
STATUTORY INSTRUMENTS

1992 No. 223 (S.17)

TOWN AND COUNTRY PLANNING, SCOTLAND

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

<i>Made</i>	- - - -	<i>11th February 1992</i>
<i>Laid before Parliament</i>		<i>21st February 1992</i>
<i>Coming into force</i>	- -	<i>13th March 1992</i>

The Secretary of State, in exercise of the powers conferred on him by sections 21 and 273 of the Town and Country Planning (Scotland) Act 1972⁽¹⁾ and paragraph 54(2)(b) of Schedule 4 of the Telecommunications Act 1984⁽²⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

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;

(1) 1972 c. 52; section 21(2) was amended by the Local Government (Scotland) Act 1973 (c. 65), section 172(2); section 21(3) was substituted by the Housing and Planning Act 1986 c. 63 Schedule 11 paragraph 30.
(2) 1984 c. 12.

“the 1981 Act” means the Town and Country Planning (Minerals) Act 1981(3);

“the 1960 Act” means the Caravan Sites and Control of Development Act 1960(4);

“aerodrome” means an aerodrome as defined in article 96 of the Air Navigation Order 1985(5) 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;

“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(6);

“conservation area” means an area of special architectural or historic interest designated as a conservation area under section 262 of the Act(7);

“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(8);

“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;

(3) 1981 c. 36.

(4) 1960 c. 62; the relevant amendment is section 13 of the Caravan Sites Act 1968 (c. 52).

(5) S.I. 1985/1643.

(6) 1984 c. 54.

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

(8) 1947 c. 53.

“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 with the meaning of section 52(7) of the Act;

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

“local authority” has the meaning assigned to it by section 235 of the Local Government (Scotland) Act 1973(9);

“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(10), 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(11);

“Notification Regulations” means the Notification of Installations Handling Hazardous Substances Regulations 1982(12);

“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(13);

“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(14) or is within an area of land which is designated as an area

(9) 1973 c. 65.

(10) 1946 c. 59; section 36(1) was amended by the Coal Industry Act 1987 (c. 3), Schedule 1, paragraph 1.

(11) 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).

(12) S.I. 1982/1357.

(13) 1984 c. 54.

(14) 1979 c. 46; section 1 was amended by the Natural Heritage Act 1983 (c. 47), Schedule 4, paragraph 25.

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⁽¹⁵⁾;

“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⁽¹⁶⁾ and licence holders within the meaning of section 64(1) of the Electricity Act 1989⁽¹⁷⁾;

“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⁽¹⁸⁾;

“Use Classes Order” means the Town and Country Planning (Use Classes) (Scotland) Order 1989⁽¹⁹⁾.

- (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—

⁽¹⁵⁾ 1981 c. 69.
⁽¹⁶⁾ 1986 c. 44.
⁽¹⁷⁾ 1989 c. 29.
⁽¹⁸⁾ 1984 c. 54.
⁽¹⁹⁾ S.I. 1989/147.

- (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) 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⁽²⁰⁾ 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⁽²¹⁾ as at the date of coming into force of the Order.

⁽²⁰⁾ Section 52(7) of the Act was amended by the Housing and Planning Act 1986 (c. 63), Schedule 9, paragraph 13(1).

⁽²¹⁾ 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.

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) 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(22), the Town and Country Planning (General Development) (Scotland) Order 1975(23) and the Town and Country Planning (General Development) (Scotland) Order 1981(24) 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(25), article 4 of the Town and Country Planning (General Development) (Scotland) Order 1975(26), and article 4 of the Town and Country Planning (General Development) (Scotland) Order 1981(27) which is in force immediately before the coming into force of this Order shall in so far as it relates to development permitted 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

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

(23) S.I. 1975/679.

(24) 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.

(25) S.I. 1950/942.

(26) S.I. 1975/679.

(27) S.I. 1981/830.

SCHEDULE 1

Article 3

CLASSES OF PERMITTED DEVELOPMENT

PART 1

DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class

- 1.—(1) The enlargement, improvement or other alteration of a dwellinghouse.
- (2) Development is not permitted by this class if—
 - (a) the floor area of the resulting building would exceed the floor area of the original dwellinghouse—
 - (i) in the case of a terrace house or of a dwellinghouse in a conservation area by more than 16 square metres or 10%, whichever is the greater;
 - (ii) in any other case, by more than 24 square metres or 20%, whichever is the greater;
 - (iii) in any case by more than 30 square metres;
 - (b) the height of the resulting building would exceed the height of the highest part of the roof of the original dwellinghouse;
 - (c)
 - (i) in the case of a dwellinghouse within a conservation area any part of that development would extend beyond the building line of the original dwellinghouse on any side of the house where its curtilage is bounded by a road;
 - (ii) in any other case any part of that development would be both less than 20 metres from any road which bounds its curtilage and would be nearer to the road than the part of the original dwellinghouse nearest to it;
 - (d) any part of the development which would be within 2 metres of the boundary of the curtilage of the dwellinghouse—
 - (i) would be increased in height as a result of the development; and
 - (ii) would exceed 4 metres in height;
 - (e) the total area of ground covered by buildings within the curtilage (other than the original dwellinghouse) would exceed 30% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
 - (f) it would consist of or include the installation, alteration or replacement of a satellite antenna;
 - (g) it would consist of or include the erection of a building within the curtilage of a listed building;
 - (h) it would consist of or include any alteration to the roof of the original dwellinghouse; or
 - (i) in the case of a dwellinghouse in a conservation area the development would consist of or include the cladding of any part of the exterior with stone, artificial stone, timber, plastic or tiles or any other material.
- (3) For the purposes of this class—
 - (a) the erection within the curtilage of a dwellinghouse of any building with a floor area greater than 4 square metres and within 5 metres of any part of the dwellinghouse shall be treated as the enlargement of the dwellinghouse for all purposes;

- (b) where any part of the dwellinghouse would be within 5 metres of an existing building within the same curtilage, that building shall be treated as forming part of the resulting building for the purpose of calculating the floor area;
- (c) “resulting building” means the dwellinghouse as enlarged, improved or altered, taking into account any previous enlargement, improvement or alteration to the original dwellinghouse, whether permitted by classes 1 to 6 or not;

“terrace house” means a dwellinghouse—

- (i) situated in a row of three or more buildings used, or designed for use, as single dwellinghouses; and
- (ii) having a mutual wall with, or having a main wall adjoining the main wall of, the dwellinghouse (or building designed for use as a dwellinghouse) on either side of it at the end of a row,

but includes the dwellinghouses at each end of such a row of buildings as is referred to.

Class

2.—(1) Any alteration to the roof of a dwellinghouse including the enlargement of a dwellinghouse by way of an addition or alteration to its roof.

(2) Development is not permitted by this class if—

- (a) any part of the dwellinghouse would as a result of the works, exceed the height of the highest part of the existing roof;
- (b) any part of the dwellinghouse would, as a result of the works, extend 10 centimetres beyond the plane of any existing roof slope;
- (c) the roof area of the enlargement exceeds 10% of the roof area of the dwellinghouse before development;
- (d) any roofing material used would materially affect the external appearance of the dwellinghouse;
- (e) the dwellinghouse is in a conservation area.

Class

3.—(1) The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse, or the maintenance, improvement or other alteration of such a building or enclosure.

(2) Development is not permitted by this class if—

- (a) it consists of a dwelling or a satellite antenna;
- (b) it consists of a building or enclosure where any part of such building or enclosure to be constructed would be both less than 20 metres from any road which bounds its curtilage and would be nearer to the road than the part of the original dwellinghouse nearest to it;
- (c) it consists of a building where the building to be constructed or provided would have a floor area greater than 4 square metres, any part of it would be within 5 metres of any part of the dwellinghouse;
- (d) the height of that building or enclosure would exceed—
 - (i) 4 metres, in the case of a building with a ridged roof; or
 - (ii) 3 metres, in any other case;

- (e) the total area of ground covered by buildings or enclosures within the curtilage (other than the original dwellinghouse) would exceed 30% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); or
- (f) in the case of any land in a conservation area or land within the curtilage of a listed building, it would consist of the provision, alteration or improvement of a building with a floor area greater than 4 square metres.

(3) For the purposes of this class “purpose incidental to the enjoyment of the dwellinghouse” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

Class

4.—(1) The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse.

(2) Development is not permitted by this class within a conservation area or within the curtilage of a listed building.

Class

5.—(1) The erection or provision within the curtilage of a dwellinghouse of a container for the storage of oil.

(2) Development is not permitted by this class if—

- (a) it would be within a conservation area or within the curtilage of a listed building;
- (b) the capacity of the container would exceed 3500 litres;
- (c) any part of the container would be more than 3 metres above ground level;
- (d) any part of the container would be both less than 20 metres from any road which bounds its curtilage and would be nearer to the road than the part of the original dwellinghouse nearest to it;
- (e) it would result in more than one container within the curtilage of a dwellinghouse.

Class

6.—(1) The installation, alteration or replacement of a satellite antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

(2) Development is not permitted by this class if it would result in—

- (a) more than one satellite antenna on the dwellinghouse or within its curtilage;
- (b) the size of the satellite antenna (excluding any projecting feed element) when measured in any dimension exceeding 90 centimetres;
- (c) the highest part of any antenna to be installed on a dwellinghouse being higher than the highest part of the roof on which it would be installed; or
- (d) the satellite antenna being installed in a conservation area or national scenic area on any part of a dwellinghouse which faces on to a road.

(3) Development is permitted by this class subject to the condition that the antenna shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building or structure on which it is installed.

PART 2

SUNDRY MINOR OPERATIONS

Class

7.—(1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

(2) Development is not permitted by this class if—

- (a) the height of any gate, fence, wall or other means of enclosure to be erected or constructed within 20 metres of a road would, after the carrying out of the development, exceed one metre above ground level;
- (b) the height of any other gate, fence, wall or other means of enclosure to be erected or constructed would exceed two metres above ground level;
- (c) the height of any existing gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in sub-paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or
- (d) it would involve development within the curtilage of, or in respect of a gate, fence, wall or other means of enclosure surrounding, a listed building.

Class

8. The formation, laying out and construction of a means of access to a road which is not a trunk road or a classified road, where that access is required in connection with development permitted by any class in this Schedule other than Class 7.

Class

9.—(1) The stone cleaning or painting of the exterior of any building or works.

(2) Development is not permitted by this class—

- (a) for the purposes of advertisement, announcement or direction;
- (b) where the building or works are in a conservation area; or
- (c) where the building is a listed building.

(3) For the purposes of this class, “painting” includes any application of colour.

