
STATUTORY INSTRUMENTS

1984 No. 467 (S. 47)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984

<i>Made</i>	- - - -	<i>29th March 1984</i>
<i>Laid before Parliament</i>		<i>9th April 1984</i>
<i>Coming into Operation</i>		<i>2nd May 1984</i>

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In the exercise of the powers conferred on me by sections 61, 101 and 165 of the Town and Country Planning (Scotland) Act, 1972(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

PART I

CITATION, COMMENCEMENT, INTERPRETATION AND APPLICATION

Citation and commencement

1. These regulations may be cited as the Town and Country Planning

(a) 1972 c. 52; section 61 was amended by the Town and Country Amenities Act 1974 (c. 32), section 3(2) and by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 4; section 101(2) was amended by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 31 and by the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289F and 289G (as inserted by the Criminal Justice Act 1982 (c. 48), section 43).

(Control of Advertisements) (Scotland) Regulations 1984 and shall come into operation on 2nd May 1984.

Interpretation

2.— (1) In these regulations unless the context otherwise requires—

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

“advertisement” means any word, letter, model, sign, placard, board, notice, device, or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction (excluding any such thing employed wholly as a memorial or as a railway signal), and includes any hoarding or similar structure or any balloon used, or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“area of special control” means an area defined by an order made under regulation 8 as an area of special control in respect of the display of advertisements;

“balloon” means a tethered balloon or similar object;

“building” includes any structure or erection and any part of a building as so defined;

“business premises” means any building or part of a building (but not the forecourt or other land forming part of the curtilage of the building) normally used for the carrying on of any professional, commercial or industrial undertaking, or for the provision by any organisation of services for payment, and includes public restaurants, licenced premises and places of public entertainment, but in the case of any building used principally for residential purposes includes only that part of the building normally used for the carrying on of such undertaking or the provision of any such services;

“conservation area” means an area designated under section 262 of the Act(a);

“discontinuance notice” means a notice served in accordance with regulation 14;

“enclosed land” means land which is wholly or for the most part enclosed with any hedge, fence, wall or similar screen or structure, and shall be deemed to include any railway station together with its yards and forecourt whether enclosed or not, but shall not include any public park, public garden or other land held for the use or enjoyment of the public, or any railway line;

“enforcement notice” means a notice served in accordance with regulation 24;

“forecourt” for the purposes of Class IV of Schedule 4 includes any fence, wall or a similar screen or structure enclosing a forecourt and not forming part of the fabric of a building constituting business premises;

“ground level” means, in relation to the display of advertisements on any building, the ground floor level of that building;

“illuminated advertisement” means an advertisement which is designed or

(a) Section 262 was substituted by the Town and Country Amenities Act 1974 (c. 32), section 2(1) and amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 4.

adapted to be illuminated by artificial lighting, directly or by reflection, and which is so illuminated for the purposes of advertisement, announcement or direction at any time after the date on which these regulations come into operation;

“recreational” in relation to an institution shall not apply to any institution for the carrying on of sport, games or physical training primarily as a commercial undertaking;

“site” in relation to an advertisement, means any land, or any building, other than an advertisement as herein defined, on which an advertisement is displayed;

“specified classes” means the classes of advertisement specified in Schedule 4;

“standard conditions” means the standard conditions set out in Schedule 1;

“statutory undertakers” and “statutory undertaking” have the same meaning as in section 275 of the Act but in relation to the display of advertisements of Class I specified in Schedule 4 shall be deemed to include any undertaking carried out by the National Coal Board for the winning or supply of coal or any undertaking carried on by the British Airports Authority, the Civil Aviation Authority, the Post Office or British Telecommunications for the purposes of their respective functions;

and other expressions have the same meaning for the purpose of these regulations as they have for the purpose of the Act or, as the case may be, for the purpose of Part IX (Planning Functions) of the Local Government (Scotland) Act 1973(a).

(2) Reference in these regulations to the person displaying an advertisement shall be construed as reference to the person who himself, or by his servant or agent, undertakes or maintains the display of such advertisement, and, unless the context otherwise requires, shall be deemed to include—

- (a) the owner, lessee and occupier of the land on which the advertisement is displayed; and
- (b) any person to whose goods, trade, business or other concerns publicity is given by the advertisement.

(3) Subject to the provisions of regulation 3(3) and (4), reference in these regulations to the land, the building, the site or premises on which the advertisement is displayed shall be construed in the case of an advertisement which is displayed on, or which consists of, a balloon, as reference to the land, the building, the site or other premises (as the case may be) to which the balloon is attached.

(4) A regulation or Schedule referred to only by number in these regulations means the regulation or Schedule so numbered in these regulations.

Application

3.— (1) Subject to the provisions of paragraphs (3) and (4) of this regulation, these regulations shall apply to the display on sites in Scotland of all advertisements, except any advertisement—

(a) 1973 c. 65.

- (a) displayed within a building, other than an advertisement of a description specified in paragraph (2);
- (b) displayed on or in a vehicle normally employed as a moving vehicle on any road or railway or displayed on or in a vessel normally employed as a moving vessel on any inland waterway:

Provided that this exception shall not apply to advertisements displayed on any such vehicle or vessel during any period when it is being used primarily for the display of advertisements;

- (c) incorporated in, and forming part of the fabric of, a building, other than a building used principally for the display of advertisements or a hoarding or similar structure:

Provided that no advertisement shall be deemed to form part of the fabric of a building by reason only of being affixed to, or painted on, the building;

- (d) displayed on enclosed land, and not readily visible from the land outside that enclosure or from any part of such enclosure over which there is a public right of way or to which there is a public right of access;
- (e) displayed on, or which consists of, a balloon flown at a height of more than 60 metres above ground level;
- (f) displayed on an article for sale or on the package or other container in which an article is sold, or displayed on the pump, dispenser or other container from which an article, gas or liquid is sold, being an advertisement wholly with reference to the article, gas or liquid for sale, which is not an illuminated advertisement and does not exceed 0.1 square metre in area.

(2) The display of an advertisement within a building so as to be visible from outside that building shall be subject to these regulations if the advertisement is—

- (a) an illuminated advertisement; or
- (b) an advertisement displayed within any building used principally for the display of advertisements; or
- (c) an advertisement any part of which is within a distance of one metre from any external door, window, or other opening through which the advertisement is visible from outside the building.

(3) These regulations shall not apply to the display of an advertisement on, or which consists of, a balloon on a site (as defined in paragraph (4) of this regulation) which is not within an area of special control, a conservation area, or such other area as the Secretary of State may from time to time by direction designate for the purpose of conserving the natural beauty and amenity of the countryside, so long as the following conditions are complied with:—

- (a) not more than one such advertisement shall be displayed at any one time on the site; and
- (b) the site shall not be used for the display of such advertisements on more than 10 days in total in any one calendar year (taking into account all occasions on which such an advertisement is displayed on any part of the site by any person for any purpose).

- (4) For the purposes of paragraph (3) of this regulation, “site” means—
- (a) in a case where the advertisement is being displayed by a person (other than the occupier of the land) who is using or proposing to use the land, building or other premises to which the balloon is attached for a particular activity (other than the display of advertisements) for a temporary period only, the whole of the land, building or other premises used or to be used by that person for the carrying on of that activity; or
 - (b) in any other case, the land, building or other premises to which the balloon is attached and all land, buildings or other premises normally occupied together therewith.

