
EXPLANATORY NOTE

(This note is not part of the Order)

PART 7 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) applies the Town and Country Planning Act (Scotland) 1997 (“the 1997 Act”), the Planning (Listed Buildings and Conservations Areas) (Scotland) Act 1997 (“the listed buildings Act”) and the Planning (Hazardous Substances) Act (Scotland) 1997 (“the hazardous substances Act”) to the Crown. As well as applying the planning Acts to the Crown, Part 7 makes provision for national security, urgent Crown development, enforcement, preservation of trees and old mining permissions.

Section 98 of the 2004 Act gives the Scottish Ministers power, by order, to apply subordinate legislation to the Crown, and to modify subordinate legislation made under or for the purposes of the planning Acts for the purposes of application to the Crown.

This Order applies the Town and Country Planning (Churches, Buildings for Religious Worship and Burial Grounds) (Scotland) Regulations 1948 (article 2), the Caravan Sites (Licence Applications) (Scotland) Order 1960 (article 3), the Town and Country Planning (General) (Scotland) Regulations 1976 (article 5), the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1987 (article 8), the Town and Country Planning (Simplified Planning Zones) (Scotland) Regulations 1987 (article 9), the Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990 (article 10), the Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992 (article 13), the Town and Country Planning (Minerals) (Scotland) Regulations 1998 (article 17), the Town and Country Planning (Compensation for Restrictions on Mineral Working and Mineral Waste Depositing) (Scotland) Regulations 1998 (article 8) and the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 (article 21) to the Crown, without modification.

Article 4 applies the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 1975 to the Crown with modifications to the Schedule, adding a new provision to create an exemption for works to a tree to enable the implementation of a highway order or scheme made or confirmed by the Scottish Ministers, or where works to a tree are urgently necessary for national security purposes.

Article 6 applies the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 with modifications to include functional advertisements displayed by the Crown in the descriptions of advertisements which benefit from deemed consent under regulation 10.

Article 7 applies the Planning (Listed Buildings and Conservation Areas) (Scotland) Regulations 1987 to the Crown with modifications in respect of provisions on national security in new section 265A, as inserted into the 1997 Act by section 91 of the 2004 Act. Article 7(2) disapplies any requirement for an applicant to disclose information in those cases where the Scottish Ministers have issued a direction under new section 265A(3) that certain evidence shall only be heard or inspected at inquiry by persons specified in the direction. Modifications are made in articles 7(3) to (6) to take into account procedures where an application is made for urgent works on Crown land (section 73B of the listed buildings Act as inserted by section 93 of the 2004 Act).

Article 11 applies the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 to the Crown and modifies the Schedule to give the Crown planning permission for certain activities in relation to works carried out by the Crown, including works carried out under the Roads (Scotland) Act 1984 (c. 54), aviation development, Crown railways, dockyards and

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lighthouses, development for emergency purposes and development for national security or national defence purposes.

Article 12 makes modifications to the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 apply to the Crown while taking account of the provisions on national security in new section 265A and urgent Crown development in new section 242A, as inserted into the 1997 Act by section 92 of the 2004 Act.

Article 14 applies the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 to the Crown with modifications. Article 14(2) inserts an exemption from the requirement for hazardous substances consent into regulation 4 for military establishments, installations or storage facilities. Article 14(3) inserts a new reference into regulation 15 to make provision to apply the transitional provisions in new section 30D of the Hazardous Substances Act to claims for deemed consent. Article 14(4) makes similar amendments to the provisions on conditions for deemed consent in regulation 16. Article 14(5) modifies the prescribed form in Form 12, Schedule 2 to apply the transitional provisions under new 30D.

Article 15 applies the Conservation (Natural Habitats, &c.) Regulations 1994 to the Crown and makes modifications in order to take account of provisions for urgent Crown development in new section 242A, as inserted into the 1997 Act by section 92 of the 2004 Act.

Article 16 applies the Town and Country Planning (Use Classes) (Scotland) Order 1997 to the Crown, with modifications adding a new class of development, secure residential institutions. Change of use within that class to another use within that class does not constitute development. Article 16(2)(b) also adds use as a law court to class 10 which covers non-residential institutions.

Article 19 amends the Visiting Forces and International Headquarters (Application of Law) Order 1999 to substitute reference to new section 73C of the listed buildings Act. New section 73C makes provision for construing expressions relating to the Crown within legislation.

Article 20 applies the Environmental Impact Assessment (Scotland) Regulations 1999 to the Crown with modifications in order to take account of provisions for urgent Crown development in new section 242A, as inserted into the 1997 Act by section 92 of the 2004 Act.