PART 3

CHANGES OF USE

Class

10. Development consisting of a change of use of a building or land to a use within class 1 (shops) from a use—

- (a) within class 2 (financial, professional and other services);
- (b) within class 3 (food and drink); or
- (c) for the sale or display for sale of motor vehicles.

Class

11. Development consisting of a change of use of a building or land to a use within class 2 (financial, professional and other services) from a use within class 3 (food and drink).

Class

12. Development consisting of a change of use of a building or land to a use within class 4 (business) from a use within—

- (a) class 5 (general industrial); or
- (b) class 11 (storage or distribution).

Class

13.—(1) Development consisting of a change of use of a building or land to a use within class 11 (storage or distribution) from a use within—

- (a) class 4 (business); or
- (b) class 5 (general industrial).

(2) Development is not permitted by this class if the change of use relates to more than 235 square metres of the floor area in the building.

Interpretation of Part 3—

For the purposes of Part 3—

any references to “class”, other than the reference to “Class 10”, “Class 11”, “Class 12” and “Class 13” where they occur at the beginning of each of the four preceding paragraphs, are references to the classes specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1989(28).

PART 4

TEMPORARY BUILDINGS AND USES

Class

14.—(1) The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

(2) Development is not permitted by this class if—

- (a) the operations being or to be carried out are mining operations; or
- (b) planning permission is required for these operations but has not been granted or deemed to be granted.

(3) Development is permitted by this class subject to the conditions that, when the operations have been carried out—

- (a) any building, structure, works, plant or machinery permitted by this Class shall be removed; and

- (b) any adjoining land on which development permitted by this Class has been carried out shall as soon as reasonably practicable, be reinstated to its condition before that development was carried out.

Class

15. The use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site or an open air market, on not more than 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use.

PART 5

CARAVAN SITES

Class

16.—(1) The use of land, other than a building, as a caravan site in the circumstances referred to in sub-paragraph (3).

(2) Development is permitted by this class subject to the condition that the use shall be discontinued when the circumstances specified in sub-paragraph (3) cease to exist, and all caravans on the site shall be removed as soon as reasonably practicable.

(3) The circumstances specified in this sub-paragraph are those specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act, but in relation to those mentioned in paragraph 10 do not include use for winter quarters.

Class

17. Development required by the conditions of a site licence for the time being in force under the 1960 Act.

PART 6

AGRICULTURAL BUILDINGS AND OPERATIONS

Class

18.—(1) The carrying out on agricultural land comprised in an agricultural unit of—

- (a) works for the erection, extension or alteration of a building;
- (b) the formation, alteration or maintenance of private ways; or
- (c) any excavation or engineering operations,

requisite for the purposes of agriculture within that unit.

(2) Development is not permitted by this class if—

- (a) the development would be carried out on agricultural land less than 0.4 hectare in area;
- (b) it would consist of or include the erection, extension or alteration of a dwelling;
- (c) a building, structure or works not designed for the purposes of agriculture would be provided on the land;
- (d) the ground area to be covered by—

- (i) any works or structure (other than a fence) for the purposes of accommodating livestock or any plant or machinery arising from engineering operations; or
 - (ii) any building erected or any building as extended or altered by virtue of this class, would exceed 465 square metres, calculated as described in sub-paragraph (5);
 - (e) the height of any part of the building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;
 - (f) the height of any part of the building, structure or works outwith 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;
 - (g) any part of the development would be within 25 metres of the metalled portion of a trunk or classified road; or
 - (h) it would consist of or include the erection or construction of, or the carrying out of any works to, a building, structure or erection used or to be used for housing pigs, poultry, rabbits or animals bred for their skin or fur or for the storage of slurry or sewage sludge, and the building, structure or works is or would be within 400 metres of the curtilage of any protected building.
- (3) Development is permitted by this class subject to the following conditions—
- (a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, erection or works resulting from the development shall not be used for housing pigs, poultry, rabbits or animals bred for their skin or fur or for the storage of slurry or sewage sludge;
 - (b) where the development involves—
 - (i) the extraction of any mineral from the land or from any disused railway embankment on the land; or
 - (ii) the removal of any mineral from a mineral-working deposit on the land, the mineral shall not be moved off the land, unless planning permission for the winning and working of that mineral has been granted on an application made under Part III of the Act;
 - (c) in the case of development which involves the deposit of waste materials on or under the land, no waste materials shall be brought onto the land from elsewhere except for development of the kind described in sub-paragraph (1)(a) or the creation of a hard surface, where the materials are incorporated into the building or works forthwith.
 - (a) Development consisting of the erection of a building or the significant extension or significant alteration of a building or the formation or alteration of a private way is permitted by this class subject to the following conditions:—
 - (i) the developer shall, before beginning the development, apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building or, as the case may be, the siting and means of construction of the private way;
 - (ii) the application shall be accompanied by a written description of the proposed development, the materials to be used and a plan indicating the site together with any fee required to be paid;
 - (iii) the development shall not be begun before the occurrence of one of the following:—
 - (aa) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required;
 - (bb) where the planning authority gives the applicant notice within 28 days following the date of receiving his application of their determination that such prior approval is required, the giving of such approval;

- (cc) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
- (iv) the development shall, except to the extent that the planning authority otherwise agree in writing, be carried out—
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application;
- (v) the development shall be carried out—
 - (aa) where approval has been given by the planning authority, within a period of five years from the date on which approval was given;
 - (bb) in any other case, within a period of five years from the date on which the planning authority were given the information referred to in sub-paragraph (a)(ii);
- (b) development consisting of the significant extension or the significant alteration of a building, may be carried out only once in respect of that building.
- (5) For the purposes of this class—
 - (a) the area of 0.4 hectares shall comprise one piece of land except within the districts of the following planning authorities, namely Argyll and Bute District Council, Strathspey District Council, Caithness District Council, Inverness District Council, Sutherland District Council and Western Isles Islands Council, where the area of 0.4 hectares may be calculated by adding together the areas of separate parcels of land;
 - (b) the ground area referred to in sub-paragraph (2)(d) is the sum of—
 - (i) the ground area which would be covered by the proposed development; and
 - (ii) the ground area of any building (other than a dwelling), or any structure, works, plant or machinery within the same unit which is being provided or has been provided within the preceding two years and any part of which would be within 90 metres of the proposed development;
 - (c) the 400 metres measurement referred to in sub-paragraphs (2) and (3) is to be measured along the ground;
 - (d) “protected building” means any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is apt; but does not include—
 - (i) a building within the agricultural unit;
 - (ii) a building used for a purpose referred to in Classes 6 to 10 (special industrial uses) of the Schedule to the Use Classes Order; or
 - (iii) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture.

Class

19.—(1) The winning and working on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.

(2) Development is not permitted by this class if any excavation would be made within 25 metres of the metalled portion of a trunk or classified road or a railway line.

(3) Development is permitted by this class subject to the condition that no mineral extracted during the course of the operation shall be moved to any place outside the land from which it was extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture.

Land drainage works

Class

20. The carrying out of any works required in connection with the improvement or maintenance of watercourses or land drainage works.

Peat

Class

21. The winning and working of peat by any person for the domestic requirements of that person.

Interpretation of Part 6

For the purposes of Part 6—

“agricultural land” means land which, before development permitted under this Order is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business and excludes any dwellinghouse or garden or any land used for the purposes of fish farming;

“agricultural unit” means agricultural land which is occupied as a unit for the purposes of agriculture other than fish farming, but includes—

- (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit; or
- (b) any dwelling on that land occupied by a farmworker;

“building” does not include anything resulting from engineering operations;

“fish farming” means the breeding or rearing of fish or the cultivation of shellfish (including crustaceans and molluscs of any description) for the purpose of producing food for human consumption or for transfer to other waters;

“the purposes of agriculture” includes fertilising land used for the purposes of agriculture, and the maintenance, improvement or alteration of any buildings, structures or works occupied or used for such purposes on land so used;

“significant extension” and “significant alteration” mean any extension or alteration of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building;

“slurry” means animal faeces and urine whether or not water has been added.

PART 7

FORESTRY BUILDINGS AND OPERATIONS

Class

22.—(1) The carrying out on land used for the purposes of forestry, including afforestation, or in the case of sub-paragraph (c) land held or occupied with that land, of development reasonably necessary for those purposes consisting of—

- (a) works for the erection, extension or alteration of a building;
- (b) the formation, alteration or maintenance of private ways;
- (c) operations on that land, or on land held or occupied with that land, to obtain the materials required for the formation, alteration or maintenance of such ways;
- (d) other operations (not including engineering or mining operations).

(2) Subject to sub-paragraph (3), development is not permitted by this class if—

- (a) it would consist of or include the provision or alteration of a dwelling;
- (b) the height of any building or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres in height; or
- (c) any part of the development would be within 25 metres of the metalled portion of a trunk or classified road.

(a) Development consisting of the erection of a building or the significant extension or significant alteration of a building or the formation or alteration of a private way is permitted by this class subject to the following conditions:—

- (i) the developer shall, before beginning the development, apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building or, as the case may be, the siting and means of construction of the private way;
- (ii) the application shall be accompanied by a written description of the proposed development, the materials to be used and a plan indicating the site together with any fee required to be paid;
- (iii) the development shall not be begun before the occurrence of one of the following:—
 - (aa) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required;
 - (bb) where the planning authority gives the applicant notice within 28 days following the date of receiving his application of their determination that such prior approval is required, the giving of such approval;
 - (cc) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
- (iv) the development shall, except to the extent that the planning authority otherwise agree in writing, be carried out—
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application;
- (v) the development shall be carried out—

- (aa) where approval has been given by the planning authority, within a period of five years from the date on which approval was given;
- (bb) in any case, within a period of five years from the date on which the planning authority were given the information referred to in sub-paragraph (a)(ii);
- (b) development consisting of the significant extension or the significant alteration of a building may be carried out only once in respect of that building.

Interpretation of Part 7

For the purposes of this Part—

“significant extension” and “significant alteration” mean any extension or alteration of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building.