PART II

GENERAL PROVISIONS

Control of advertisements to be exercised in the interests of amenity and public safety

4.—(1) The powers conferred by these regulations with respect to the grant or refusal of consent for the display of advertisements, the revocation or modification of such consent, and the discontinuance of the display of advertisements with consent deemed to be granted, shall be exercisable only in the interests of amenity and public safety.

- (2) When exercising such powers a planning authority—
- (a) shall, in the interests of amenity, determine the suitability of the use of a site for the display of advertisements in the light of the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest; and when assessing the general characteristics of the locality the authority may disregard any advertisements being displayed therein;
 - (b) shall, in the interests of public safety, have regard to the safety of persons who may use any road, railway, waterway (including any coastal waters), dock, harbour, or airfield affected or likely to be affected by any display of advertisements; and shall in particular consider whether any such display is likely to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal, or aid to navigation by water or air;

but without prejudice to their power to have regard to any other material factor.

(3) In determining an application for consent for the display of advertisements, or considering whether to make an order revoking or modifying a consent, the planning authority may have regard to any material change in circumstances likely to occur within the period for which that consent is required or granted.

(4) Subject to the provisions of these regulations, express consent for the display of advertisements shall take effect as consent to the use of a site for the purpose of displaying advertisements in the manner authorised by the consent whether by any erection of structures on the site or otherwise as the case may be.

(5) Subject to the provisions of these regulations, express consent for the display of advertisements shall not contain any limitation or restriction relating to any particular subject matter or class of subject matter or to the content or design of any subject matter to be displayed, but shall take effect as consent to the use of the site for the purpose of displaying advertisements in the manner authorised by the consent whether by the erection of structures on the site or otherwise, as the case may be:

Provided that nothing in this paragraph shall affect the duty of the planning authority, when dealing with an application for consent for the display of a particular advertisement, to have regard to the effect on amenity and public safety of the display of that advertisement.

Consent required for the display of advertisements

5.— (1) No advertisement may be displayed without consent granted either by the planning authority or by the Secretary of State on an application in that behalf (referred to in these regulations as “express consent”), or deemed to be granted in accordance with Part IV of these regulations.

(2) Insofar as the nature of the consent permits, consent for the display of advertisements shall enure for the benefit of the site to which the consent relates and of all persons for the time being interested in that site; without prejudice however to the provisions of these regulations as respects the revocation or modification of consent.

The standard conditions

6. Without prejudice to the power of the planning authority to impose additional conditions upon the grant of consent under these regulations, the standard conditions set out in Schedule 1 shall apply without further notice to the display of all advertisements; and in the case of advertisements being displayed with consent deemed to be granted by these regulations the conditions set out in Part II of that Schedule shall also apply:

Provided that:

- (a) paragraph 1 of Schedule 1 shall not apply to advertisements of the type described in regulation 12(1)(a);
- (b) paragraph 4 of Schedule 1 shall not apply to advertisements of the type described in regulation 12(1)(b).

Liability to fine for contravention of the regulations

7.— (1) A person who displays an advertisement in contravention of these regulations shall be liable on summary conviction of an offence under section 101(2) of the Act (a) to a fine not exceeding £200 and, in the case of a continuing offence, £20 for each day during which the offence continues after conviction.

(2) Failure to observe any condition relating to the maintenance of an advertisement or of the site used for the display of an advertisement, or to the

(a) 1972 c. 52; section 101(2) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2, paragraph 31, and by the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289F and 289G (as inserted by the Criminal Justice Act 1982 (c. 48), section 43).

satisfactory removal of an advertisement, shall not be a contravention of these regulations for the purpose of section 101 of the Act insofar as concerns any person who is only deemed by virtue of section 101(3) of the Act to display the advertisement, unless such person has failed to comply with an enforcement notice served on him by the planning authority requiring him to take the steps required by the enforcement notice within such period as may be specified in the notice.

PART III

AREAS OF SPECIAL CONTROL

Definition of areas of special control

8.— (1) Every planning authority shall from time to time consider whether any part, or additional part, of their district should be defined as an area of special control and whether any order made by them under this regulation should be modified or revoked.

(2) In the selection of areas under this regulation, a planning authority shall consult—

- (a) with any other planning authority whose district or any part thereof appears to them likely to be affected by the proposed order, and
- (b) in the case of a general planning authority, with any district council whose district or part thereof appears to them likely to be affected by the proposed order.

(3) An area of special control shall be defined by an order made by the planning authority and approved by the Secretary of State in accordance with the provisions of Schedule 2 and any such order may be revoked or varied by a subsequent order so made and approved.

(4) A planning authority shall exercise their functions under this regulation only in the interests of amenity and for this purpose shall have regard to the general characteristics of their area, including the presence therein of any feature of historic, architectural or cultural interest.

Display of advertisements in areas of special control and conservation areas

9.— (1) No display of advertisements may be undertaken in an area of special control except—

- (a) advertisements of the classes and descriptions specified in Schedule 4;
- (b) advertisements of the descriptions specified in regulations 12 and 27;
- (c) advertisements of the following descriptions displayed with express consent:—
 - (i) hoardings or similar structures to be used only for the display of notices relating to local events, activities or entertainments;
 - (ii) any advertisement for the purpose of announcement or direction in relation to buildings or other land in the locality being an advertisement which, in the opinion of the planning authority or

of the Secretary of State on appeal, is reasonably required having regard to the nature and situation of such buildings or other land;

- (iii) any advertisement which, in the opinion of the planning authority or of the Secretary of State on appeal, is required to be displayed in the interests of public safety;
- (iv) any advertisement which could be displayed as an advertisement of a specified class but for some non-compliance with a condition or limitation imposed in Schedule 4 in relation to the display of advertisements of that class, being an advertisement which, in the opinion of the planning authority or of the Secretary of State on appeal, may in all the circumstances reasonably be allowed to be displayed notwithstanding that it does not comply with that condition or limitation.

(2) The power conferred on planning authorities by regulation 17 to grant consent for the display of advertisements shall, in relation to the display of advertisements in an area of special control, be limited to advertisements of the descriptions mentioned in paragraph 1 above, including illuminated advertisements of those descriptions.

(3) On the coming into operation of an order defining an area of special control, advertisements then being displayed in the area in accordance with these regulations may continue to be displayed as follows:—

- (a) advertisements of the descriptions specified in regulations 12, 27 and Schedule 4 may continue to be displayed in accordance with the provisions of those regulations and that Schedule respectively;
- (b) advertisements of the descriptions specified in sub-paragraph (1)(c)(iv) may continue to be displayed subject, after the term of any express consent has expired, to service by the planning authority of a discontinuance notice;
- (c) any other advertisement may continue to be displayed for a period of 6 months from the date on which the order defining the area comes into operation or for the remainder of the term of any express consent which has been granted in relation to that advertisement, whichever is the longer, and then for a further 2 months after which the advertisement shall, without further notice, be removed, unless express consent is granted for the continued display in accordance with this regulation.

