

*Status: Point in time view as at 01/01/2006.*

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## SCHEDULES

### SCHEDULE 1

Section 2.

#### DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

- 1 (1) The carrying out of any of the following works, that is to say—
- (a) the rebuilding, as often as occasion may require, of any building which was in existence at the date of the passing of this Act, or of any building which was in existence before that date but was destroyed or demolished within the period of five years ending with that date;
  - (b) the rebuilding, as often as occasion may require, of any building erected after the passing of this Act which was in existence at a material date;
  - (c) the rebuilding as often as occasion may require of any building destroyed or demolished by war damage, not being a building existing at the date of the passing of this Act;
  - (d) the making good of war damage sustained by any building;
- so long as the cubic content of the building does not exceed the cubic content of the original building—
- (i) (where the original building is a dwelling house)—by more than ten per cent. or seventeen hundred and fifty cubic feet, whichever is the greater;
  - (ii) (where the original building is not a dwelling house)—by more than ten per cent.
- (2) Any reference in sub-paragraph (1) to the original building is a reference to the building which existed at a time before any rebuilding mentioned in that paragraph was first executed and not to the building resulting from the execution of any such rebuilding.
- 2 The use as two or more separate dwelling houses of any building which at a material date was used as a single dwelling house.
- 3 (1) Subject to sub-paragraph (2), the enlargement, improvement or other alteration, as often as occasion may require, of any such building as is mentioned in paragraph 1(1)(a), (b) or (c), or any building substituted for such a building by the carrying out of any such operations as are mentioned in that paragraph so long as the cubic content of the original building is not exceeded or increased by more than the amount specified in paragraph 1(1)(i) or (ii), as the case may require.
- (2) Sub-paragraph (1) shall not extend to works involving an increase in the cubic content of a building erected after the passing of this Act (including a building resulting from the carrying out of such works as are described in paragraph 1).
- Para. 4 rep. by 1972 NI 17*
- 5 The getting, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes.

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- 6 In the case of a building or other land which, at a material date, was used for a purpose falling within any general class specified in any paragraph of Part II of Schedule 2, or which, being unoccupied on the date of the passing of this Act, was last used (otherwise than before the day beginning the period of five years ending with that date) for any such purposes, the use of that building or land for any other purpose falling within the same paragraph.
- 7 In the case of any building or other land which, at a material date, was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose on the date of the passing of this Act, or on the day thereafter when the building began to be so used, or, as the case may be, one-tenth of the area of the land so used on that day.
- 8 The deposit of waste materials or refuse in connection with the working of minerals, on any land comprised in a site which at a material date was being used for that purpose, so far as may be reasonably required in connection with the working of those minerals.
- 9 For the purposes of this Schedule cubic content shall be ascertained by external measurement.
- 10 Where, after the passing of this Act—
- (a) any building or works have been erected or constructed, or any use of land has been instituted; and
  - (b) a condition has been imposed under<sup>[F1]</sup> the Planning Order], limiting the period for which the building or works may be retained, or the use continued;
- this Schedule shall only apply in relation to the period specified in the condition.

<b>F1</b> 1991 NI 11
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- 11 For the purposes of paragraph 3—
- (a) the erection, on land within the curtilage of any such building as is mentioned in that paragraph, of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building; and
  - (b) where any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the reference in that paragraph to the cubic content of the original building shall be construed as a reference to the aggregate cubic content of those buildings.
- 12 (1) In this Schedule “at a material date” means at either of the following dates—
- (a) the date of the passing of this Act; and
  - (b) (subject to sub-paragraphs (2) and (3)) the date by reference to which this Schedule falls to be applied to the particular case in question.
- (2) Sub-paragraph (1)( b) shall not apply in relation to any use of land in respect of which before the date mentioned in that sub-paragraph, the planning authority have made an order under section 4(1)( b) of the Act of 1944 prohibiting that use <sup>[F2]</sup> or an enforcement notice under<sup>[F3]</sup> Article 68 of the Planning Order] served before that date has become or becomes effective].