PART 8

INDUSTRIAL AND WAREHOUSE DEVELOPMENT

Class

- 23.**—(1) The extension or alteration of an industrial building or a warehouse.
- (2) Development is not permitted by this class if—
- (a) the building as extended or altered is to be used for purposes other than those of the undertaking concerned;
 - (b) the building is to be used for a purpose other than—
 - (i) in the case of an industrial building as extended or altered the carrying out of an industrial process or the provision of employee facilities;
 - (ii) in the case of a warehouse, as extended or altered for storage or distribution or for the provision of employee facilities;
 - (c) the height of the building as extended or altered would exceed the height of the original building;
 - (d) the floor area of the original building would be exceeded by more than 25% or 1,000 square metres whichever is the greater;
 - (e) the external appearance of the premises of the undertaking concerned would be materially affected;
 - (f) any part of the development would be carried out within 5 metres of any boundary of the curtilage of the premises; or
 - (g) the development would lead to a reduction in the space available for the parking or turning of vehicles.
- (3) Development is permitted by this class subject to the conditions that where any building is extended or altered—
- (a) in the case of an industrial building, it shall only be used for the carrying out of an industrial process for the purpose of the undertaking or the provision of employee facilities;
 - (b) in the case of a warehouse, it shall only be used for storage or distribution for the purposes of the undertaking or the provision of employee facilities;

- (c) it shall not be used to provide employee facilities between 7 pm and 6.30 am for employees other than those present at the premises of the undertaking for the purpose of their employment;
 - (d) it shall not be used to provide employee facilities if a notifiable quantity of a hazardous substance is present at the premises of the undertaking.
- (4) Development is permitted for the purpose of carrying out any ancillary social, recreational or welfare purpose on condition that such uses shall not be carried on in a building any part of which is used for a hazardous activity.
- (5) For the purposes of this class—
- (a) the erection of any additional building within the curtilage of another building, whether by virtue of this class or otherwise, and used in connection with it is to be treated as the extension of that building, and the additional building is not to be treated as an original building;
 - (b) where two or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement.

Class

24.—(1) Development carried out on industrial land for the purposes of an industrial process consisting of—

- (a) the installation of additional or replacement plant or machinery;
 - (b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus; or
 - (c) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor.
- (2) Development is not permitted by this class if—
- (a) it would materially affect the external appearance of the premises of the undertaking concerned; or
 - (b) any plant or machinery would exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.

(3) In this class “industrial land” means land used for the carrying out of an industrial process, including land used for the purposes of an industrial undertaking as a dock, harbour or quay, but does not include land in or adjacent to and occupied together with a mine.

Class

25. The creation of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned.

Class

26.—(1) The deposit of waste material resulting from an industrial process on any land comprised in a site which was used for that purpose on 1st July 1948 whether or not the superficial area or the height of the deposit is extended as a result.

- (2) Development is not permitted by this class if—
- (a) the waste material is or includes material resulting from the winning and working of minerals; or

- (b) the use on 1st July 1948 was for the deposit of material resulting from the winning and working of minerals.

Interpretation of Part 8

For the purposes of Part 8—

“employee facilities” means social, care or recreational facilities provided for employees of the undertaking, including creche facilities provided for the children of such employees;

“industrial building” means a building used for the carrying out of an industrial process and includes a building used for the carrying out of such a process on land used as a dock, harbour or quay for the purposes of an industrial undertaking but does not include a building on land in or adjacent to and occupied together with a mine;

“warehouse” means a building used as a wholesale warehouse, or repository for any purpose and does not include a building on land in or adjacent to and occupied together with a mine.

PART 9

REPAIRS TO PRIVATE ROADS AND PRIVATE WAYS

Class

27.—(1) The carrying out on land within the boundaries of a private road or private way of works required for the maintenance or improvement of the road or way.

(2) For the purpose of this class—

“private road” has the meaning assigned to it by section 151(1) of the Roads (Scotland) Act 1984⁽²⁹⁾.

PART 10

REPAIRS TO SERVICES

Class

28.—(1) The carrying out of any works for the purposes of inspecting, repairing or renewing any sewer, main, pipe, cable or other apparatus, including breaking open any land for that purpose.

(2) Development is permitted by this class subject to the condition that on completion of the works or nine months after commencement of the works, whichever is the earlier, the land shall be restored to—

- (a) the condition it was in before the works were carried out; or
- (b) such condition as may be acceptable to the planning authority.

(29) 1984 c. 54.

PART 11

DEVELOPMENT UNDER LOCAL OR PRIVATE ACTS OR ORDERS

Class

29.—(1) Development authorised by—

- (a) a local or private Act of Parliament;
- (b) an order approved by both Houses of Parliament; or
- (c) any order made under section 14 or 16 of the Harbours Act 1964⁽³⁰⁾,

which in each case designates specifically the nature of the development authorised and the land upon which it may be carried out.

(2) Development is not permitted by this class if it consists of or includes—

- (a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam; or
- (b) the formation, laying out or alteration of a means of access to any road used by vehicular traffic,

unless the prior approval of the planning authority in respect of the detailed plans and specifications is first obtained.

(3) The prior approval referred to in sub-paragraph (2) shall not be refused by the planning authority or granted subject to conditions unless they are satisfied that—

- (a) in any case (other than the provision of works carried out to a dam) the development ought to be and could reasonably be carried out elsewhere on the land designated specifically in the said Act or order; or
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

PART 12

DEVELOPMENT BY LOCAL AUTHORITIES

Class

30. The erection or construction and the maintenance, improvement or other alteration by a local authority of—

- (a) any building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity on land belonging to or maintained by them, being building works or equipment required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;
- (b) lamp standards, refuse bins, public shelters and similar structures or works required in connection with the operation of any public service administered by them.

⁽³⁰⁾ 1964 c. 40; section 14 was amended by the Transport Act 1981 (c. 56) (“the 1981 Act”), Schedule 6, paragraphs 2, 3 and 4 and Schedule 12; section 16 was amended by the 1981 Act, Schedule 6, paragraphs 3 and 4.

Class

31. The carrying out by a roads authority on land outwith but adjoining the boundary of an existing road of works required for or incidental to the maintenance or improvement of the road.

Class

32. Any development relating to sewerage by a regional or islands council being development not above ground level required in connection with the provision, improvement, maintenance or repair of a sewer, outfall pipe or sludge main or associated apparatus.

Class

- 33.** The carrying out, within their own district by a planning authority of—
- (a) works for the erection of dwellinghouses, so long as those works conform to a local plan adopted under section 12 of the Act⁽³¹⁾;
 - (b) any development under the Housing (Scotland) Act 1987⁽³²⁾ not being development to which the last foregoing sub-paragraph applies so long as the development conforms to a local plan adopted under section 12 of the Act;
 - (c) any development under any enactment the estimated cost of which does not exceed £100,000 other than—
 - (i) development of any of the classes specified in Schedule 2 (bad neighbour development); or
 - (ii) development which constitutes a material change in the use of any buildings or other land.

PART 13

DEVELOPMENT BY STATUTORY UNDERTAKERS

Railway or light railway undertakings**Class**

34.—(1) Development by railway undertakers or their lessees on their operational land, required in connection with the movement of traffic by rail.

- (2) Development is not permitted by this class if it consists of or includes—
- (a) the construction of a railway;
 - (b) the construction or erection of a hotel, railway station or bridge; or
 - (c) the construction or erection otherwise than wholly within a railway station of—
 - (i) an office, or a building used for either residential or educational purposes or for an industrial process;

(31) 1972 c. 52; section 12(1) was amended by Local Government and Planning (Scotland) Act 1982 (c. 43) (“the 1982 Act”), section 39 and Schedule 4 Part I and by the Housing and Planning Act 1986 (c. 63) (“the 1986 Act”), Schedule 11, paragraph 28(2); section 12(2) was substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), section 2(3) and amended by the 1982 Act, Schedule 4, Part I; section 12 (2A) and (2B) were inserted by the 1986 Act, Schedule 11, paragraph 28(1); section 12(3) was amended by the Local Government (Scotland) Act 1973 (c. 65) (“the 1973 Act”), section 172(2); section 12(4) was substituted by the 1973 Act, section 175(2).

(32) 1987 c. 26.

- (ii) a car park, shop, restaurant, garage or petrol filling station.
- (3) For the purposes of this class—
 - (a) references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected;
 - (b) the reference to industrial process does not include the washing, maintenance and cleaning of rolling stock.

Dock, pier, harbour, water transport, canal or inland navigation undertakings

Class

35.—(1) Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required—

- (a) for the purposes of shipping; or
 - (b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking.
- (2) Development is not permitted by this class if it consists of or includes—
- (a) the construction or erection of a hotel, or of a bridge or other building not required in connection with the handling of traffic;
 - (b) the construction or erection otherwise than wholly within the limits of a dock, pier or harbour of—
 - (i) a building used for educational purposes; or
 - (ii) a car park, shop, restaurant, garage or petrol filling station.

(3) For the purposes of this class references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected and the reference to operational land includes land designated by an order made under section 14 or 16 of the Harbours Act 1964.

Works to inland waterways

Class

36. The improvement, maintenance or repair of an inland waterway (other than a commercial waterway or cruising waterway) to which section 104 of the Transport Act 1968(33) applies, and the repair or maintenance of a culvert, weir, lock, aqueduct, sluice, reservoir, let-off valve or other work used in connection with the control and operation of such a waterway.

Dredgings

Class

37. The use of any operational land by statutory undertakers in respect of dock, pier, harbour, water transport, canal or inland navigation undertaking for the spreading of any dredged material.

(33) 1968 c. 73.

Water undertakings

Class

38.—(1) For the purposes of water undertakings development of any of the following descriptions

- (a) the laying underground of mains, pipes or other apparatus;
- (b) the installation in a water distribution system of a booster station, valve house, meter or switchgear house;
- (c) the provision of a building, plant, machinery or apparatus in, on, over or under land for the purpose of survey or investigation;
- (d) any other development carried out in, on, over or under the operational land other than the provision of a building but including the extension or alteration of a building.

(2) Development is not permitted by this class if—

- (a) it would include the construction of a reservoir;
- (b) in the case of any development referred to in sub-paragraph (1)(b) involving the installation of a booster station or valve house exceeding 29 cubic metres in capacity, that installation is carried out at or above ground level or under a road used by vehicular traffic;
- (c) in the case of any development referred to in sub-paragraph (1)(d), it would consist of or include the extension or alteration of a building so that—
 - (i) its design or external appearance would be materially affected;
 - (ii) the height of the original building would be exceeded, or the cubic content of the original building would be exceeded by more than 25%; or
 - (iii) the floor area of the original building would be exceeded by more than 1,000 square metres; or
- (d) in the case of any development referred to in sub-paragraph (1)(d), it would consist of the installation or erection of any plant or machinery exceeding 15 metres in height or the height of anything it replaces, whichever is the greater.

(3) Development is permitted by sub-paragraph (1)(c) subject to the condition that, on completion of the survey or investigation, or at the expiration of 6 months from the commencement of the development, whichever is the sooner, all such operations shall cease and all such buildings, plant, machinery or apparatus shall be removed and the land restored as soon as reasonably practicable to its former condition (or to any other condition which may be agreed with the planning authority).