(4) On the designation of an area as a conservation area, advertisements of Class III(6) specified in Schedule 4 which are then being displayed in the area may continue to be displayed until the expiration of two years from the date of commencement of the display, or one year from the date of designation of the relevant area (whichever period last expires), subject to the power of the planning authority to require the discontinuance of the display of any such advertisement under regulation 14.

(5) Nothing in the foregoing provisions of this regulation shall—

- (a) affect a discontinuance notice served before the coming into operation of the order defining an area of special control, or before the designation of an area as a conservation area;

- (b) override any condition attached to a consent whereby an advertisement is required to be removed;
- (c) restrict the powers of the planning authority, or of the Secretary of State, in regard to any contravention of these regulations;
- (d) restrict the power of the planning authority, or of the Secretary of State, to consent to the display in an area of special control of advertisements of the specified classes in respect of which a direction under regulation 11 is in force.

PART IV

ADVERTISEMENTS WHICH MAY BE DISPLAYED WITHOUT EXPRESS CONSENT

The specified classes

10.— (1) Consent shall be deemed to be granted for the display of advertisements of the classes specified in Schedule 4 subject to the conditions therein in addition to the standard conditions.

(2) On the determination of an application for express consent made in respect of an advertisement of a specified class, the provisions of this regulation whereby advertisements may be displayed without express consent shall cease to apply with respect to the advertisement; and, in the event of refusal of consent, the provisions of this regulation whereby the display of advertisements may be undertaken without express consent shall not apply to the subsequent display on the same land of any advertisement by, or on behalf of, the person whose application was so refused.

(3) Where an application is made for consent to display an advertisement of a specified class and such consent is granted subject to conditions in the nature of restrictions as to the site on which, or the manner in which, the display may be undertaken, or both, the provisions of this regulation whereby the display of advertisements may be undertaken without express consent shall not apply to the subsequent display, by or on behalf of the person to whom that consent was granted subject to such conditions, of any advertisement on the same site unless such advertisement is displayed in conformity with the requirements of those conditions.

(4) The conditions and limitations specified in this regulation apply only to the display without express consent of an advertisement within any class or description therein mentioned, and shall not restrict the powers of a planning authority with regard to the determination in accordance with these regulations of any application for express consent for the display of advertisements.

Power to exclude application of regulation 10

11.— (1) If the Secretary of State is satisfied, upon representations made to him by the planning authority, that the display of advertisements of a class or description specified in Schedule 4 should not be undertaken in any particular area or in any particular case without express consent he may direct that the provisions of regulation 10 shall not apply to the display of such advertisements in that area or in that case.

(2) Before making a direction under this regulation, the Secretary of State shall—

- (a) where the representations for such a direction relate to a particular area, publish, or cause to be published, in at least one newspaper circulating in the locality in which the area is situated, and on the same date or a subsequent date in the Edinburgh Gazette, a notice indicating that representations for such a direction have been made to him and naming a place or places in the locality where a map or maps defining that area may be inspected at all reasonable hours; and
- (b) where the representations for such a direction relate to a particular case, serve, or cause to be served, on the owner and occupier of the land in respect of which the representations have been made, and on any other person who, to the knowledge of the Secretary of State, proposes to display on such land an advertisement of the class or description referred to in the said representations, a notice indicating that representations have been made to him and specifying the land and the class or description of advertisement to which those representations relate;

and in each instance the notice shall state that any objection to the making of a direction under this regulation shall be made to the Secretary of State in writing within such period (not being less than 21 days from the date when the notice is given) as may be specified in the notice.

(3) The Secretary of State shall not make a direction under this regulation until after the expiration of the period specified in the notice referred to in paragraph (2) above, and in determining whether to make such a direction he shall take into account any objections made in accordance with that paragraph.

(4) Where the Secretary of State makes a direction under this regulation he shall send it to the planning authority with a statement in writing of his reasons for making it, and shall send a copy of that statement to any person who has made an objection in accordance with paragraph (2) above.

(5) Notice of any direction given by the Secretary of State under this regulation with respect to an area shall be published by the planning authority in at least one newspaper circulating in the locality in which the area is situated and, unless the Secretary of State otherwise directs, on the same or a subsequent date in the Edinburgh Gazette; and such notice shall contain a concise statement of the effect of the direction and name a place or places in that locality where a copy of the direction and (where the direction does not include a map) of a map defining the area to which it relates may be seen at all reasonable hours.

(6) Notice of any direction given by the Secretary of State under this regulation in a particular case shall be served by the planning authority on the owner and on any occupier of the land to which the direction relates, and on any other person who, to the knowledge of the authority, proposes to display on such land an advertisement of the class or description referred to in the direction.

(7) A direction given under this regulation with respect to an area shall come into operation on the date specified in the notice relating to the direction, being a date not less than 14, and not more than 28, days after first publication of the notice; and a direction given under this regulation in a particular case shall

come into operation on the date on which the notice of the direction is served on the occupier or, if there is no occupier, on the owner of the land.

Election notices, statutory advertisements and traffic signs

12.— (1) Consent shall be deemed to be granted for the display of advertisements of the following descriptions:—

- (a) any advertisement relating specifically to a pending Parliamentary, European Assembly or Local Government election, not being an advertisement to which sub-paragraph (b) of this regulation applies;
- (b) advertisements required to be displayed by an enactment for the time being in force, or by Standing Orders of either House of Parliament, including advertisements the display of which is so required as a condition of the valid exercise of any other power, or proper performance of any function, given or imposed by an enactment;
- (c) advertisements in the nature of traffic signs employed wholly for the control, guidance or safety of traffic, and displayed in accordance with an authorisation given by the Secretary of State or by the appropriate roads or police authority.

(2) Consent deemed to be granted under this regulation shall be subject to the following conditions in addition to the standard conditions:—

- (a) an advertisement of the description specified in paragraph (1)(a) above shall be removed within 14 days after the close of the poll in the election to which the advertisement relates;
- (b) advertisements displayed for a temporary purpose in relation to paragraph (1)(b) or (c) shall be removed as soon as may be after the expiry of the period during which such advertisement is required or authorised to be displayed, or, if no such period is specified, shall be removed within a reasonable time after the purpose for which such advertisement was required or authorised to be displayed is satisfied.
- (c) where advertisements of the description specified in paragraph (1)(b) above could, apart from this regulation, be displayed as advertisements of a specified class under regulation 10, they shall conform with any provision of Schedule 4 as respects size, number or height in relation to the display of advertisements of that class, and otherwise shall not exceed in those respects what is necessary to achieve the purpose for which the display is required; without prejudice, however, to the express requirements in regard to size, number or height of any enactment or Standing Orders under which such advertisements are displayed.

Advertisements on sites used for the display of advertisements on 16th August 1948

13.— (1) Subject to paragraph (2) below, where a site was being used for the display of advertisements on 16th August 1948 the site may continue to be so used after the date of the coming into operation of these regulations without express consent.

(2) Nothing in this regulation shall restrict the exercise by a planning authority of any power conferred by these regulations to decide an application voluntarily made to them, to serve a discontinuance notice in respect of any

advertisement or site, or to take action in respect of any contravention of these regulations.

