
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 135

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (General
Permitted Development) (Avian Influenza)
(Scotland) Amendment Order 2007**

<i>Made</i>	- - - -	<i>1st March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>2nd March 2007</i>
<i>Coming into force</i>	- -	<i>26th March 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Town and Country Planning (General Permitted Development) (Avian Influenza) (Scotland) Amendment Order 2007 and shall come into force on 26th March 2007.

**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⁽²⁾ shall be amended in accordance with paragraph (2).

(2) After Part 25 of Schedule 1 to the Order insert—

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

“Part 25A

TEMPORARY PROTECTION OF POULTRY AND OTHER CAPTIVE BIRDS

Housing of poultry and captive birds

72A.—(1) The erection, extension or alteration of a building where that is necessary for the purpose of housing poultry or other captive birds to protect them from avian influenza.

- (2) Development is not permitted by this class—
- (a) if the development would affect a listed building or its setting;
 - (b) if the height of the building erected or the building as extended or altered would exceed 12 metres;
 - (c) where the development is within three kilometres of an aerodrome, the height of the building erected or the building as extended or altered would exceed three metres;
 - (d) if the area of ground which would be covered by the building erected or the building as extended or altered would exceed 465 square metres;
 - (e) where development is carried out on the same unit more than once by virtue of this class, the aggregate of the area of the ground covered by any such development would exceed 465 square metres; or
 - (f) where the development consists of the extension of a building, the area of ground which would be covered by the building as extended would exceed the area of ground covered by the existing building by more than 50 per cent.
- (3) Development is permitted by this class subject to the following conditions—
- (a) the development shall not be used for any purpose other than to house poultry or other captive birds to protect them from avian influenza;
 - (b) the developer shall within a period of 14 days after commencing development serve the relevant notice on the planning authority; and
 - (c) on or before the relevant date—
 - (i) any development permitted by this class shall be removed; and
 - (ii) the land shall be restored to its condition before the development took place, or to such other condition as may be agreed in writing between the planning authority and the developer.
- (4) For the purposes of this class—
- “approved body” means a body approved in accordance with Article 2(1)(c) of Directive [92/65/EEC](#)(3) laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive [90/425/EEC](#)(4);
- “avian influenza” means an infection of poultry or other captive birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six week old chickens greater than 1.2;

(3) O.J. L 268, 14.9.1992, p.54-72.

(4) O.J. L 224, 18.8.1990, p.29-41.

“other captive bird” means a bird kept in captivity which is not poultry and includes a bird kept as a pet; for shows, races, exhibitions or competitions; for breeding; for sale; or for use by an approved body;

“poultry” means birds reared or kept in captivity for the production of meat or eggs for consumption, for the production of other products, for restocking supplies of game or for the purposes of any breeding programme for the production of such categories of birds;

“relevant date” means the earlier of–

- (a) 26th March 2008; or
- (b) the date on which the use of the buildings permitted by this class ceases to be necessary for the purposes of protecting poultry or other captive birds from avian influenza,

“relevant notice” means a notice signed and dated by or on behalf of the developer and containing–

- (a) the name of the developer;
- (b) the address or location of the development (including a site plan and grid reference);
- (c) the name and address of the owner and occupier of the land on which the development is being carried out;
- (d) a description of the development (including a description of the type of poultry or other captive birds to be protected); and
- (e) the date on which development commenced; and

“unit” means land which is occupied as a unit for the same purpose or related purposes.”.

St Andrew’s House,Edinburgh
1st March 2007

DES McNULTY
Authorised to sign by the Scottish Ministers

Status: *This is the original version (as it was originally made). Scottish Statutory Instruments are not carried in their revised form on this site.*

EXPLANATORY NOTE

(This note is not part of the Order)

This Order adds a new Part 25A to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Part 25A grants planning permission in respect of certain development which is necessary for the purposes of housing poultry and other captive birds to protect them from avian influenza. Where Part 25A applies, no specific application for planning permission is needed. Planning permission is granted by Part 25A subject to conditions requiring notification to the planning authority and removal of the development once the need for it has ended, or by 26th March 2008, whichever is the earlier.

A regulatory impact assessment has been prepared in relation to this Order. The assessment has been placed in the Scottish Parliament Information Centre and copies may be obtained from the Scottish Executive Development Department, Victoria Quay, Leith, Edinburgh EH6 6QQ.