Gas suppliers

Class

39.—(1) Development by a public gas supplier required for the purposes of its undertaking consisting of—

- (a) the laying underground of mains, pipes or other apparatus;
- (b) the installation in a gas distribution system of apparatus for measuring, recording, controlling or varying the pressure, flow or volume of gas, and structures for housing such apparatus;

- (c) the construction in any storage area or protective area specified in an order made under section 4 of the Gas Act 1965(34), of boreholes, and the erection or construction in any such area of any plant or machinery required in connection with the construction of such boreholes;
 - (d) the placing and storage on land of pipes and other apparatus to be included in a main pipe which is being or is about to be laid or constructed in pursuance of planning permission granted or deemed to be granted under Part III of the Act;
 - (e) the erection on operational land of the public gas supplier of a building solely for the protection of plant or machinery; and
 - (f) any other development carried out in, on, over or under the operational land of the public gas supplier.
- (2) Development is not permitted by this class if—
- (a) in the case of any development referred to in sub-paragraph (1)(b) involving the installation of a structure for housing apparatus exceeding 29 cubic metres in capacity, that installation would be carried out at or above ground level, or under a road used by vehicular traffic;
 - (b) in the case of any development referred to in sub-paragraph (1)(c)—
 - (i) the borehole is shown in an order approved by the Secretary of State for Energy for the purpose of section 4(6) of the Gas Act 1965(35); or
 - (ii) any plant or machinery would exceed 6 metres in height;
 - (c) in the case of any development referred to in sub-paragraph (1)(e), the building would exceed 15 metres in height; or
 - (d) in the case of any development referred to in sub-paragraph (1)(f)—
 - (i) it would consist of or include the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected;
 - (ii) it would involve the installation of plant or machinery exceeding 15 metres in height, or capable without the carrying out of additional works of being extended to a height exceeding 15 metres; or
 - (iii) it would consist of or include the replacement of any plant or machinery, by plant or machinery exceeding 15 metres in height or exceeding the height of the plant or machinery replaced, whichever is the greater.
- (3) Development is permitted by this class subject to the following conditions:—
- (a) in the case of any development referred to in sub-paragraph (1)(a), not less than 8 weeks before the beginning of operations to lay a notifiable pipeline, the public gas supplier shall give notice in writing to the planning authority of its intention to carry out that development, identifying the land under which the pipeline is to be laid;
 - (b) in the case of any development referred to in sub-paragraph (1)(d), on completion of the laying or construction of the main or pipe, or at the expiry of a period of 9 months from the beginning of the development, whichever is the sooner, the pipe or apparatus shall be removed and the land restored as soon as reasonably practicable to its condition before the development took place or to such condition as may have been agreed in writing between the planning authority and the developer;

(34) 1965 c. 36.

(35) 1965 c. 36.

- (c) in the case of any development referred to in sub-paragraph (1)(e), the approval of the planning authority shall be obtained before the development is begun in respect of the details of the design and external appearance of the building.
- (4) For the purposes of this class—
- “notifiable pipeline” means a pipeline (as that term is defined in section 65 of the Pipelines Act 1962⁽³⁶⁾ which contains or is intended to contain a hazardous substance, but does not include a pipeline which has been authorised under section 1 of the Pipelines Act 1962, or a pipeline which contains, or is intended to contain, no hazardous substance other than—
- (a) a flammable gas (as specified in item 1 of Part II of Schedule 1 to the Notification Regulations) at a pressure of less than 8 bars absolute; or
- (b) a flammable liquid, as specified in item 4 of Part II of the said Schedule.

Electricity undertakings

Class

40.—(1) Development by statutory undertakers for the generation, transmission or supply of electricity for the purposes of their undertaking consisting of—

- (a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transformer or switching stations or chambers reasonably necessary in connection with an electric line;
- (b) the installation or replacement of any telecommunications line which connects any part of an electric line to any electrical plant or building, and the installation or replacement of any support for any such line;
- (c) the sinking of boreholes to ascertain the nature of the subsoil and the installation of any plant or machinery reasonably necessary in connection with such boreholes;
- (d) the extension or alteration of buildings on operational land of the undertaking;
- (e) the erection on operational land of the undertaking of a building solely for the protection of plant or machinery; and
- (f) any other development carried out in, on, over or under the operational land of the undertaking.
- (2) Development is not permitted by this class if—
- (a) in the case of any development referred to in sub-paragraph (1)(a)—
- (i) it would consist of or include the installation or replacement of an electric line to which section 37(1) of the Electricity Act 1989⁽³⁷⁾ applies; or
- (ii) it would consist of or include the installation or replacement at or above ground level or under a road used by vehicular traffic, of a chamber for housing apparatus and the chamber would exceed 29 cubic metres in capacity;
- (b) in the case of any development referred to in sub-paragraph (1)(b)—
- (i) the development would take place in a national scenic area or a site of special scientific interest;
- (ii) the height of any support would exceed 15 metres; or

⁽³⁶⁾ 1962 c. 58.

⁽³⁷⁾ 1989 c. 29.

- (iii) the telecommunications line would exceed 1,000 metres in length;
- (c) in the case of any development referred to in sub-paragraph (1)(d)—
 - (i) the height of the original building would be exceeded;
 - (ii) the cubic content of the original building would be exceeded by more than 25% (or 10% in the case of any building situated in a conservation area or a national scenic area);
 - (iii) the floor area of the original building would be exceeded by more than 1,000 square metres (or 500 square metres in the case of any building situated in a conservation area or a national scenic area);
- (d) in the case of any development referred to in sub-paragraph (1)(e) the building would exceed 15 metres in height; or
- (e) in the case of any development referred to in sub-paragraph (1)(f) it would consist of or include—
 - (i) the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected; or
 - (ii) the installation or erection by way of addition or replacement of any plant or machinery exceeding 15 metres in height or the height of any plant or machinery replaced, whichever is the greater.
- (3) Development is permitted by this class subject to the following conditions:—
 - (a) in the case of any development referred to in sub-paragraph (1)(a) consisting of or including the replacement of an existing electric line, any conditions contained in a planning permission relating to the height, design or position of the existing electric line shall so far as possible apply to the replacement line;
 - (b) in the case of any development referred to in sub-paragraph (1)(a) consisting of or including the installation of a temporary electric line providing a diversion for an existing electric line, on the ending of the diversion or at the end of a period of six months from the completion of the installation (whichever is the sooner) the temporary electric line shall be removed and the land on which any operations have been carried out to install that line shall be restored as soon as reasonably practicable to its condition before the installation took place or to such condition as may have been agreed in writing between the planning authority and the developer;
 - (c) in the case of any development referred to in sub-paragraph (1)(c) on the completion of that development or at the end of a period of six months from the beginning of that development (whichever is the sooner) any such plant or machinery shall be removed and the land shall be restored as soon as reasonably practicable to its condition before the development took place or to such condition as may have been agreed in writing between the planning authority and the developer;
 - (d) in the case of any development referred to in sub-paragraph (1)(e) the approval of the planning authority shall be obtained before the development is begun in respect of the details of the design and external appearance of the building.
- (4) For the purposes of sub-paragraphs (1)(d), (e) and (f) the land of a holder of a licence under section 6(2) of the Electricity Act 1989 shall be treated as operational land if it would be operational land within section 211 of the Act if such licence holders were statutory undertakers for the purpose of that section.
- (5) For the purpose of this class—

“electric line” has the meaning assigned to that term by section 64(1) of the Electricity Act 1989⁽³⁸⁾;

“electrical plant” has the meaning assigned to that term by the said section 64(1); and

“telecommunications line” means a wire or cable (including its casing or coating) which forms part of a telecommunications apparatus within the meaning assigned to that term by paragraph 1 of Schedule 2 to the Telecommunications Act 1984⁽³⁹⁾.

Tramway or road transport undertakings

Class

41.—(1) Development required for the purposes of the carrying on of any tramway or road transport undertaking consisting of—

- (a) the installation of posts, overhead wires, underground cables, feeder pillars or transformer boxes in, on, over or adjacent to a road for the purpose of supplying current to public service vehicles;
- (b) the installation of tramway tracks, and conduits, drains and pipes in connection with such tracks for the working of tramways;
- (c) the installation of telephone cables and apparatus, huts, stop posts and signs required in connection with the operation of public service vehicles;
- (d) the erection or construction and the maintenance, improvement or other alteration of passenger shelters and barriers for the control of people waiting to enter public service vehicles;
- (e) any other development on operational land of the undertaking.

(2) Development is not permitted by this class, if it would consist of—

- (a) in the case of any development referred to in sub-paragraph (1)(a), the installation of a structure exceeding 17 cubic metres in capacity,
- (b) in the case of any development referred to in sub-paragraph (1)(e)—
 - (i) the erection of a building or the reconstruction or alteration of a building where its design or external appearance would be materially affected;
 - (ii) the installation or erection by way of addition or replacement of any plant or machinery which would exceed 15 metres in height or the height of any plant or machinery it replaces, whichever is the greater;
 - (iii) development, not wholly within an omnibus or tramway station, in pursuance of powers contained in transport legislation.

(3) For the purposes of this class—

“public service vehicle” means a public service vehicle or tramcar within the meaning of the Public Passenger Vehicles Act 1981⁽⁴⁰⁾ or a trolley vehicle within the meaning of section 192(1) of the Road Traffic Act 1988⁽⁴¹⁾.

Lighthouse undertakings

⁽³⁸⁾ 1989 c. 29.

⁽³⁹⁾ 1984 c. 12.

⁽⁴⁰⁾ 1981 c. 14.

⁽⁴¹⁾ 1988 c. 52.

Class

42.—(1) Development required for the purposes of the functions of a general or local lighthouse authority under the Merchant Shipping Act 1894⁽⁴²⁾ and any other statutory provision made with respect to a local lighthouse authority, or in the exercise by a local lighthouse authority of rights, powers or duties acquired by usage prior to the said Act of 1894.

(2) Development is not permitted by this class if it consists of or includes the erection of offices, or the reconstruction or alteration of offices where their design or external appearance would be materially affected.

Post Office

Class

43.—(1) Development required for the purposes of the Post Office consisting of—

- (a) the installation of posting boxes, posting pouches or self-service machines;
- (b) any other development carried out in, on, over or under the operational land of the undertaking.

(2) Development is not permitted by this class if—

- (a) it would consist of or include the erection of a building, or the reconstruction or alteration of a building where its design or external appearance would be materially affected;
- (b) it would consist of or include the installation or erection by way of addition or replacement of any plant or machinery which would exceed 15 metres in height or the height of any existing plant or machinery, whichever is the greater; or
- (c) it would consist of the installation of a posting pouch within a conservation area.

PART 14

AVIATION DEVELOPMENT

Development at an airport

Class

44.—(1) The carrying out on operational land by a relevant airport operator or its agent of development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at a relevant airport.

