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STATUTORY INSTRUMENTS

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**1992 No. 223**

**The Town and Country Planning (General Permitted Development) (Scotland) Order 1992**

**PART 1**

**INTRODUCTORY**

**Application, citation and commencement**

1.—(1) This Order shall apply to all land in Scotland.

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

(3) Nothing in this Order shall apply to any permission which is deemed to be granted by virtue of section 62 of the Act.

(4) This Order may be cited as the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and shall come into force on 13th March 1992.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Town and Country Planning (Scotland) Act 1972;

“the 1981 Act” means the Town and Country Planning (Minerals) Act 1981(1);

“the 1960 Act” means the Caravan Sites and Control of Development Act 1960(2);

“aerodrome” means an aerodrome as defined in article 96 of the Air Navigation Order 1985(3) which is—

- (a) licensed under that order;
- (b) a Government aerodrome;
- (c) one at which the manufacture, repair or maintenance of aircraft is carried out by a person carrying on business as a manufacturer or repairer of aircraft;
- (d) one used by aircraft engaged in the public transport of passengers or cargo or aerial work;  
or
- (e) one identified to the Civil Aviation Authority before 1st March 1986 for inclusion in the UK Aerodrome Index,

and for the purposes of this definition, the terms “aerial work”, “Government aerodrome” and “public transport” have the meanings given in the aforesaid article 96;

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(1) 1981 c. 36.

(2) 1960 c. 62; the relevant amendment is section 13 of the Caravan Sites Act 1968 (c. 52).

(3) S.I. 1985/1643.

“aqueduct” does not include an underground conduit;

“associated apparatus”, in relation to any sewer, main or pipe, means pumps, machinery or apparatus associated with the relevant sewer, main or pipe;

“building” does not include plant or machinery, and in Schedule 1 to this Order does not include any gate, fence, wall or other means of enclosure;

“caravan” has the same meaning as for the purposes of Part I of the Caravan Sites and Control of Development Act 1960;

“caravan site” means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed;

“classified road” means a road which is for the time being so classified under section 11 of the Roads (Scotland) Act 1984<sup>(4)</sup>;

“conservation area” means an area of special architectural or historic interest designated as a conservation area under section 262 of the Act<sup>(5)</sup>;

“contravention of previous planning control” means a use of land begun in contravention of Part II of the Town and Country Planning (Scotland) Act 1947<sup>(6)</sup>;

“cubic content” means the cubic content of a structure or building measured externally;

“dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building;

“existing”, in relation to any building or any plant or machinery, means (except in the definition of “original”) existing immediately before the carrying out of development described in this Order;

“flat” means a separate and self-contained set of premises whether or not on the same floor and forming part of a building from some other part of which it is divided horizontally;

“floor area” means the total floor space in a building taking each floor into account but excluding, any area where the headroom measures less than 1.5 metres;

“hazardous activity” means an activity comprising the manufacture, processing, keeping or use of a hazardous substance in circumstances which will result in there being at any one time a notifiable quantity or more of a hazardous substance in, on, over or under the land on which the development is carried out;

“hazardous substance” and “notifiable quantity” have the meanings assigned to those terms by the Notification Regulations;

“industrial process” means a process for or incidental to any of the following purposes—

- (a) the making of any article or part of any article (including a ship or vessel, or a film, video or sound recording);
- (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
- (c) the getting, dressing or treatment of minerals in the course of any trade or business other than agriculture, and other than a process carried out on land used as a mine or adjacent to and occupied together with a mine;

“listed building” means a listed building withing the meaning of section 52(7) of the Act;

“microwave” means that part of the radio spectrum above 1000 MHz;

(4) 1984 c. 54.

(5) Section 262 was substituted by the Town and Country Amenities Act 1974 (c. 32), section 2(1).

(6) 1947 c. 53.