(3) Consent deemed to be granted for the continued use of a site for the display of advertisements pursuant to paragraph (1) of this regulation shall be subject to the following conditions and limitations:—

- (a) there shall be no substantial increase in the extent, or substantial alteration in the manner, of the use of the site as it was used for the display of advertisements on 16th August 1948;
- (b) where a building or structure on which advertisements were being displayed on 16th August 1948 is required under any enactment to be removed, consent under this regulation shall not extend to the erection of any building or structure on which to continue the display of such advertisements.

Power to require the discontinuance of the display of advertisements displayed with deemed consent

14.— (1) Subject to these regulations, the planning authority, if they consider it expedient to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public, may serve a notice under this regulation requiring the discontinuance of the display of an advertisement displayed with consent deemed to be granted under these regulations, other than an advertisement of a description specified in regulation 12, or requiring the discontinuance of the use of a site for the display of such an advertisement.

(2) Notwithstanding the provisions of regulation 2(2), where the planning authority serve a discontinuance notice, the notice shall be served on the person who himself, or by his servant or agent, undertakes or maintains the display of the advertisement and on the owner, lessee and occupier of the land on which the advertisement is displayed.

(3) A discontinuance notice shall—

- (a) specify the advertisement or the site to which it relates;
- (b) specify a period within which the display or the use of the site (as the case may be) is to be discontinued; and
- (c) contain a statement of the reasons why the authority consider it expedient in the interests of amenity or public safety that the display or the use of the site (as the case may be) should be discontinued.

(4) Subject to paragraph (5) below, a discontinuance notice shall take effect at the end of such period (not being less than 28 days after the service thereof) as may be specified in the notice:

Provided that if an appeal is made to the Secretary of State under regulation 21 the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(5) The planning authority may, by serving a notice on every person who was served with the discontinuance notice, withdraw a discontinuance notice at any time before it takes effect or may, where no appeal to the Secretary of State under regulation 21 is pending, from time to time vary a discontinuance notice by extending the period specified therein for the taking effect of the notice; and

on any such variation the period for appeal to the Secretary of State under regulation 21 shall be extended by the number of days by which the period specified was extended or further extended.

PART V

APPLICATIONS FOR EXPRESS CONSENT

How to apply for consent

15.— (1) Subject to the provisions of this regulation an application to a planning authority for consent to display advertisements shall be made on a form issued by that authority and shall include such particulars as may be required by that authority and shall be accompanied by such plans together with such additional number of copies (not exceeding 2) of the form and plans as may be required by the direction of the planning authority printed on the form.

(2) On receipt of the application the planning authority shall send an acknowledgement in writing to the applicant, including a statement of the right of appeal under regulation 21.

(3) If the planning authority consider that the information contained in the application is insufficient to enable them properly to determine it they may call for such further information as they require for that purpose.

Duty to consult with respect to an application

16.— (1) Before determining an application for consent to display advertisements the planning authority shall consult—

- (a) with any other planning authority whose district, or any part thereof, appears likely to be affected by the display of advertisements to which the application relates;
- (b) where it appears to the planning authority that the display of advertisements to which the application relates may affect the safety of persons using—
 - (i) any trunk road, with the Secretary of State;
 - (ii) any road (other than a trunk road) for which the planning authority are not also the local highway authority, with the local highway authority concerned;
 - (iii) any railway, waterway, (including any coastal waters), dock, harbour or airfield with the authority, statutory undertaker, body or person responsible for the operation thereof and, in the case of any coastal waters, with the Commissioner of Northern Lighthouses.

(2) A planning authority shall give to any authority, person or body with whom they are required to consult not less than 14 days' notice that an application is to be taken into consideration and shall on determining the application take into account any representations made by such authority, person or body.

Power of planning authority to deal with an application

17.— (1) Where application for consent for the display of advertisements is made to the planning authority, that authority may grant consent subject to the standard conditions specified in Schedule 1 and to such additional conditions as they think fit, or may refuse consent:

Provided that where the application relates to the display (in accordance with the relevant provisions of Schedule 4) of an advertisement of a specified class the authority shall not refuse consent, or impose a condition more restrictive in effect than any provision of that regulation in relation to advertisements of that class, unless they are satisfied that such refusal or condition is required to prevent or remedy a substantial injury to the amenity of the locality or a danger to members of the public.

(2) Without prejudice to the generality of paragraph (1) above and subject to the provisions of regulation 4 conditions may be imposed on the grant of consent under this regulation—

- (a) regulating the display of advertisements to which the consent relates, or the use of land by the applicant for the display of advertisements (whether it is land in respect of which the application was made or adjacent land under the control of the applicant), or requiring the carrying out of works on any such land, so far as appears to the planning authority to be expedient for the purposes of or in connection with the display of advertisements authorised by the consent;
- (b) requiring the removal of any advertisement authorised by the consent, or the discontinuance of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the reinstatement of land at the expiration of that period.

(3) Consent under this regulation may be—

- (a) for the display of a particular advertisement or advertisements with or without illumination, as the application specifies; or
- (b) for the use of a particular site for the display of advertisements in a specified manner, whether by reference to the number, siting, size or illumination of the advertisements or the structures intended for such display, or the design or appearance of any such structure, or otherwise.

(4) The power to grant consent for the display of advertisements under these regulations shall include power to grant consent for the retention on a site of any advertisements being displayed thereon before the date of the application or for the continuance of any use of a site for the display of advertisements begun before that date; and reference in these regulations to consent for the display of advertisements and to applications for such consent shall be construed accordingly.

Consent to be limited

18.— (1) Subject to paragraph (4) of this regulation, every grant of express consent shall operate for a period of 5 years from the date of the granting of consent:

Provided that the planning authority may, in the document granting consent, specify such shorter or longer period as they may consider expedient

having regard to the provisions of regulation 4 and any period specified in the application for consent.

(2) The limitation in time specified in the consent, or the 5 year period having effect when no period is specified in the consent, shall, for the purposes of these regulations, be deemed to be a condition imposed upon the granting of the consent.

(3) Where the planning authority grant consent for a period of less than 5 years they shall (unless the application specified such shorter period) state in writing their reasons for doing so.

(4) Where, at the time when a consent is granted for the display of advertisements, the display to which the consent relates has not already begun, the planning authority may express the specified period as a period running, in the alternative, from the date of commencement of the display or from a date not later than 6 months after the date on which the consent is granted, whichever is the earlier.

(5) At any time within a period of 6 months before the expiry of a consent, application may be made for its renewal and the provisions of these regulations relating to applications for consent and to their determination shall apply where application is made for such renewal.

Display of advertisements after the expiration of express consent

19.— (1) Except where the planning authority when granting consent impose a condition to the contrary or where renewal of consent is applied for and refused, advertisements displayed with express consent may on the expiry of their term continue to be displayed subject to service by the planning authority of a discontinuance notice but without prejudice to the exercise of any other power in these regulations to require the removal of such advertisements.

(2) Where under paragraph (1) of this regulation advertisements continue to be displayed after the expiry of express consent, consent shall be deemed to be granted in respect of the continuance of such display, subject to the like conditions as those to which the express consent immediately preceding it was subject and, unless previously brought to an end, shall expire when the site ceases to be used for such display of advertisements.