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- (3) Sub-paragraph (1)( *b*) shall not apply in relation to any buildings or works in respect of which, whether before or after the date mentioned in that sub-paragraph, the planning authority [<sup>F2</sup> or the Ministry] have become, or become, entitled, under a notice served under the Schedule to the Act of 1944 [<sup>F2</sup> or under the<sup>F3</sup> Planning Order]] before that date, to take any action under section 4(1)( *a*) of that Act in accordance with that section and that Schedule [<sup>F2</sup> or that Order].

**F2** 1972 NI 17

**F3** 1991 NI 11

## SCHEDULE 2

Section 2.

### USE CLASSES FOR PURPOSES OF PARAGRAPH 6 OF SCHEDULE 1

#### PART I

##### GENERAL

- 1 (1) In this Schedule—

“article” means an article of any description, including a ship or vessel;

“betting office” means any premises in respect of which there is in force a bookmaking office licence under the Betting and Lotteries Act (Northern Ireland) 1957 ;

“funfair” includes an amusement arcade or pin-table saloon;

“general industrial building” means an industrial building other than a light industrial building or a special industrial building;

“hotel” has the same meaning as in the Hotel Proprietors Act (Northern Ireland) 1958 ;

“industrial building” means a building (other than a building in or adjacent to and belonging to a quarry or mine and other than a shop) used for the carrying on of any process for or incidental to any of the following purposes, that is to say:—

- (a) the making of any article or part of any article; or
- (b) the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
- (c) without prejudice to paragraphs ( *a*) and ( *b*), the getting, dressing or treatment of minerals;

being a process carried on in the course of a trade or business other than agriculture;

“light industrial building” means an industrial building (not being a special industrial building) in which the machinery installed or the processes carried on are such as could be installed or carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;

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“motor vehicle” has the same meaning as in the Road Traffic [<sup>F4</sup> (Northern Ireland) Order 1981 ];

“office” includes a bank, but does not include a betting office or post office;

“shop” means a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods by retail, and includes a building used for the purposes of a hairdresser or undertaker or for the reception of goods to be washed, cleaned, or repaired, or for any other purpose appropriate to a shopping area, but does not include a building used as a funfair, garage, petrol filling station, office, betting office, or hotel or premises (other than a restaurant) licensed for the sale of intoxicating liquor for sale on the premises;

“special industrial building” means an industrial building used for one or more of the purposes specified in paragraphs 5 to 9 of Part II.

- (2) In this Schedule any reference to a building includes a reference to land occupied therewith which is used for the same purposes.

**F4** 1981 NI 1

- 2 (1) Where a group of contiguous or adjacent buildings used as parts of a single undertaking includes industrial buildings used for purposes falling within two or more of the classes specified in paragraphs 3 to 9 of Part II, the particular classes in question may, in relation to that group of buildings, be treated as a single class for the purposes of this Schedule if the area occupied in the group by general or special industrial buildings is not substantially increased by reason of being so treated.
- (2) A use which is ordinarily incidental to and included in any use specified in Part II is not excluded from that use as an incident thereto merely because it is also specified in that Part as a separate use.

## PART II

### USE CLASSES

- 1 Use as a shop for any purpose except as—
- (a) a fish and chip shop;
  - (b) a shop for the sale of pet animals or birds;
  - (c) a shop for the sale of pets' meat otherwise than in sealed containers; or
  - (d) a shop for the sale of motor vehicles.
- 2 Use as an office for any purpose.
- 3 Use as a light industrial building for any purpose.
- 4 Use as a general industrial building for any purpose.
- 5 <sup>F5</sup>(1) Use for any work which is registrable under the Alkali, & co. Works Regulation Act 1906, except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine.
- <sup>F5</sup>(2) Use for any of the following processes, except as mentioned in sub-paragraph (1), so far as not registrable under the Act referred to in that sub-paragraph:—

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- (a) converting, re-heating, annealing, hardening, melting, carburising, forging or casting of iron or other metals or alloys;
- (b) recovering of metal from scrap or drosses or ashes;
- (c) galvanising;
- (d) pickling or treatment of metal in acid; or
- (e) chromium plating.