“local authority” has the meaning assigned to it by section 235 of the Local Government (Scotland) Act 1973(7);

“microwave antenna” means a satellite antenna or a terrestrial microwave antenna;

“mine” means any site on which mining operations are carried out;

“minerals” includes coal won or worked by virtue of section 36(1) of the Coal Industry Nationalisation Act 1946(8), but not any other coal;

“mining operations” means the winning and working of minerals in, on or under land, whether by surface or underground working;

“national scenic area” means an area of outstanding scenic value and beauty in a national context designated by the Secretary of State as a national scenic area under section 262C of the 1972 Act(9);

“Notification Regulations” means the Notification of Installations Handling Hazardous Substances Regulations 1982(10);

“original” means, in relation to a building existing on 1st July 1948, as existing on that date and, in relation to a building built on or after 1st July 1948, as so built;

“plant or machinery” includes any structure or erection in the nature of plant or machinery;

“private way” means a road or footpath which is not maintainable at the public expense;

“road” has the meaning assigned to it by section 151 of the Roads (Scotland) Act 1984(11);

“satellite antenna” means apparatus designed for transmitting microwave radio energy to satellites or receiving it from them, and includes any mountings or brackets attached to such apparatus;

“site of archeological interest” means land which is included in the schedule of monuments compiled by the Secretary of State under section 1 of the Ancient Monuments and Archeological Areas Act 1979(12) or is within an area of land which is designated as an area of archeological importance under section 33 of that Act or is within a site which has been included in a Sites and Monuments Record held by any local authority before the coming into force of this Order;

“site of special scientific interest” means land in respect of which notification procedure has been carried out in accordance with section 28(1) of the Wildlife and Countryside Act 1981(13);

“statutory undertaker” includes, in addition to any person mentioned in section 275(1) of the Act, the Post Office, the Civil Aviation Authority, public gas suppliers within the meaning of section 7 of the Gas Act 1986(14) and licence holders within the meaning of section 64(1) of the Electricity Act 1989(15);

“terrestrial microwave antenna” means apparatus designed for transmitting or receiving terrestrial microwave radio energy between two fixed points;

“trunk road” means a road or proposed road which is a trunk road within the meaning of section 151 of the Roads (Scotland) Act 1984(16);

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(7) 1973 c. 65.

(8) 1946 c. 59; section 36(1) was amended by the Coal Industry Act 1987 (c. 3), Schedule 1, paragraph 1.

(9) 1972 c. 52; section 262C was inserted by Schedule 11 paragraph 38 of the Housing and Planning Act 1986 (c. 63) and amended by section 6(8) and (9) of the Natural Heritage (Scotland) Act 1991 (c. 28).

(10) S.I. 1982/1357.

(11) 1984 c. 54.

(12) 1979 c. 46; section 1 was amended by the Natural Heritage Act 1983 (c. 47), Schedule 4, paragraph 25.

(13) 1981 c. 69.

(14) 1986 c. 44.

(15) 1989 c. 29.

(16) 1984 c. 54.

“Use Classes Order” means the Town and Country Planning (Use Classes) (Scotland) Order 1989(17).

- (a) (2) (a) Any reference in this Order to the height of a building or of plant or machinery shall be construed as a reference to its height when measured from ground level; and
  - (b) for the purposes of this paragraph “ground level” means the level of the surface of the ground immediately adjacent to the building or plant or machinery in question or, where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.
- (3) Any reference in this Order to the use of land for a specified purpose does not include a reference to the use of land—
- (a) without planning permission; or
  - (b) in contravention of previous planning control.
- (4) Any reference in this Order to a numbered article or Schedule is a reference to the article or as the case may be the Schedule bearing that number in this Order and a reference to a numbered paragraph or sub-paragraph is a reference to the paragraph or sub-paragraph having that number in the article or paragraph in the Schedule in which the reference appears.

## PART 2

### PERMITTED DEVELOPMENT

#### Permitted development

**3.—**(1) Subject to the provisions of this Order, planning permission is hereby granted for the development or class of development specified and printed in heavy type in sub-paragraph (1) of any paragraph of Schedule 1 or where any such paragraph is not divided into subparagraphs in that paragraph.