Notification of planning authority's decision

20.— (1) The grant or refusal by a planning authority of an application for consent for the display of advertisements shall be given by notice in writing to the applicant within 2 months from the date of receipt of the application or within such longer period as may be agreed in writing by the planning authority and the applicant.

(2) Where the planning authority decide to grant consent subject to conditions in addition to the standard conditions, or to refuse consent, the reasons for their decision shall be stated in writing.

(3) Where, within 2 months from the date of the receipt of the application, or within such longer period as the planning authority and the applicant may

have agreed, the planning authority fail to give notice to the applicant of their decision, the provisions of regulation 21 shall apply as if the planning authority had notified the applicant of refusal of consent.

Appeals to the Secretary of State

21.— (1) Where, on application being made, consent is refused by the planning authority or is granted by them subject to conditions, the applicant may appeal to the Secretary of State:

Provided that the Secretary of State shall not be required to entertain an appeal under this regulation if it appears to him, having regard to the provisions of these regulations, that consent for the display of advertisements in respect of which application was made could not have been granted otherwise and subject to the conditions imposed by them.

(2) Where the planning authority serve a discontinuance notice on any person the provisions of paragraph (1) above shall apply as if that person had made an application for consent for the display of the advertisements, or for the use of the site, to which the notice relates and the planning authority had refused consent for the reasons stated in the notice and as if the discontinuance notice constituted notification of the planning authority's decision in terms of regulation 20.

(3) Any person who desires to appeal under this regulation shall give notice of appeal in writing to the Secretary of State stating the grounds on which the appeal is based within 6 months from the receipt of notification of the planning authority's decision, or in the case of a discontinuance notice within 28 days from the date of service of the notice, and shall within 28 days from giving notice of appeal send to the Secretary of State a copy of each of the following documents:—

- (a) the application made to the planning authority or, as the case may be, the discontinuance notice served by the planning authority;
- (b) all relevant plans and particulars submitted to the planning authority;
- (c) the notice of the decision of the planning authority, if any;
- (d) any notice of variation of the discontinuance notice;
- (e) all other relevant correspondence with the planning authority.

(4) The planning authority shall, within 28 days from the date when the Secretary of State advises them of the appeal, submit a statement in writing of their observations on the appeal.

(5) Before determining an appeal under this regulation the Secretary of State shall, if either the applicant or the planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) Where the appellant or the planning authority have failed to comply with the requirements of paragraphs (3) or (4) above or to supply any further observations or documents which may be required by the Secretary of State within any time specified by him, the Secretary of State may nevertheless proceed to determine the appeal.

(7) The Secretary of State may allow or dismiss an appeal where an application has been made to the planning authority or may reverse or vary any part of the decision of the planning authority whether or not the appeal relates to that part or may deal with the application as if it has been made to him in the first instance.

(8) On the determination of an appeal under this regulation in respect of a discontinuance notice served by the planning authority the Secretary of State shall give such direction as may be necessary for giving effect to his determination including, where appropriate, directions for quashing the discontinuance notice or for varying the terms of the discontinuance notice in favour of the appellant.

(9) The decision of the Secretary of State on any appeal under this regulation shall be final and shall otherwise have effect as if it were the decision of the planning authority,

PART VI

PROVISIONS AS TO REVOCATION AND MODIFICATION OF CONSENT

Revocation and modification of consent

22.— (1) Subject to the provisions of regulation 4 and of this regulation, if it appears to the planning authority that it is expedient that any express consent for the display of advertisements should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient:

Provided that no such order shall take effect unless it is confirmed by the Secretary of State and the Secretary of State may confirm any order either without modification or subject to such modifications as he considers expedient.

(2) Where a planning authority submit an order to the Secretary of State for confirmation under this regulation, that authority shall serve notice on the person on whose application the consent was granted, on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified in the notice (not being less than 28 days from the service thereof) any person on whom the notice is served so requires, the Secretary of State shall, before confirming the order, afford to that person and to the planning authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) The power to revoke or modify consent for the display of advertisements may be exercised—

- (a) where the consent relates to a display which involves the carrying out of building or similar operations, at any time before those operations have been completed;
- (b) where the consent relates to a display which involves no such operations as aforesaid, at any time before the display is begun:

Provided that the revocation or modification of consent for a display which involves the carrying out of building or similar operations shall not

affect so much of these operations as has been carried out before the date on which the order was confirmed.

Supplementary provisions as to revocation and modification

23.— (1) Where consent for the display of advertisements is revoked or modified by an order made under regulation 22 then if, on a claim made to the planning authority in writing and served on that authority by delivering it at, or by sending it by prepaid post to, their offices within 6 months after confirmation of the order, it is shown that any person has incurred expenditure in carrying out, in connection with the display in question, work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that authority shall pay to that person compensation in respect of that expenditure, loss or damage:

Provided that no compensation shall be payable under the paragraph in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

(2) For the purposes of this regulation, any expenditure incurred in the preparation of plans for the purpose of any work or upon other similar matters preparatory to the work shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this regulation in respect of any work carried out before the grant of the consent which is revoked or modified, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that consent.

PART VII

PROVISIONS AS TO ENFORCEMENT

Enforcement of advertisement control

24.— (1) If it appears to a planning authority that any advertisement has been displayed without a consent required by these regulations or that any condition or limitation subject to which such consent was granted or was deemed to be granted has not been complied with, then the planning authority may serve a notice under this regulation.

(2) An enforcement notice shall be served on the owner, lessee and occupier of the land to which it relates and on any other person known to the planning authority to be displaying the advertisement without such consent, or in contravention of any condition or limitation subject to which consent was granted or deemed to be granted.

(3) An enforcement notice shall specify the advertisement which is alleged to have been displayed without consent or the matters in respect of which it is alleged that any condition or limitation has not been complied with, and may specify steps that shall be taken within a given period to restore the land to its condition before the display was begun or to secure compliance with the condition or limitation; but may in addition specify, as an alternative, steps required to be taken to bring the display to a condition acceptable to the

planning authority having regard to the provisions of these regulations; and in particular any such notice may for this purpose require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(4) Subject to regulation 25 an enforcement notice shall take effect on the date specified in the notice, which date shall be—

(a) in any case where the planning authority consider it urgently necessary in the interests of public safety that the advertisement to which the notice relates should be altered or removed, or where they are satisfied that any steps required by the notice to be taken can be taken without the removal or substantial modification of any structure or the carrying out of any building or similar operations on land, 7 days; and

(b) in any other case, 28 days,

from the date of the latest service of the notice.

(5) Compliance with an enforcement notice shall not discharge the enforcement notice.

(6) Without prejudice to paragraph (5) above, any provision of an enforcement notice requiring the use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently to the extent that it is in contravention of these regulations; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(7) If any development is carried out on land by way of re-instating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as re-instated or restored as it applied in relation to the buildings or works before they were demolished or altered.