(2) Development is not permitted by this class if it would consist of or include—

- (a) the construction or extension of a runway;
- (b) the erection of a building other than an operational building;
- (c) the alteration or reconstruction of a building other than an operational building, where its design or external appearance would be materially affected.

(3) Development is permitted by this class subject to the condition that the relevant airport operator shall consult the planning authority before carrying out any development, unless that development falls within the description in sub-paragraph (4).

(42) 1894 c. 60.

- (4) Development falls within this sub-paragraph if—
 - (a) it is urgently required for the efficient running of the airport; and
 - (b) it consists of the carrying out of works, or the erection or construction of a structure or of an ancillary building, or the placing on land of equipment, and the works, structure, building, or equipment do not exceed 4 metres in height or 200 cubic metres in capacity.

Air navigation development at an airport

Class

45. The carrying out on operational land within the perimeter of a relevant airport by a relevant airport operator or its agent of development in connection with—

- (a) the provision of air traffic control services;
- (b) the navigation of aircraft using the airport; or
- (c) the monitoring of the movement of aircraft using the airport.

Air navigation development near an airport

Class

46.—(1) The carrying out on operational land outside but within 8 kilometres of the perimeter of a relevant airport, by a relevant airport operator or its agent, of development in connection with—

- (a) the provision of air traffic control services;
- (b) the navigation of aircraft using the airport; or
- (c) the monitoring of the movement of aircraft using the airport.

(2) Development is not permitted by this class if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic control services, assisting the navigation of aircraft, or monitoring the movement of aircraft using the airport;
- (b) any building erected would exceed a height of 4 metres; or
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast, antenna or apparatus, if greater.

Development by Civil Aviation Authority within an airport

Class

47. The carrying out by the Civil Aviation Authority or its agents, within the perimeter of an airport at which the Authority provides air traffic control services, of development in connection with—

- (a) the provision of air traffic control services;
- (b) the navigation of aircraft using the airport; or
- (c) the monitoring of the movement of aircraft using the airport.

Development by Civil Aviation Authority for air traffic control and navigation

Class

48.—(1) The carrying out on operational land of the Civil Aviation Authority by the Authority or its agents of development in connection with—

- (a) the provision of air traffic control services;
- (b) the navigation of aircraft; or
- (c) monitoring the movement of aircraft.

(2) Development is not permitted by this class if—

- (a) any building erected would be used for a purpose other than housing equipment used in connection with the provision of air traffic control services, assisting the navigation of aircraft or monitoring the movement of aircraft;
- (b) any building erected would exceed a height of 4 metres; or
- (c) it would consist of the installation or erection of any radar or radio mast, antenna or other apparatus which would exceed 15 metres in height, or, where an existing mast, antenna or apparatus is replaced, the height of that mast, antenna or apparatus, if greater.

Development by Civil Aviation Authority in emergency

Class

49.—(1) The use of land by or on behalf of the Civil Aviation Authority in an emergency to station moveable apparatus replacing unserviceable apparatus.

(2) Development is permitted by this class subject to the condition that on or before the expiry of a period of 6 months beginning with the date on which the use began, the use shall cease, and any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the planning authority and the developer.

Development by Civil Aviation Authority for air traffic control etc.

Class

50.—(1) The use of land by or on behalf of the Civil Aviation Authority to provide services and facilities in connection with—

- (a) the provision of air traffic control services;
- (b) the navigation of aircraft; or
- (c) the monitoring of aircraft,

and the erection or placing of moveable structures on the land for the purpose of that use.

(2) Development is permitted by this class subject to the condition that, on or before the expiry of the period of 6 months beginning with the date on which the use began, the use shall cease, and any structure shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the planning authority and the developer.

Development by Civil Aviation Authority for surveys etc.

Class

51.—(1) The use of land by or on behalf of the Civil Aviation Authority for the stationing and operation of apparatus in connection with the carrying out of surveys or investigations.

(2) Development is permitted by this class subject to the condition that on or before the expiry of the period of 6 months beginning with the date on which the use began, the use shall cease, and any apparatus shall be removed, and the land shall be restored to its condition before the development took place, or to any other condition as may be agreed in writing between the planning authority and the developer.

Use of airport buildings managed by relevant airport operators

Class

52. The use of buildings within the perimeter of an airport managed by a relevant airport operator for purposes connected with air transport services or other flying activities at that airport.

Interpretation of Part 14

For the purpose of Part 14—

“operational building” means a building, other than a hotel, required in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge or transport of passengers, livestock or goods at a relevant airport;

“relevant airport” means an airport to which Part V of the Airports Act 1986(43) applies;

“relevant airport operator” means a relevant airport operator within the meaning of section 57 of the Airports Act 1986.

PART 15

MINERAL EXPLORATION

Class

53.—(1) Development on any land during a period not exceeding 28 consecutive days consisting of—

- (a) the drilling of boreholes;
- (b) the carrying out of seismic surveys; or
- (c) the making of other excavations,

for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.

(2) Development is not permitted by this class if—

- (a) it consists of the drilling of boreholes for petroleum exploration;

(43) 1986 c. 31.

- (b) any operation would be carried out within 50 metres of any part of an occupied residential building or a building occupied as a hospital or school;
 - (c) any operation would be carried out within a national scenic area or a site of archaeological or special scientific interest;
 - (d) any explosive charge of more than 1 kilogram would be used;
 - (e) any excavation referred to in sub-paragraph (1)(c) would exceed 10 metres in depth or 12 square metres in surface area;
 - (f) in the case described in sub-paragraph (1)(c) more than 10 excavations would, as a result, be made within any area of 1 hectare within the land during any period of 24 months; or
 - (g) any structure assembled or provided would exceed 12 metres in height, or, where the structure would be within 3 kilometres of the perimeter of an aerodrome, 3 metres in height.
- (3) Development is permitted by this class subject to the following conditions:—
- (a) no operations shall be carried out between 6pm and 7am;
 - (b) no trees on the land shall be removed, felled, lopped or topped and no other thing shall be done on the land likely to harm or damage any trees, unless the planning authority have otherwise agreed in writing;
 - (c) before any excavation (other than a borehole) is made, any topsoil and any subsoil shall be separately removed from the land to be excavated and stored separately from other excavated material and from each other;
 - (d) within a period of 28 days from the cessation of operations unless the planning authority have, in a particular case, agreed otherwise in writing—
 - (i) any structure permitted by this class and any waste material arising from development permitted by this class shall be removed from the land;
 - (ii) any borehole shall be adequately sealed;
 - (iii) any other excavation shall be filled with material from the site;
 - (iv) the surface of the land on which any operations have been carried out shall be levelled and any topsoil replaced as the uppermost layer; and
 - (v) the land shall, so far as is practicable, be restored to the condition it was in before the development took place, including the carrying out of any necessary seeding and replanting.

Class

- 54.**—(1) Development on any land during a period not exceeding 4 months consisting of—
- (a) the drilling of boreholes;
 - (b) the carrying out of seismic surveys; or
 - (c) the making of other excavations,

for the purposes of mineral exploration, and the provision or assembly on that land or on adjoining land of any structure required in connection with any of those operations.

- (2) Development is not permitted by this class if—
- (a) it consists of the drilling of boreholes for petroleum exploration;
 - (b) the developer has not previously notified the planning authority in writing of his intention to carry out the development specifying the nature and location of the development;
 - (c) the relevant period has not elapsed;

- (d) any explosive charge of more than 2 kilograms would be used;
 - (e) any excavation referred to in sub-paragraph (1)(c) would exceed 10 metres in depth or 12 square metres in surface area; or
 - (f) any structure assembled or provided would exceed 12 metres in height.
- (3) Development is permitted by this class subject to the following conditions:—
- (a) the development shall be carried out in accordance with the details in the notification referred to in sub-paragraph (2)(b), unless the planning authority have otherwise agreed in writing;
 - (b) no trees on the land shall be removed, felled, lopped or topped and no other thing shall be done on the land likely to harm or damage any trees, unless the planning authority have otherwise agreed in writing;
 - (c) before any excavation other than a borehole is made, any topsoil and any subsoil shall be separately removed from the land to be excavated and stored separately from other excavated material and from each other;
 - (d) within a period of 28 days from the date of the operations ceasing, unless the planning authority have, in a particular case, agreed otherwise in writing—
 - (i) any structure permitted by this class and any waste material arising from development so permitted shall be removed from the land;
 - (ii) any borehole shall be adequately sealed;
 - (iii) any other excavation shall be filled with material from the site;
 - (iv) the surface of the land on which any operations have been carried out shall be levelled and any topsoil replaced as the uppermost layer; and
 - (v) the land shall, so far as is practicable, be restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting.

Interpretation of Part 15

For the purposes of Part 15—

“mineral exploration” means the carrying out of operations for the purpose of ascertaining the presence, extent or quality of any deposit of a mineral with a view to exploiting that mineral;

“relevant period” means—

- (a) in a case where a direction has not been issued under article 7, the period which ends 21 days after the notification referred to in paragraph 54(2)(b) or on the date on which the planning authority notify the developer in writing that they will not issue such a direction whichever is the earlier; or
- (b) in a case where a direction is issued under article 7 the period which ends 28 days from the date on which notice of that direction is sent to the Secretary of State or on the date on which the planning authority notify the developer in writing that the Secretary of State has disallowed the direction whichever is the earlier;

“structure” includes a building, plant or machinery.

PART 16

DEVELOPMENT ANCILLARY TO MINING OPERATIONS

Class

55.—(1) The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any—

- (a) plant or machinery;
- (b) buildings;
- (c) private ways or private railways or sidings; or
- (d) sewers, mains, pipes, cables or other similar apparatus,

on land used as a mine.

(2) Development is not permitted by this class—

- (a) in relation to land at an underground mine—
 - (i) otherwise than on an approved site; or
 - (ii) from a date 6 months after the coming into force of this Order, on land falling within subparagraph (b) of the definition of “approved site” unless a plan of that land has before that date been deposited with the planning authority;
- (b) if the principal purpose of the development would be any purpose other than—
 - (i) purposes in connection with the winning and working of minerals at that mine or of minerals brought to the surface at that mine; or
 - (ii) the treatment, storage or removal from the mine of such minerals or waste materials derived from them;
- (c) if the external appearance of the mine would be materially affected;
- (d) if any building, plant or machinery which is not in an excavation would exceed the height of—
 - (i) 15 metres above ground level; or
 - (ii) the building, plant or machinery, if any, which is being rearranged, repaired or replaced,whichever is the greater;
- (e) if any building, plant or machinery in an excavation would exceed the height of—
 - (i) 15 metres above the excavated ground level; or
 - (ii) 15 metres above the lowest point of the unexcavated ground immediately adjacent to the excavation; or
 - (iii) the building, plant or machinery, if any, which is being rearranged, repaired or replaced,whichever is the greatest;
- (f) if any building erected (other than a replacement building) would have a floor area exceeding 1,000 square metres; or
- (g) if the cubic content of any replaced, extended or altered building would exceed by more than 25% the cubic content of the building replaced, extended or altered or the floor area would exceed by more than 1,000 square metres the floor area of that building.