- (2) Any development or class of development permitted under paragraph (1) above is subject to—
- (a) any limitation or condition specified in the sub-paragraphs subsequent to subparagraph (1) in each paragraph in Schedule 1; and
  - (b) the condition that no building erected or extended, no plant or machinery installed or provided (other than a mains, pipe or other apparatus belonging to a public gas supplier) and no works on land within any site shall be used for a hazardous activity.

(3) References in this Order to permission granted by Schedule 1 or by any Part, class, paragraph or sub-paragraph of that Schedule is a reference to the permission granted by this article in relation to development specified in that Schedule or in that provision of that Schedule.

(4) Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part III of the Act otherwise than by this Order.

- (5) The permission granted by Schedule 1 shall not authorise the following—
- (a) any development other than development permitted by Parts 9 and 11 and class 31 of Schedule 1, which requires or involves the formation, laying out or material widening of a means of access to an existing road which is a trunk road or a classified road or creates an obstruction to the view of persons using any road used by vehicular traffic, so as to be likely to cause danger to such persons;
  - (b) the laying or construction of a notifiable pipeline; or

- (c) development which involves or is likely to involve a hazardous activity, except in the cases specified in paragraph (6) below.
- (6) The cases specified in this paragraph are—
  - (a) where the development is to be carried out in, on, over or under land comprised in a notified site and the carrying out of the development is not likely to result in the presence in, on, over or under the land of a quantity of the hazardous substance notified which exceeds three times the quantity last notified;
  - (b) where—
    - (i) an exemption certificate under the Notification Regulations applies to the development;
    - (ii) there is, immediately before the development is carried out, a notifiable quantity of a hazardous substance present in, on, over or under that land; and
    - (iii) the carrying out of the development is not likely to result in the presence in, on, over or under that land of a quantity of the substance which exceeds three times the quantity present immediately before development began;
  - (c) where the development is to be carried out by a public gas supplier and consists of the laying of mains, pipes or other apparatus; and
  - (d) where the development is for the purpose of inspecting, repairing or renewing mains, pipes or other apparatus.

(7) Any development falling within Part 11 of Schedule 1 authorised by an Act or order subject to the grant of any consent or approval shall not be treated for the purpose of this Order as authorised unless and until that consent or approval is obtained, except where the Act was passed or the order made after 1st July 1948 and it contains provision to the contrary.

- (8) For the purposes of this article—
  - “notified site” means a site in respect of which notification has been given to the Health and Safety Executive in pursuance of the requirements of the Notification Regulations; and
  - “site” means the whole of the area of land within a single unit of occupation.

#### **Directions restricting permitted development**

4.—(1) If in relation to any area the Secretary of State or, in relation to the district of a general planning authority, that general planning authority, or in relation to the district of a district planning authority, that district planning authority is satisfied that it is expedient that all or any development of all or any of the classes of Schedule 1 other than Classes 54 and 66 should not be carried out in that area or, as the case may be, that district or any particular part thereof, or that any particular development of any of those classes should not be carried out in such area or district or part, unless permission is granted on an application in that behalf, the Secretary of State or the planning authority concerned may direct that the permission granted by article 3 shall not apply to—

- (a) all or any development of all or any of those classes in any particular area specified in the direction; or
- (b) any particular development, specified in the direction, falling within any of these classes.

(2) In the case of development falling within Part 11 of Schedule 1 no such direction shall have effect in relation to development authorised by any Act passed after 1st July 1948 or by any Order requiring the approval of both Houses of Parliament approved after that date.

(3) Subject to paragraph (5), a direction by a planning authority under this article shall require the approval of the Secretary of State, and the Secretary of State may approve the direction, with or without modifications.

(4) When a planning authority submits a direction to the Secretary of State for approval, it shall also send—

- (a) two additional copies together with a plan of the area in respect of which the direction applies, unless the direction includes such a plan; and
- (b) a statement of its reasons for making the direction.

(5) The approval of the Secretary of State is not required in the case of a direction which does not affect the carrying out of such development by a statutory undertaker as is referred to in paragraph (6) (b) and which relates only to either or both of the following:—

- (a) a building which is included in a list compiled or approved under section 52 of the Act or in respect of which the Secretary of State has given notice in writing to the authority making the direction that it is a building of special architectural or historic interest;
- (b) development within the curtilage of a listed building.