Appeals to the Secretary of State

25.—(1) Any person on whom an enforcement notice is served may, at any time before the date specified in the notice as the date on which the notice will take effect, appeal against the notice to the Secretary of State on the following grounds:—

(a) that the matters alleged in the notice do not constitute a display of an advertisement without a consent required by these regulations or a failure to comply with any condition or limitation subject to which any such consent was granted or deemed to be granted;

(b) that the enforcement notice was not served as required by regulation 24;

(c) that the specified period for compliance with the notice falls short of what should reasonably be allowed;

(d) that the steps required by the notice to be taken exceed what is necessary for the purpose identified under regulation 24(3).

(2) An appeal under this regulation shall be made by notice in writing to the Secretary of State which shall indicate the grounds of the appeal and state the facts on which it is based.

(3) Where an appeal is brought under this regulation an enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(4) On an appeal under this regulation the Secretary of State may—

- (a) correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not material;
- (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by regulation 24 to be served with the notice was not served, disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure so to serve him.

(5) The Secretary of State shall, if either the planning authority or the appellant so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.

(6) On the determination of an appeal under this regulation the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the notice in favour of the appellant.

(7) Schedule 7 to the Act(a) (determination of appeals by appointed person) shall apply to appeals under this regulation as it applies to appeals under section 33 of the Act.

Execution and cost of operations required by enforcement notice

26.— (1) If within the period specified in an enforcement notice, or within such extended period as the planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the planning authority may enter on the land and take those steps and, subject to the proviso to this regulation, may recover as a civil debt from the person who is then the owner or the lessee of the land any expenses reasonably incurred by them in taking those steps; and if that person, having been entitled to appeal to the Secretary of State under regulation 25, failed to make such an appeal, he shall not be entitled in proceeding under this paragraph to dispute the validity of the action taken by the planning authority in accordance with the notice:

Provided that where the person who is then the owner or the lessee of the land would have been entitled, under section 165 of the Act, to compensation in respect of any expenses reasonably incurred by him in removing the advertisement, the planning authority shall not be entitled to recover their expenses from that person.

(2) Any expenses incurred by the owner, the lessee or the occupier of any land for the purpose of complying with an enforcement notice, and any sums

(a) 1972 c. 52.

paid by the owner or by the lessee of any land in respect of the expenses of the planning authority in taking steps required to be taken by such a notice, shall be recoverable as a civil debt from the person by whom the display was carried out.

(3) Where a planning authority seek to recover any expenses under this regulation from a person on the basis that he is the owner of any land, and such a person proves—

- (a) that he has no interest in the land except in the capacity of a trustee, tutor, curator, factor or agent of some other person; and
- (b) that he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but a planning authority who by reason of the foregoing provisions of this regulation have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.

PART VIII

MISCELLANEOUS

Advertisements relating to travelling circuses and fairs

27.— (1) On application in that behalf being made to them, a planning authority may grant consent for the temporary display, on unspecified sites in their district, of placards, posters or bills relating to the visit of a travelling circus, fair or similar travelling entertainment to any specified place in the area; and for the purposes of this regulation the expression “in the area” means in the district of the planning authority to whom application for such consent is made or in the district of any neighbouring planning authority.

(2) Consent granted under this regulation shall be subject to the following conditions in addition to the standard conditions:—

- (a) no such advertisement shall exceed 0.6 sq metre in area or be displayed above 3.6 metres from ground level;
- (b) no such advertisement shall be displayed earlier than 14 days before the first performance or opening of the circus, fair or other entertainment in the area at a place specified in the advertisement; and every such advertisement shall be removed within 7 days after the last performance or closing of the circus, fair or other entertainment in the area at a place specified in the advertisement;
- (c) no such advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway (including any coastal waters) or airfield.

(3) Without prejudice to the right to apply under Part V of these regulations for consent to display advertisements of the foregoing description on specified sites, the provisions of the Part shall not apply to an application for consent

under this regulation, and the decision of a planning authority on any such application shall be final.

Power of Secretary of State

28. The Secretary of State may if he thinks fit give a direction to any planning authority or to planning authorities in general requiring them to furnish him with such information as he may require for the purpose of exercising any of his functions under these regulations.

Extension of time

29.— (1) Subject to the provisions of the Act and of these regulations—

- (a) the Secretary of State may for special reasons, in any particular case, extend the time within which anything is required under these regulations to be done, or within which any objection, representation or claim for compensation may be made;
- (b) the planning authority may, on reasonable cause being shown to them, extend the time within which an application for consent is required to be or may be made to them under these regulations;

and any such extension may be granted either unconditionally or subject to such conditions as the Secretary of State or the planning authority think fit to impose.

(2) The power conferred by this regulation to grant extensions of time shall not apply to—

- (a) the time within which the planning authority is required under regulation 20 to notify an applicant of the manner in which his application has been dealt with save as expressly provided in that regulation;
- (b) any period specified by these regulations during which an advertisement may be displayed with consent deemed to be granted.

How to claim compensation in respect of expenses under section 165 of the Act

30.— (1) Any person who is required by or under these regulations to remove an advertisement which was being displayed on 16th August 1948 or to discontinue the use for the display or advertisements of any site being used for that purpose on 16th August 1948, and who desires to claim compensation under section 165 of the Act^(a) in respect of any expenses reasonably incurred by him in carrying out works in compliance with such a requirement, shall submit a claim in writing to the planning authority within 6 months after the completion of such works; and such a claim shall contain sufficient information to enable the planning authority to give proper consideration to the claim.

(2) If the planning authority consider that the information furnished by any claimant under this regulation is insufficient to enable them properly to determine the claim they may call for such further particulars as they require for that purpose.

(a) 1972 c. 52.

Register of applications

31.— (1) Every planning authority shall keep a register available for public inspection, containing the following information in respect of all land within their district, namely:—

- (a) particulars of any application made to them for consent for the display of advertisements on any such land, including the name and address of the applicant, the date of receipt of the application, and brief particulars of the type of advertisement forming the subject of the application;
- (b) particulars of any direction given under these regulations in respect of the application;
- (c) the decision (if any) of the planning authority in respect of the application and the date of such decision;
- (d) the date and effect of any decision of the Secretary of State in respect of the application given on appeal.

(2) Such register shall include an index for enabling a person to trace any entry in the register.

(3) Such register shall be kept at the office of the planning authority:

Provided that so much of the register as relates to land within any particular part of the district of a planning authority may be kept at a place within or convenient to that part of their district.

(4) Every entry in such register consisting of particulars of an application shall be made within 7 days of the receipt of such application.

(5) Every register kept under paragraph (1) above shall be available for inspection by the public at all reasonable hours.

Directions and notices

32.— (1) Any power conferred by these regulations to give a direction shall be construed as including power to cancel or vary that direction by a subsequent direction.

(2) Any notice to be served or given under these regulations may be served or given in the manner prescribed by section 269 of the Act and by any regulations made under that section.

PART IX**REVOCATION AND SAVINGS***Revocation and savings*

33.— (1) The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1961(a) are hereby revoked.

(a) S.I. 1961/195.

(2) Any application, appeal or claim made, consent granted or deemed to be granted, direction given or notice served under the regulations hereby revoked which, at the coming into operation of these regulations, is outstanding, shall continue in force, have effect and be determined as if made, granted, deemed to be granted, given or served under the corresponding provisions of these regulations.

