011<sup>(3)</sup>;

“the Fees Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004<sup>(4)</sup>;

“historic garden or designed landscape” means a garden or landscape which is included in the inventory of gardens and designed landscapes compiled and maintained under section 32A of the Ancient Monuments and Archaeological Areas Act 1979<sup>(5)</sup> (inventory of gardens and designed landscapes);

“householder development” means the carrying out of building, engineering or other operations—

- (a) to improve, add to or alter an existing dwellinghouse;
- (b) within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of that dwellinghouse; and
- (c) to erect or construct a gate, fence or wall or other means of enclosure along a boundary of the curtilage of a dwellinghouse;

“licensed premises” means premises licensed for the sale of alcoholic liquor pursuant to the provisions of the Licensing (Scotland) Act 2005<sup>(6)</sup> or premises authorised by a premises licence under Part 8 of the Gambling Act 2005<sup>(7)</sup> to be used for activities described in section 150 of that Act (nature of licence);

“listed building” means a listed building within the meaning of section 1(4) of the Listed Buildings Act;

“Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“marine fish farm development” means the placing or assembly of any equipment in marine waters for the purposes of fish farming (“equipment” and “fish farming” having the same meaning as in section 26(6) of the Act (meaning of development)) and any material change of use of equipment so placed or assembled;

“marine planning zone” has the same meaning as in the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007<sup>(8)</sup>;

“marine waters” means the waters described in section 26(6)(b) and (c) of the Act;

(1) 1997 c.9.

(2) 1973 c.65.

(3) S.S.I. 2011/139.

(4) S.S.I. 2004/219 as relevantly amended by S.S.I. 2007/253, S.S.I. 2007/268 and S.S.I. 2013/105.

(5) 1979 c.46. Section 32A was inserted by section 11 of the Historic Environment (Amendment) (Scotland) Act 2011 (asp 3).

(6) 2005 asp 16.

(7) 2005 c.19.

(8) S.S.I. 2007/268.

“minerals application” means an application for planning permission for development consisting of the winning and working of minerals by underground working;

“National Scenic Area” means an area designated by a direction made by the Scottish Ministers under section 263A of the Act<sup>(9)</sup> (national scenic areas);

“neighbouring land” means an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed;

“planning permission in principle” means a planning permission granted pursuant to an application made under regulation 10 for the carrying out of building, engineering, mining or other operations in, on, over or under land which is granted subject to a condition (in addition to any other conditions which may be imposed) that the development in question will not begin until certain matters have been approved by the planning authority or, as the case may be, the Scottish Ministers;

“pre-application consultation report” means a written report prepared in accordance with section 35C of the Act;

“road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984<sup>(10)</sup> (interpretation);

“scheduled monument” has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979 (schedule of monuments);

“validation date” is the date on which an application is taken to have been made in terms of regulation 14;

“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>(11)</sup>.

(2) Other than in regulations 12 and 18, references to an approval, consent or agreement required by a condition imposed on a grant of planning permission include an approval required by or under a development order.

(3) References to distance are references to distance measured along a horizontal plane.

(4) Any requirement that a form is to be as set out in a specified Schedule is to be construed as meaning a form as so specified or a form substantially to the like effect.

(5) Any power conferred by these Regulations to give a direction is to be construed as including power to cancel or vary the direction by a subsequent direction.

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<sup>(9)</sup> Section 263A was inserted by section 50 of the Planning etc. (Scotland) Act 2006 (asp 17).

<sup>(10)</sup> 1984 c.54.

<sup>(11)</sup> See command paper 9424.