(6) No direction given or having effect under this article shall have effect in relation to—

- (a) the carrying out of any development specified in Part 20 of Schedule 1 unless the direction specifically so provides; or
- (b) the carrying out of development comprising any of the following operations by a statutory undertaker, unless the direction specifically so provides:—
  - (i) maintenance of bridges, buildings and railway stations;
  - (ii) alteration and maintenance of railway track, and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail;
  - (iii) maintenance of docks, harbours, quays, wharves, canals and towing paths;
  - (iv) provision and maintenance of mechanical apparatus or appliances (including signalling equipment) required for the purposes of shipping or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, quay, harbour, bank, wharf or basin;
  - (v) any development required in connection with the improvement, maintenance or repair of watercourses or drainage works;
  - (vi) maintenance of buildings, runways, taxiways, or aprons at an aerodrome;
  - (vii) provision, alteration and maintenance of equipment, apparatus and works at an aerodrome, required in connection with the movement of traffic by air but excepting buildings, the construction, erection, reconstruction or alteration of which is permitted by Class 44 of Schedule 1.

(7) A direction shall come into force on the date on which notice thereof is first published under article 5(1) or in a case where notice is served in accordance with article 5(4) when such notice is served on the occupier or if there is no occupier on the owner.

(8) A direction by a planning authority shall be in the form set out at Schedule 3 (or in a form substantially to the like effect).

#### **Notice and service of article 4 directions**

5.—(1) Notice of any direction made or approved by the Secretary of State and of any such direction as is referred to in paragraph (5) of article 4 specifying any particular area given under paragraph (1)(a) of that article shall be published by the planning authority concerned in one or more newspapers, circulating in the locality in which the area is situated, and on the same or a subsequent date in the Edinburgh Gazette.

(2) Such a notice shall contain a concise statement of the effect of the direction and name a place or places where a copy thereof and of a map defining the area to which it relates may be seen at all reasonable hours.

(3) Where the Secretary of State thinks fit he may publish notice in accordance with paragraph (1) above of any direction given under paragraph (1)(a) of article 4 in which case the planning authority shall not require to publish such notice.

(4) Notice of any direction specifying any particular development given under paragraph (1)(b) of article 4 shall be served by the planning authority concerned on the owner and occupier of the land affected.

(5) Where the Secretary of State thinks fit he may serve notice in accordance with paragraph (4) above of any direction given under paragraph (1)(b) of article 4 in which case the planning authority shall not require to serve notice.

(6) A district planning authority shall notify the regional planning authority of their region, on submitting to the Secretary of State a direction under article 4 above and shall send to them a copy of any notice published or served by them in accordance with paragraph (1) or (4) above.

#### **Cancellation of article 4 directions**

- (a) **6.** (1) (a) Any direction made by the Secretary of State under article 4 may be cancelled by a subsequent direction made by the Secretary of State;
- (b) any direction made by a planning authority in accordance with article 4 may be cancelled by a subsequent direction made by that authority or by a direction made by the Secretary of State. A direction given by a planning authority which contains only provisions cancelling a previous direction, shall not require the approval of the Secretary of State.

(2) Article 5 shall apply to the making of any cancelling direction in the same way as it would apply to the making of the direction being revoked.

#### **Directions restricting development in respect of minerals under class 54 or 66**

7.—(1) If, on receipt of a notification from any person that he proposes to carry out development within class 54 or 66 in Schedule 1 to this Order, a planning authority are satisfied as mentioned in paragraph (2) below they may, within 21 days beginning with receipt of the notification, direct that the permission granted by article 3 of this Order shall not apply to the development, or to such part of the development as is specified in the direction.