Other statutory obligations unaffected

34. Nothing in these regulations or any consent granted under these regulations shall be taken as operating to discharge any obligation or liability imposed under any other enactment in force, in relation to any operation or other matter involved in the display of advertisements.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
29th March 1984.

SCHEDULE 1

Regulation 6

THE STANDARD CONDITIONS

PART I

Conditions attaching to all consents save as otherwise provided in the regulations

1. All advertisements displayed, and any land used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the planning authority.

2. Any hoarding or similar structure, or any sign, placard, board or device erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition to the reasonable satisfaction of the planning authority.

3. Where any advertisement is required under these regulations to be removed the removal thereof shall be carried out to the reasonable satisfaction of the planning authority.

4. Before an advertisement is displayed on land the permission of the owner of that land or other person entitled to grant permission shall be obtained.

PART II

Conditions attaching to consent deemed to be granted for the display of advertisements

5. Advertisements shall not be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any road, railway, waterway (including any coastal waters) or airfield.

Regulation 8

SCHEDULE 2

PROCEDURE FOR DEFINING AREAS OF SPECIAL CONTROL

1. Where a planning authority propose to define an area of special control they shall make an order defining an area by reference to a map annexed thereto, either with or without descriptive matter (which, in the case of any discrepancy with the map, shall prevail except in so far as may be otherwise provided by the order), and shall submit to the Secretary of State 2 certified copies of the order, map and descriptive matter (if any), and a statement of their reasons for proposing to make the order.

2. The authority shall forthwith publish in the Edinburgh Gazette, and in each of 2 successive weeks in one or more newspapers circulating in the locality in which the area is situated, a notice related to the submission for approval of the order in the form prescribed (Schedule 3, Form 1) or in a form substantially to the like effect.

3. If any objection is duly made and not withdrawn the Secretary of State shall, before approving the order, afford to the person making such objection an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and if any such person avails himself of the opportunity of being heard the Secretary of State shall also afford the like opportunity to the planning authority and to such other persons as he thinks fit.

4. After considering any representation or objection duly made and not withdrawn and the report of the person by whom any inquiry or hearing was held, the Secretary of State may approve the order with or without modifications:

Provided that if the Secretary of State proposes to approve the order subject to a modification involving the inclusion therein of any area of land not included in the order as submitted he shall publish prior notice of his intention so to do and shall afford opportunity for the making of objections or representations with respect to the proposed modification, and for such further hearing as may appear to him to be necessary or expedient.

5. As soon as may be after the order has been approved, the planning authority shall publish in the Edinburgh Gazette, and in each of 2 successive weeks in one or more newspapers circulating in the locality in which the area is situated, a notice relating to the approval of the order in the form prescribed (Schedule 3, Form 2) or in a form substantially to the like effect and any such order shall come into force on the date on which notice of the approval thereof is published in the Edinburgh Gazette.

6. These provisions apply, with necessary modifications, to the making of an order revoking or modifying an existing area defining an area of special control.

SCHEDULE 3

Regulation 8

FORMS OF NOTICES

Form 1

Form of notice of submission for approval of an order defining an area of special control

Town and Country Planning (Scotland) Act 1972**Town and Country Planning (Control of Advertisements)
(Scotland) Regulations 1984**

Notice is hereby given that (1) in exercise of their powers under regulation 8 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, have submitted for the approval of the Secretary of State for Scotland an order defining as an area of special control for the purposes of the said regulations an area of land situated at _____ and described in the Schedule hereto, which land is shown edged and coloured _____ on the map accompanying the order, and that the order is about to be considered by the Secretary of State.

Copies of the order and of the statement of reasons submitted therewith have been deposited at _____ and will be available for inspection free of charge between the hours of _____

Objections or representations relating to the order should be sent in writing, stating the grounds on which they are made, to the Secretary, Scottish Development Department, New St Andrew's House, Edinburgh EH1 3SZ, before (2).

19

(Signature)(5)

SCHEDULE

(Here insert description of the land comprised in the order.)

Form 2

Form of notice of the approval of an order defining an area of special control

Town and Country Planning (Scotland) Act 1972

**Town and Country Planning (Control of Advertisements)
(Scotland) Regulations 1984**

Notice is hereby given that the Secretary of State for Scotland, in exercise of his powers under section 61 of the Town and Country Planning (Scotland) Act 1972, and regulation 8 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, has on approved [with modifications] (3) an order defining as an area of special control for the purposes of those Regulations an area of land situated at

and described on the Schedule hereto, which land is shown edged and coloured on the map referred to in the order.

The order comes into operation on (4)

Copies of the approved order have been deposited at and will be available for inspection free of charge between the hours of

19

(Signature)(5)

SCHEDULE

(Here insert description of the land comprised in the order.)

IMPORTANT

Attention is drawn to regulation 9 of the above-mentioned regulations under which advertisements being displayed in an area defined as an area of special control may in certain circumstances continue to be displayed only for a limited period after the date on which the order defining the area comes into operation.

Attention is also drawn to the provisions of sections 231(2)(d) and 233 of the Town and Country Planning (Scotland) Act 1972, which provide that, if any person is aggrieved by any order to which the section applies, and desires to question the validity of that order on any of the grounds mentioned in section 233, he may within 6 weeks of the date on which notice of the approval of the order by the Secretary of State is, as required by paragraph 5 of Schedule 2 to the above regulations, first published in a newspaper, make application to the Court of Session under that section.

Footnotes to Forms 1 and 2 of Schedule 3

- (1) Insert name of Authority.
- (2) Insert a date not less than 28 days from the first date of local advertisement.
- (3) Strike out words if inapplicable.
- (4) Insert date of publication in the Edinburgh Gazette.
- (5) Insert name, designation and address of the proper officer of the planning authority and the date of signing.

Regulation 10

SCHEDULE 4

THE SPECIFIED CLASSES OF ADVERTISEMENTS DISPLAYED WITH DEEMED CONSENT

<i>Description of advertisement</i>	<i>Maximum height of letters or figures</i>	<i>Maximum height above ground level of highest part of advertisement</i>	<i>Other conditions</i>
<p>CLASS I: Functional advertisements of local authorities, community councils, statutory undertakers and public transport undertakers.</p> <p>(1) Advertisements relating to any function or operation of a local authority, community council, statutory undertaker or public transport undertaker which are reasonably required in order to secure the safe or efficient performance of those functions or operations and which cannot be displayed in such a manner under the provisions of these regulations relating to advertisements of any other specified class;</p> <p>(2) Advertisements displayed by a planning authority on land in respect of which they are the planning authority.</p>	<p>0.75 metre, or 0.3 metre in an area of special control</p>	<p>4.6 metres, or 3.6 metres in an area of special control</p>	<p>(i) Illumination is permissible for purposes of warning.</p> <p>(i) Maximum area for each advertisement—0.2 sq metre. (ii) Illumination is permissible for purposes of warning.</p>
<p>CLASS II: Miscellaneous advertisements relating to land on which they are displayed.</p> <p>(1) Advertisements for the purpose of identification, direction or warning with respect to the land or building on which they are displayed.</p>	<p>0.75 metre, or 0.3 metre in an area of special control</p>	<p>4.6 metres, or 3.6 metres in an area of special control</p>	<p>(i) Maximum area for each advertisement—0.2 sq metre. (ii) Illumination is permissible for purposes of warning.</p>