(3) Development is permitted by this class subject to the condition that before the end of the period of 24 months from the date when the mining operations have permanently ceased, or any longer period which the planning authority agree in writing—

- (a) all buildings, plant or machinery permitted by this class shall be removed from the land unless the planning authority have otherwise agreed in writing; and
- (b) the land shall be restored, so far as is practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the planning authority and the developer.

Class

56.—(1) The carrying out, on land used as a mine or on acillary mining land, with the prior approval of the planning authority, of operations for the erection, installation, extension, rearrangement, replacement, repair or other alteration of any—

- (a) plant or machinery;
- (b) buildings; or
- (c) structures or erections.

(2) Development is not permitted by this class—

- (a) in relation to land at an underground mine—
 - (i) otherwise than on an approved site; or
 - (ii) from a date 6 months after the coming into force of this Order, on land falling within paragraph (b) of the definition of “approved site”, unless a plan of that land has, before that date, been deposited with the planning authority; or
- (b) if the principal purpose of the development would be any purpose other than—
 - (i) purposes in connection with the operation of the mine;
 - (ii) the treatment, preparation for sale, consumption or utilization of minerals won or brought to the surface at that mine; or
 - (iii) the storage or removal from the mine of such minerals, their products or waste materials derived from them.

(3) The prior approval referred to in sub-paragraph (1) shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because—

- (a) the proposed development would injure the amenity of the neighbourhood and modifications can reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury; or
- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.

(4) Development is permitted by this class subject to the condition that before the end of the period of 24 months from the date when the mining operations have permanently ceased, or any longer period which the planning authority agree in writing—

- (a) all buildings, plant, machinery, structures or erections permitted by this class shall be removed from the land unless the planning authority have otherwise agreed in writing; and
- (b) the land shall be restored, so far as is practicable, to its condition before the development took place or restored to such condition as may have been agreed in writing between the planning authority and the developer.

Class

57.—(1) The carrying out with the prior approval of the planning authority of development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or disused mine.

(2) Development is not permitted by this class if it is carried out by the British Coal Corporation, or any lessee or licensee of theirs.

(3) The prior approval of the planning authority to development permitted by this class is not required if—

- (a) the external appearance of the mine or disused mine at or adjacent to which the development is to be carried out would not be materially affected;
- (b) no building, plant, machinery, structure or erection—
 - (i) would exceed a height of 15 metres above ground level; or
 - (ii) where a building, plant or machinery is rearranged, replaced or repaired, would exceed a height of 15 metres above ground level or the height of what was replaced, rearranged or repaired, whichever is the greater; and
- (c) the development consists of the extension, alteration or replacement of an existing building, within the limits set out in sub-paragraph (5) below.

(4) The prior approval referred to in sub-paragraph (1) shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because—

- (a) the proposed development would injure the amenity of the neighbourhood and modifications could reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury; or
- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.

(5) The limits referred to in sub-paragraph (3)(c) are—

- (a) that the cubic content of the building as extended, altered and replaced does not exceed that of the existing building by more than 25%; and
- (b) that the floor area of the building as extended, altered or replaced does not exceed that of the existing building by more than 1,000 square metres.

Interpretation of Part 16

For the purposes of Part 16—

“active access” means a surface access to underground workings which is in normal and regular use for the transportation of minerals, materials, spoil or men;

“ancillary mining land” means land adjacent to and occupied together with a mine at which the winning and working of minerals is carried out in pursuance of planning permission granted or deemed to be granted under Part III of the Act;

“approved site” is an area of land—

- (a) identified in a grant of planning permission or any instrument by virtue of which planning permission is deemed to be granted, as land which may be used for development described in this class; or
- (b) in any other case, it is land immediately adjoining an active access to an underground mine which, on the date of coming into force of this Order, was in use for the purposes of that mine, in connection with the purposes described in sub-paragraph (2)(b)(i) or (ii) of Class 55 or sub-paragraph (2)(b)(i) to (iii) of Class 56;

“normal and regular use” means, for the purpose of the definition of “active access” use other than use in the course of intermittent visits carried out for the purpose of inspection and maintenance of the fabric of the mine or of any plant or machinery;

“prior approval of the planning authority” means prior written approval of that authority of detailed proposals for the siting, design and external appearance of the proposed building, plant or machinery as erected, installed, extended or altered;

“underground mine” is a mine at which minerals are worked principally by underground methods.

PART 17

BRITISH COAL CORPORATION MINING DEVELOPMENT

Class

58.—(1) The winning and working underground by the British Coal Corporation, their lessees or licensees, in a mine started before 1st July 1948, of coal or coal-related minerals, and any underground development incidental to such winning and working.

(2) For the purposes of this class “coal-related minerals” means minerals other than coal referred to in paragraph 1(2) of Schedule 1 to the Coal Industry Nationalisation Act 1946(44).

Class

59.—(1) Any development required for the purposes of a mine which is carried out on an authorised site at that mine by the British Coal Corporation, their lessees or licensees, in connection with coal industry activities.

(2) Development is not permitted by this class if—

- (a) the external appearance of the mine would be materially affected;
- (b) any building, plant or machinery, structure or erection or any deposit of minerals or waste
 - (i) would exceed a height of 15 metres above ground level; or
 - (ii) where a building, plant or machinery would be rearranged, replaced or repaired, the resulting development would exceed a height of 15 metres above ground level or the height of what was replaced, rearranged or repaired, whichever is the greater;
- (c) any building erected (other than a replacement building) would have a floor area exceeding 1,000 square metres;
- (d) the cubic content of any replaced, extended or altered building would exceed by more than 25% the cubic content of the building replaced, extended or altered or the floor area would exceed by more than 1,000 square metres, the floor area of that building;
- (e) it would be for the purpose of creating a new surface access to underground workings or of improving an existing access (which is not an active access) to underground workings; or
- (f) from a date 6 months after the coming into force of this Order, it would be carried out on land which is part of or constitutes, an authorised site and a plan of that land has not, before that date, been deposited with the planning authority.

(44) 1946 c. 59.

(3) Development is permitted by this class subject to the condition that before the end of the period of 24 months from the date when the mining operations have permanently ceased, or any longer period which the planning authority agree in writing—

- (a) all buildings, plant and machinery, structures or erections or deposits of minerals or waste permitted by this class shall be removed from the land unless the planning authority have otherwise agreed in writing; and
- (b) the land shall, so far as is practicable, be restored to its condition before the development took place or to such condition as may have been agreed in writing between the planning authority and the developer.

Class

60.—(1) Any development required for the purposes of a mine which is carried out on an authorised site at that mine by the British Coal Corporation, their lessees or licensees in connection with coal industry activities and with the prior approval of the planning authority.

(2) Development is not permitted by this class if—

- (a) it would be for the purpose of creating a new surface access to underground workings or of improving an existing access (which is not an active access) to underground workings; or
- (b) from a date 6 months after the coming into force of this Order, it would be carried out on land which is part of or constitutes, an authorised site and a plan of that land has not before that date, been deposited with the planning authority.

(3) Development is permitted by this class subject to the condition that before the end of the period of 24 months from the date when the mining operations have permanently ceased, or any longer period which the planning authority agree in writing—

- (a) all buildings, plant and machinery, structures or erections or deposits of minerals or waste permitted by this class shall be removed from the land, unless the planning authority have otherwise agreed in writing; and
- (b) the land shall, so far as is practicable, be restored to its condition before the development took place or to such condition as may have been agreed in writing between the planning authority and the developer.

(4) The prior approval referred to in sub-paragraph (1) shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because—

- (a) the proposed development would injure the amenity of the neighbourhood and modifications could reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury; or
- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.

Class

61.—(1) The carrying out of operations by the British Coal Corporation for the purpose of prospecting for coal workable by opencast methods and the use of land for that purpose while such operations are being carried out.

(2) Development is permitted by this class subject to the following conditions:—

- (a) at least 42 days before the development is begun, notice in writing has been served on the planning authority, indicating the nature, extent and probable duration of the development;
- (b) as soon as possible after the end of the period of the carrying out of the prospecting operations—
 - (i) any buildings, plant, machinery or waste materials shall be removed; and

- (ii) any boreholes shall be sealed and any other excavations filled in and levelled, any topsoil removed being replaced as the uppermost layer.

Class

62.—(1) The carrying out by the British Coal Corporation, their lessees or licensees, with the prior approval of the planning authority, of development required for the maintenance or safety of a mine or a disused mine or for the purposes of ensuring the safety of the surface of the land at or adjacent to a mine or disused mine.

(2) The prior approval of the planning authority to development permitted by this class is not required if—

- (a) the external appearance of the mine or disused mine at or adjacent to which the development is to be carried out would not be materially affected;
- (b) no building, plant or machinery, structure or erection—
 - (i) would exceed a height of 15 metres above ground level; or
 - (ii) where any building, plant or machinery, structure or erection is rearranged, replaced or repaired, would exceed a height of 15 metres above ground level or the height of what was replaced, rearranged or repaired, whichever is the greater; and
- (c) the development consists of the extension, alteration or replacement of an existing building, within the limits set out in sub-paragraph (4).

(3) The prior approval referred to in sub-paragraph (1) shall not be refused or granted subject to conditions unless the authority are satisfied that it is expedient to do so because—

- (a) the proposed development would injure the amenity of the neighbourhood and modifications could reasonably be made or conditions reasonably imposed in order to avoid or reduce that injury; or
- (b) the proposed development ought to be, and could reasonably be, sited elsewhere.

(4) The limits referred to in sub-paragraph (2)(c) are—

- (i) that the cubic content of the building as extended, altered or replaced does not exceed that of the existing building by more than 25%; and
- (ii) that the floor area of the building as extended, altered or replaced does not exceed that of the existing building by more than 1,000 square metres.