(2) The planning authority may make a direction under this article if they are satisfied that it is expedient that the development, or any part of the development, should not be carried out unless permission for the development is granted on an application because—

- (a) the land on which the development is to be carried out is within—
  - (i) a national scenic area;
  - (ii) a site of archaeological interest;
  - (iii) a site of special scientific interest;
- (b) the development, either taken by itself or taken in conjunction with other development which is already being carried out in the area or in respect of which notification has been given in pursuance of the provisions of Class 54 or 66 of Schedule 1 to this order, would cause serious detriment to the amenity of the area in which it is to be carried out or would adversely affect the setting of a category A listed building;
- (c) the development would constitute a serious nuisance to the inhabitants of a nearby residential building, hospital or school; or

(d) the development would endanger aircraft using a nearby aerodrome.

(3) A direction made under this article shall contain a statement as to the day on which, if it is not disallowed under paragraph (5) below, it will come into force, which shall be 29 days from the date on which notice of it is sent to the Secretary of State in accordance with paragraph (4) below.

(4) As soon as is reasonably practicable a copy of a direction under this article shall be sent by the planning authority to the Secretary of State and to the person who gave notice of the proposal to carry out development.

(5) The Secretary of State may, at any time within a period of 28 days beginning on the day on which the direction is made, disallow the direction; and immediately upon receipt of notice in writing from the Secretary of State that he has disallowed the direction, the planning authority shall give notice in writing to the person who gave notice of the proposal that he is authorised to proceed with the development.

(6) Any direction made by a planning authority in accordance with this article may be cancelled by a subsequent direction made by the planning authority and the foregoing article shall apply to the making of such cancelling direction in the same way as it would apply to the making of the direction being revoked.

(7) For the purposes of this article “category A listed building” means a listed building within the meaning of section 52(7) of the Act<sup>(18)</sup> specified as being category A in a list of buildings compiled or approved and amended as the case may be by the Secretary of State in accordance with that provision<sup>(19)</sup> as at the date of coming into force of the Order.

## PART 3

### REVOCATIONS

#### Revocations and savings

8.—(1) The statutory instruments specified in columns (1) and (2) of Schedule 4 are hereby revoked to the extent specified in column (3).

- (a) (2) (a) Without prejudice to sub-paragraph (b), any direction in force immediately before the coming into force of this Order by virtue of the Town and Country Planning (General Development) (Scotland) Orders 1950 to 1970<sup>(20)</sup>, the Town and Country Planning (General Development) (Scotland) Order 1975<sup>(21)</sup> and the Town and Country Planning (General Development) (Scotland) Order 1981<sup>(22)</sup> shall continue in force and have effect as if given under the corresponding provisions of this Order;
- (b) any direction under article 4 of the Town and Country Planning (General Development) (Scotland) Order 1950<sup>(23)</sup>, article 4 of the Town and Country Planning (General Development) (Scotland) Order 1975<sup>(24)</sup>, and article 4 of the Town and Country Planning (General Development) (Scotland) Order 1981<sup>(25)</sup> which is in force immediately before the coming into force of this Order shall in so far as it relates to development permitted

<sup>(18)</sup> Section 52(7) of the Act was amended by the Housing and Planning Act 1986 (c. 63), Schedule 9, paragraph 13(1).

<sup>(19)</sup> These lists are held at the Offices of Historic Scotland, 20 Brandon Street, Edinburgh EH3 5RA and also within the offices of a general planning authority or district planning authority in respect of their district, where they may be inspected by the public.

<sup>(20)</sup> S.I. 1950/942, 1958/1653, 1959/1361, 1960/1722, 1963/1767, 1964/1791, 1970/600.

<sup>(21)</sup> S.I. 1975/679.

<sup>(22)</sup> S.I. 1981/830; amended by S.I. 1983/1620, 1984/237, 1985/1014 and 2007, 1986/1356, 1988/977, 1988/1249, 1989/148, 1990/508, and 1991/147.

<sup>(23)</sup> S.I. 1950/942.

<sup>(24)</sup> S.I. 1975/679.

<sup>(25)</sup> S.I. 1981/830.



by this Order, continue in force and have effect as if it were a direction given under this article, of which notice has been published or served, as the case may be.

St. Andrew's House,  
Edinburgh  
11th February 1992

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State, Scottish  
Office