[<sup>F6</sup>(3) Use for any of the following processes (except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine)—

- (a) converting, re-heating, annealing, hardening, melting, carburising, forging or casting of iron or other metals or alloys;
- (b) recovering of metal from scrap or drosses or ashes;
- (c) galvanising;
- (d) pickling or treatment of metal in acid; or
- (e) chromium plating.]

**F5** prosp. rep. by [1997 NI 18](#)

**F6** [1997 NI 18](#); [2002 NI 7](#)

- 6 Use for any of the following processes so far as not included in paragraph 5 and except a process ancillary to the getting, dressing or treatment of minerals, carried on in or adjacent to a quarry or mine:—
- (a) burning of building bricks;
  - (b) lime or dolomite burning;
  - (c) production of calcium carbide;
  - (d) foaming, crushing or screening of stone or slag.
- 7 Use, so far as not included in paragraph 5, for the production or employment of cyanogen or its compounds.
- 8 Use for any of the following purposes, so far as not included in paragraph 5:—
- the distilling, refining or blending of oils;
  - the production or employment of cellulose lacquers (except their employment in garages in connection with minor repairs), hot pitch or bitumen;
  - the stoving of enamelled ware;
  - the manufacture of paint and varnish (excluding mixing, milling and grinding);
  - the production of rubber from scrap; or
  - the manufacture of acetylene from calcium carbide, for sale or for use in a further chemical process.
- 9 Use for carrying on any of following industries, businesses or trades so far as not included in paragraph 5:—
- animal charcoal manufacturer;
  - animal hair cleanser, adapter or treater;
  - blood albumen maker;
  - blood boiler;
  - bone boiler or steamer;
  - bone burner;
  - bone grinder;
  - breeder of maggots from putrescible animal matter;

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- candle maker;
  - dealer in rags or bones (including receiving, storing, sorting or manipulating rags in or likely to become in an offensive condition, or any bones, rabbit-skins, fat or putrescible animal products of a like nature);
  - fat melter or fat extractor;
  - fell monger;
  - fish curer;
  - fish oil manufacturer;
  - fish skin dresser or scraper;
  - glue maker;
  - gut scraper or gut cleaner;
  - leather dresser;
  - maker of meal for feeding poultry, dogs, cattle, or other animals from any fish, blood, bone, fat or animal offal, either in an offensive condition or subjected to any process causing noxious or injurious effluvia;
  - manufacturer of manure from bones, fish, fish offal, blood, spent hops, beans or other putrescible animal or vegetable matter;
  - skin drier;
  - tanner; or
  - tripe boiler or cleaner.
- 10 Use as a wholesale warehouse or repository for any purpose.
- 11 Use as a boarding or guest house, a residential club, or a hotel providing sleeping accommodation.
- 12 Use as a residential or boarding school or a residential college.
- 13 Use as a building for public worship or religious instruction or for the social or recreational activities of the religious body using the building.
- 14 Use as a home or institution providing for the boarding, care and maintenance of children, old people or persons under disability, a convalescent home, a nursing home, a sanatorium or a hospital.
- 15 Use (other than residentially) as a health centre, a school treatment centre, a clinic, a creche, a day nursery or a dispensary, or use as a consulting room or surgery unattached to the residence of the consultant or practitioner.
- 16 Use as an art gallery (other than for business purposes), a museum, a public library or reading room, a public hall, a concert hall, an exhibition hall, a social centre, a community centre or a non-residential club.
- 17 Use as a theatre, a cinema, a music hall, a dance hall, a skating rink, a swimming bath, a Turkish or other vapour or foam bath or a gymnasium, or for indoor games.

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*Schedule 4 spent*

*Schedule 5 Part I rep. by SLR 1973; Part II—Repeals*

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