Interpretation of Part 17

For the purposes of Part 17—

“active access” means a surface access to underground workings which is in normal and regular use for the transportation of coal, materials, spoil or men;

“authorised site” is land which—

- (a) (i) is identified in a grant of planning permission or any instrument by virtue of which planning permission is deemed to be granted as land which may be used for development described in this class; or
- (ii) in any other case, is land immediately adjoining an active access which, on the date of coming into force of this Order, was in use for the purpose of that mine in connection with coal industry activities;
- (b) for the purpose of the definition of “authorised site” land is not to be regarded as in use in connection with coal industry activities if—

- (c) it is used for the permanent deposit of waste derived from the winning and working of minerals; or
- (d) there is on, over and under it a railway, conveyor, aerial ropeway, roadway, overhead power line or pipeline which is not itself surrounded by other land used for those purposes;

“coal industry activities” means such activities as defined in section 63 of the Coal Industries Nationalisation Act 1946⁽⁴⁵⁾;

“normal and regular use” means, for the purpose of the definition of “active access”, use other than use in the course of intermittent visits carried out for the purpose of inspection and maintenance of the fabric of the mine or any plant or machinery;

“prior approval of the planning authority” means prior written approval of that authority of detailed proposals for the siting, design and external appearance of the proposed building, plant or machinery or structure or erection as erected, installed, extended or altered.

PART 18

WASTE TIPPING AT A MINE

Class

63.—(1) The deposit, on premises used as a mine or on ancillary mining land already used for the purpose, of waste derived from the winning and working of minerals at that mine or from minerals brought to the surface at that mine, or from the treatment or the preparation for sale, consumption or utilization of minerals from the mine.

(2) Development is not permitted by this class if—

- (a) in the case of waste deposited in an excavation, waste would be deposited at a height above the level of the land adjoining the excavation, unless that is provided for in a waste management scheme or a relevant scheme;
- (b) in any other case, the superficial area or height of the deposit (measured as at the date of the making of this Order) would be increased by more than 10%, unless such an increase is provided for in a waste management scheme or in a relevant scheme.

(3) Development is permitted by the class subject to the following conditions:—

- (a) except in a case where a relevant scheme or a waste management scheme has already been approved by the planning authority, the developer shall, if the planning authority so require, within three months or such longer period as the authority may specify, submit a waste management scheme for that authority’s approval;
- (b) where a waste management scheme or a relevant scheme has been approved, the depositing of waste and all other activities in relation to that deposit shall be carried out in accordance with the scheme as approved.

Class

64.—(1) The deposit on land comprised in a site used for the deposit of waste materials or refuse on 1st July 1948 of waste resulting from colliery production activities.

(2) Development is not permitted by this class on or after a date 3 months after the coming into force of this Order unless—

⁽⁴⁵⁾ 1946 c. 59; section 63 was amended by the Coal Industry Act 1977 (c. 39), Schedule 4.

- (a) it is in accordance with a relevant scheme which has been approved by the planning authority before the date of coming into force of this Order; or
- (b) an application for planning permission has been made and—
 - (i) the development is in terms of the permission sought; and
 - (ii) the application has not been determined by the planning authority, or, if an appeal is made, the Secretary of State.

Interpretation of Part 18

For the purposes of Part 18—

“ancillary mining land” means land adjacent to and occupied together with a mine at which the winning and working of minerals is carried out in pursuance of planning permission granted or deemed to be granted under Part III of the Act;

“colliery production activities” has the meaning assigned to it in paragraph 2 of Schedule 1 to the Coal Industry Nationalisation Act 1946⁽⁴⁶⁾;

“relevant scheme” means a scheme, other than a waste management scheme, requiring approval by the planning authority in accordance with a condition or limitation on any planning permission granted or deemed to be granted under Part III of the Act, for making provision for the manner in which the deposit of waste is to be carried out and for the carrying out of other activities in relation to that deposit;

“waste management scheme” means a scheme required by the planning authority to be submitted for their approval in accordance with the condition in sub-paragraph (3)(a) of Class 63 which makes provision for—

- (a) the manner in which the depositing of waste (other than waste deposited on a site for use for filling any mineral excavation in the mine or on ancillary mining land in order to comply with the terms of any planning permission granted on an application or deemed to be granted under Part III of the Act) is to be carried out after the date of the approval of that scheme;
- (b) where appropriate, the stripping and storage of the subsoil and topsoil;
- (c) the restoration and aftercare of the site.

PART 19

REMOVAL OF MATERIAL FROM MINERAL WORKING DEPOSITS

Class

- 65.** The removal of material of any description from a stockpile.

Class

66.—(1) The removal of material of any description from a mineral working deposit other than a stockpile.

- (2) Development is not permitted by this class if—
 - (a) the developer has not previously notified the planning authority in writing of his intention to carry out development together with the appropriate details;

⁽⁴⁶⁾ 1946 c. 59.

- (b) the deposit covers a ground area exceeding 2 hectares, unless the deposit contains any mineral or other material deposited on the land at a date 5 years or less before the date on which it would be removed; or
 - (c) the deposit derives from the carrying out of any operations permitted under Part 6 of this Schedule or corresponding provisions contained in a previous development order.
- (3) Development is permitted by this class subject to the following conditions:—
- (a) it shall be carried out in accordance with the details given in the notice sent to the planning authority referred to in sub-paragraph (2)(a) above, unless that authority have agreed otherwise in writing;
 - (b) if the planning authority so require, the developer shall within a period of 3 months from the date of the requirement (or such other longer period as that authority may provide) submit to them for approval a scheme providing for the restoration and aftercare of the site;
 - (c) where such a scheme is required, the site shall be restored and aftercare shall be carried out in accordance with the provisions of the approved scheme;
 - (d) development shall not be commenced until the relevant period has elapsed.

Interpretation of Part 19

For the purposes of Part 19—

“appropriate details” means details of the nature of the development, the exact location of the mineral working deposit from which the material would be removed, the proposed means of vehicular access to the site at which the development is to be carried out, and the earliest date at which any mineral presently contained in the deposit was deposited on the land;

“mineral working deposit” has the meaning assigned to it by section 251(1A) of the Act⁽⁴⁷⁾;

“relevant period” means—

- (a) in a case where a direction has not been issued under article 7, the period which ends 21 days after the notification referred to in paragraph 66(2)(a) or on the date on which the planning authority notify the developer in writing that they will not issue such a direction whichever is the earlier, or
- (b) in a case where a direction is issued under article 7 the period which ends 28 days from the date on which notice of that direction is sent to the Secretary of State or on the date on which the planning authority notify the developer in writing that the Secretary of State has disallowed the direction whichever is the earlier;

“stockpile” means a mineral-working deposit consisting primarily of minerals which have been deposited for the purposes of their processing or sale.

PART 20

DEVELOPMENT BY TELECOMMUNICATIONS CODE SYSTEM OPERATORS

Class

67.—(1) Development by or on behalf of a telecommunications code system operator for the purpose of the operator’s telecommunication system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of—

- (a) the installation, alteration or replacement of any telecommunication apparatus;

⁽⁴⁷⁾ Section 251(1A) was inserted by the Town and Country Planning (Minerals) Act 1981 (c. 36), sections 19(2) and 35.

- (b) the use of land in an emergency for a period not exceeding 6 months to station and operate moveable telecommunication apparatus required for the replacement of unserviceable telecommunication apparatus, including the provision of moveable structures on the land for the purposes of that use;
 - (c) the use of land for a period of six months for the purpose of erecting temporary buildings for housing moveable telecommunication apparatus all in connection with development authorised by a grant of planning permission; or
 - (d) any building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.
- (2) Development is not permitted by this class if—
- (a) in the case of the installation of apparatus (other than on a building or other structure) the apparatus would exceed a height of 15 metres above ground level;
 - (b) in the case of the alteration or replacement of apparatus already installed (other than on a building or other structure), the apparatus would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;
 - (c) (i) subject to sub-paragraph (ii) below, in the case of the installation, alteration or replacement of apparatus on a building or other structure, the height of the apparatus (taken by itself) would exceed—
 - (aa) 15 metres where it is installed, or is to be installed on a building or other structure which is 30 metres or more in height; or
 - (bb) 10 metres in any other case;
 (ii) the highest part of the apparatus when so installed, altered or replaced would exceed the height of the highest part of the building or structure by more than—
 - (aa) 10 metres, in the case of a building or structure which is 30 metres or more in height;
 - (bb) 8 metres, in the case of a building or structure which is more than 15 metres but less than 30 metres in height;
 - (cc) 6 metres in any other case;
 - (d) in the case of the installation or replacement of any apparatus other than—
 - (i) a mast or tower;
 - (ii) any kind of antenna;
 - (iii) a public call box; or
 - (iv) any apparatus which does not project above the level of the surface of the ground, the ground or base area of the structure would exceed 1.5 square metres;
 - (e) in the case of the installation, alteration or replacement on a building or structure of a microwave antenna or apparatus which includes or is intended for the support of such an antenna—
 - (i) the size of the antenna when measured in any dimension would exceed 1.3 metres (excluding any projecting feed element); or
 - (ii) the development would result in more than 2 microwave antennas on a building or 10 microwave antennas on any other structure;
 - (f) in the case of development situated in a conservation area or a national scenic area it would consist of—

- (i) the installation or alteration of a microwave antenna or of any apparatus which includes or is intended for the support of such an antenna; or
- (ii) the replacement of such an antenna or such apparatus by an antenna or apparatus which differs from that which is being replaced,

unless the development is carried out in any emergency.

(3) Development under sub-paragraph (1)(a) is permitted subject to the condition that any antenna or supporting apparatus installed, altered or replaced on a building in accordance with that permission shall, so far as is practicable, be sited so as to minimise its effect on the external appearance of the building.

(4) Development under sub-paragraph (1)(b) is permitted subject to the condition that any apparatus or structure provided in accordance with that permission shall at the expiry of the relevant period be removed from the land and the land restored to its condition before the development took place.

(5) Development consisting of the installation of apparatus on or over land controlled by the operator carried out on any land within a conservation area or a national scenic area is permitted subject to the condition that the operator shall—

- (a) except in a case of emergency, give notice in writing to the planning authority not less than eight weeks before development is begun of his intention to carry out such development; or
- (b) in a case of emergency, give written notice of such installation as soon as possible after the emergency begins.

Interpretation of Part 20

For the purposes of Part 20—

- (a) “the 1984 Act” means the Telecommunications Act 1984⁽⁴⁸⁾;

“land controlled by an operator” means land occupied by the operator in respect of which either under the Lands Clauses Acts he would be enabled to sell the land to the promoters of an undertaking or he holds a lease granted for a term of not less than 10 years;

“public call box” means any kiosk, booth, acoustic hood, shelter or similar structure which is erected or installed for the purpose of housing or supporting a public telephone and at which call box services are provided (or are to be provided) by a telecommunications code system operator;

“relevant period” means a period which expires either six months from the commencement of the use permitted by this paragraph or when the need for that use ceases, whichever occurs first;

“telecommunication apparatus” means any apparatus falling within the definition of that term in paragraph 1 of Schedule 2 to the 1984 Act;

“the telecommunications code” means the code contained in Schedule 2 to the 1984 Act;

“telecommunications code system operator” means a person who has been granted a licence under section 7 of the 1984 Act which applies the telecommunications code to him in pursuance of section 10 of that Act;

“telecommunications system” has the meaning assigned to that term by section 4(1) of the 1984 Act;

- (b) development carried out in accordance with a licence is development which is carried out by a telecommunications code system operator in pursuance of a right conferred on

(48) 1984 c. 12.

that operator under the telecommunications code, and in accordance with any conditions relating to the application of that code imposed by the terms of his licence.

PART 21

OTHER TELECOMMUNICATIONS DEVELOPMENT

Class

68.—(1) The installation, alteration or replacement on any building or other structure of a microwave antenna and any structure intended for the support of a microwave antenna.

(2) Development is not permitted by this class if—

- (a) the building is a dwellinghouse;
- (b) the development is permitted by Part 20;
- (c) the development would result in the presence on the building or structure of more than two microwave antennas;
- (d) in the case of a satellite antenna, the size of the antenna, including its supporting structure but excluding any projecting feed element, would exceed 90 centimetres;
- (e) in the case of a terrestrial microwave antenna—
 - (i) the size of the antenna, when measured in any dimension but excluding any projecting feed element, would exceed 1.3 metres; and
 - (ii) the highest part of the antenna or its supporting structure would be more than 3 metres higher than the highest part of the building or structure on which it is installed or is to be installed; or
- (f) the development is in a conservation area.

(3) Development is permitted by this class subject to the following conditions—

- (a) the antenna shall, so far as is practicable, be sited so as to minimise its effect on the external appearance of the building or structure on which it is installed;
- (b) an antenna no longer needed for the reception or transmission of microwave radio energy shall be removed from the building or structure as soon as reasonably practicable.

PART 22

DEVELOPMENT AT AMUSEMENT PARKS

Class

69.—(1) Development on land used as an amusement park consisting of—

- (a) the erection of booths or stalls or the installation of plant or machinery to be used for or in connection with the entertainment of the public within the amusement park; or
- (b) the extension, alteration or replacement of any existing booths or stalls, plant or machinery so used.

(2) Development is not permitted by this class if—

- (a) in the case of any plant or machinery installed, extended, altered or replaced under this permission, that plant or machinery—

- (i) would, if the land or pier is within 3 kilometres of the perimeter of an aerodrome, exceed a height of 25 metres or the height of the highest existing structure, whichever is the lesser; or
- (ii) would in any other case exceed a height of 25 metres;
- (b) in the case of an extension to an existing building or structure, that building or structure would as a result exceed 5 metres above ground level or the height of the roof of the existing building or structure, whichever is the greater;
- (c) in any other case, the height of the building or structure erected, extended, altered or replaced would exceed 5 metres above ground level; or
- (d) it would be situated within 25 metres of the curtilage of a dwelling.

Interpretation of Part 22

For the purposes of Part 22—

“amusement park” means an enclosed area of open land, or any part of a seaside pier, which is principally used (other than by way of a temporary use) as a funfair or otherwise for the purposes of providing public entertainment by means of mechanical amusements and side-shows but, where part only of an enclosed area is commonly so used as a funfair or for such public entertainment, only the part so used shall be regarded as an amusement park; and
“booths or stalls” includes buildings or structures similar to booths or stalls.

SCHEDULE 2

Schedule 1, paragraph 33(c)(i)

BAD NEIGHBOUR DEVELOPMENT

The following are the classes of development specified for the purposes of paragraph 33(c)(i):—

- (1) the construction of buildings for use as a public convenience;
- (2) the construction of buildings or other operations, or use of land—
 - (a) for the disposal of refuse or waste materials, or for the storage or recovery of reuseable metal;
 - (b) for the retention, treatment or disposal of sewage, trade-waste, or effluent other than—
 - (i) the construction of pumphouses in a line of sewers;
 - (ii) the construction of septic tanks and cesspools serving single dwellinghouses, or single caravans, or single buildings in which not more than 10 people will normally reside, work or congregate;
 - (iii) the laying of sewers; or
 - (iv) works ancillary to those described in sub-paragraphs (i) to (iii);
 - (c) as a scrap yard or coal yard; or
 - (d) for the winning or working of minerals;
- (3) the construction of buildings or use of land for the purposes of a slaughterhouse or knacker’s yard or for the killing or plucking of poultry;
- (4) the construction or use of buildings for any of the following purposes:—
 - bingo hall
 - building for indoor games

- casino
 - cinema
 - dancehall
 - funfair
 - gymnasium (not forming part of a school, college or university)
 - hot food shoplicensed premises
 - music hall
 - skating rink
 - swimming pool
 - theatre, or
 - Turkish or other vapour or foam bath;
- (5) the construction of buildings for or the use of buildings or land as—
- (a) a crematorium, or the use of land as a cemetery;
 - (b) a zoo, or wildlife park, or for the business of boarding or breeding cats or dogs;
- (6) the construction of buildings and use of buildings or land for motor car or motor cycle racing;
- (7) the construction of a building to a height exceeding 20 metres;
- (8) the construction of buildings, operations, and use of buildings or land which will—
- (a) affect residential property by reason of fumes, noise, vibration, smoke, artificial lighting, or discharge of any solid or liquid substance;
 - (b) alter the character of an area of established amenity;
 - (c) bring crowds into a generally quiet area;
 - (d) cause activity and noise between the hours of 8pm and 8am; and
 - (e) introduce significant change into a homogeneous area.

SCHEDULE 3

Article 4(8)

Form of Direction by Planning Authority under Article 4(8)**Town and Country Planning (General Permitted Development) (Scotland) Order 1992**

The **(a)** Council Restriction of Permitted Development Direction **(b)**

The **(a)** Council in terms of article 4(1) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/) being satisfied that it is expedient that development comprising **(c)** [*situated at **(d)**] should not be carried out [**(e)*** within the area of land described in the Schedule hereto/* within their district] unless permission is granted on an application in that behalf, hereby directs that the permission granted by article 3 in respect of **(c)** shall not apply.

This direction may be cited as the **(a)** Council (Restriction of Permitted Development) Direction**(b)**.

Sealed with the seal of **(a)** Council and subscribed for and on its behalf on **(f)**
at **(g)**

Seal of **(a)** Council *member
member
proper officer*

SCHEDULE

The area of land outlined in **(h)** and hatched in **(h)** on the plan annexed
and executed as relative hereto situated at **(d)** in the district
of **(a)** Council.

Note:-The plan annexed to the Direction should be executed in the same way as the Direction and duly docketed with reference thereto.

-
- (a)** Name of planning authority.
 - (b)** Specify year in numerals.
 - (c)** Description of development which may not be carried out without grant of planning permission by reference to particular development which forms part of a Class or to a Class or Classes of Schedule 1.
 - (d)** Insert location of land to which direction relates, only if it applies to part of the area of the planning authority, by reference to the parish in which it is situated or if appropriate the postal address.
 - (e)** Insert reference to the Schedule only if direction applies to part of the area of the planning authority otherwise insert reference to the district of the planning authority.
 - (f)** Insert date of execution.
 - (g)** Insert place of execution.
 - (h)** Details of colours in which area hatched and outlined on plan.

*delete where appropriate.

SCHEDULE 4

Article 8

REVOCATIONS

(1) Title of instrument	(2) Reference	(3) Extent of Repeal
The Town and Country Planning (General Development) (Scotland) Order 1981	S.I. 1981/830	Articles 3, 4 and 4A and Schedule 1
The Town and Country Planning (General Development) (Scotland) Amendment Order 1983	S.I. 1983/1620	The whole Order
The Town and Country Planning (General Development) (Scotland) Amendment Order 1984	S.I. 1984/237	Article 2(g)
The Town and Country Planning (General Development) (Scotland) Amendment Order 1985	S.I. 1985/1014	The whole Order
The Town and Country Planning (General Development) (Scotland) Amendment (No. 2) Order 1985	S.I. 1985/2007	The whole Order other than paragraph (5) of article 2
The Town and Country Planning (General Development) (Scotland) Amendment Order 1988	S.I. 1988/977	The whole Order
The Town and Country Planning (General Development) (Scotland) Amendment Order 1989	S.I. 1989/148	The whole Order
The Town and Country Planning (General Development) (Scotland) Amendment Order 1990	S.I. 1990/508	The whole Order except article 2(b)
The Town and Country Planning (General Development) (Scotland) Amendment Order 1991	S.I. 1991/147	The whole Order

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates with amendments the permitted development provisions of the Town and Country Planning (General Amendment) (Scotland) Order 1981 and subsequent amending instruments. A separate order, the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (S.I. 1992/), consolidates the remaining provisions which deal with procedures connected with planning applications and other related matters.

The main purpose of this Order is to permit certain classes of development without express planning permission being granted under the Town and Country Planning (Scotland) Act 1972. Schedule 1 to the Order sets out these classes of development in detail, subject to articles 3 to 7.

The main changes of substance made by the Order are—

- (a) the provisions permitting development within the curtilage of a dwellinghouse (Schedule 1, Part 1) have been simplified while including stricter controls over development in conservation areas and within the curtilage of listed buildings;
- (b) the provisions permitting agricultural buildings and operations (Schedule 1, Part 6) have been revised to—
 - (i) apply only to buildings below 465 square metres in area or 12 metres in height;
 - (ii) introduce a “cordon sanitaire” around intensive livestock buildings;
 - (iii) require developers to give planning authorities prior notification of their proposals;
- (c) the provisions permitting development by statutory undertakers supplying gas and electricity (Schedule 1, Part 16) have been revised and include a new requirement for the prior approval of the planning authority in respect of the design and external appearance of buildings protecting plant or machinery;
- (d) the provisions permitting minerals development (Schedule 1, Parts 15—19) have been revised to—
 - (i) exclude exploration for oil and gas;
 - (ii) divide permitted development for ancillary mining operations into 3 classes instead of one:
 - (aa) Class 55: development without prior approval of the planning authority;
 - (bb) Class 56: development with prior approval of the planning authority; and
 - (cc) Class 57: development, with prior approval of the planning authority, required for maintenance or safety;
 - (iii) preclude remote tipping of waste except in certain limited circumstances;
- (e) the provisions permitting development by telecommunications code systems operators (Schedule 1, Parts 20 and 21) have been extended to —
 - (i) increase from 2 to 10 the number of microwave antennas which may be installed on a mast or tower;
 - (ii) allow up to 2 microwave antennas on any building;
 - (iii) permit small buildings for housing apparatus in connection with the permitted development;

- (iv) permit temporary buildings on land which is subject to planning permission to be used in connection with the development authorised by the grant of planning permission; and
- (f) permitted development relating to satellite antennas (Schedule 1, Parts 1 and 21) has been extended to allow 2 antennas on all buildings, apart from dwellinghouses, irrespective of the size of the building.