Regulation 10

SCHEDULE 4 (continued)

THE SPECIFIED CLASSES OF ADVERTISEMENTS DISPLAYED WITH DEEMED CONSENT

<i>Description of advertisement</i>	<i>Maximum height of letters or figures</i>	<i>Maximum height above ground level of highest part of advertisement</i>	<i>Other conditions</i>
(2) Advertisements relating to any person, partnership or company separately carrying on a profession, business, or trade at the premises where any such advertisement is displayed.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) Maximum area for each advertisement—0.3 sq metre. (ii) Limited to one advertisement in respect of each person, partnership or company or in the case of premises with entrances on different road frontages one advertisement at each of 2 such entrances. (iii) Illumination is permissible to indicate that medical services or supplies are available on the premises.
(3) Advertisements relating to any institution of a religious, educational, cultural, recreational or medical or similar character, to any hotel, inn or public house, block of flats, club, boarding-house or hostel, situated on the land on which any such advertisement is displayed.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) Maximum area for each advertisement—1.2 sq metres. (ii) Limited to one advertisement in respect of each person, partnership or company or in the case of premises with entrances on different road frontages one advertisement at each of 2 such entrances. (iii) Illumination is permissible to indicate that medical services or supplies are available on the premises.
CLASS III: Certain advertisements of a temporary nature.	0.75 metre, or 0.3 metre in an area of special control	At the lowest level at which it is reasonably practicable to display the advertisement	(i) Limited in respect of each sale or letting to one advertisement consisting of a board (whether or not attached to a building) not exceeding 2 sq metres or of 2 conjoined boards together not exceeding 2.3 sq metres. (ii) When displayed on a building not to project further than 1 metre from the face of the building. (iii) When the sale is due to start on a specified date not to be displayed earlier than 28 days before that date. (iv) To be removed within 14 days after the conclusion of the sale or letting.

Regulation 10

SCHEDULE 4 (continued)

THE SPECIFIED CLASSES OF ADVERTISEMENTS DISPLAYED WITH DEEMED CONSENT

<i>Description of advertisement</i>	<i>Maximum height of letters or figures</i>	<i>Maximum height above ground level of highest part of advertisement</i>	<i>Other conditions</i>
(2) Advertisements announcing a sale of goods or livestock, and displayed on the land where such goods or livestock are situated or where such a sale is held, not being land which is normally used, whether at regular intervals or otherwise, for the purpose of holding such sales.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) Limited to one advertisement not exceeding 1.2 sq metres at each place. (ii) When the sale is due to start on a specified date not to be displayed earlier than 28 days before that date. (iii) To be removed within 14 days after the conclusion of the sale.
(3) Advertisements relating to the carrying out of building or similar work on the land on which they are displayed, not being land which is normally used, whether at regular intervals or otherwise, for the purpose of carrying out such work.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) Limited to one advertisement not exceeding 2 sq metres on each road frontage of the land in respect of each contractor or sub-contractor carrying out such work. (ii) To be displayed only while such works are in progress.
(4) Advertisements announcing any local event of a religious, educational, cultural, social or recreational character and advertisements relating to any temporary matter in connection with an event or a local activity of such a character, not in either case being an event or a local activity promoted or carried on for commercial purposes.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) Limited to a display of advertisements occupying an area not exceeding a total of 0.6 sq metre on any site. (ii) When the event is due to start on a specified date not to be displayed earlier than 28 days before that date. (iii) To be removed within 14 days of the conclusion of the event.

Regulation 10

SCHEDULE 4 (continued)

THE SPECIFIED CLASSES OF ADVERTISEMENTS DISPLAYED WITH DEEMED CONSENT

<i>Description of advertisement</i>	<i>Maximum height of letters or figures</i>	<i>Maximum height above ground level of highest part of advertisement</i>	<i>Other conditions</i>
(5) Advertisements relating to any demonstration of agricultural methods or processes on the land on which they are displayed.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	<p>(i) Limited in respect of each demonstration to a display occupying an area not exceeding 1.2 sq metres, no one advertisement of which exceeds 0.4 sq metre.</p> <p>(ii) Maximum period of display for any demonstration to be 6 months in any period of 12 months.</p> <p>(iii) When the demonstration is due to start on a specified date, not to be displayed earlier than 28 days before that date.</p> <p>(iv) To be removed within 14 days of the conclusion of the demonstration.</p>
(6) Advertisements on hoardings enclosing, either wholly or in part, land on which building operations are taking or are about to take place and which is designated in any development plan for the time being in force primarily for commercial, industrial or business purposes.	0.75 metre	4.6 metres	<p>(i) Not to be displayed in an area of special control or a conservation area.</p> <p>(ii) The consent shall not apply to advertisements which are less than 1.5 metres in height and 1 metre in length or more than 3.1 metres in height and 6.1 metres in length.</p> <p>(iii) When building operations are due to start on a specified date not to be displayed earlier than 28 days before that event.</p> <p>(iv) Not to be displayed for more than 2 years from the date of commencement of the display.</p> <p>(v) The advertiser shall not less than 14 days before the commencement of the display notify the planning authority of the date of the commencement of the display.</p>

Regulation 10

SCHEDULE 4 (continued)

THE SPECIFIED CLASSES OF ADVERTISEMENTS DISPLAYED WITH DEEMED CONSENT

<i>Description of advertisement</i>	<i>Maximum height of letters or figures</i>	<i>Maximum height above ground level of highest part of advertisement</i>	<i>Other conditions</i>
CLASS IV:			
Advertisements on Business Premises:			
(1) Advertisements displayed on business premises wholly with reference to all or any of the following matters: the business or other activity carried on, the goods sold or services provided, and the name and qualification of the person carrying on such business or activity or manufacturing or supplying such goods or services on those premises.	0.75 metre, or 0.3 metre in an area of special control	The bottom of the first floor level of the building or the wall on which the advertisement is displayed or, if lower, 4.6 metres or 3.6 metres in an area of special control	(i) Not to be displayed on the wall of a shop unless the wall contains a shop window. (ii) Aggregate area of such advertisements on any external face of the building in an area of special control not to exceed one-twelfth of the area of that face up to a height of 3.6 metres; the area occupied by any such advertisements to be computed as if the advertisement were displayed flat against the face of the building.
(2) Advertisements displayed on any forecourt of business premises wholly with reference to all or any of the matters specified in paragraph (1) above.	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) Aggregate area of such advertisements on any forecourt not to exceed 4.5 sq metres and where a building has a forecourt on 2 or more frontages it shall be treated as having a separate forecourt on each of these frontages.
CLASS V:			
Advertisements within Buildings:			
Advertisements displayed within any building and not exempted from these regulations by virtue of regulation 3(2).	0.75 metre, or 0.3 metre in an area of special control	4.6 metres, or 3.6 metres in an area of special control	(i) When illuminated not to incorporate any moving feature or animation. (ii) Any one advertisement not to be more than 250 sq centimetres in area. (iii) Any group of such advertisements not to total more than one-tenth of the area of the door or window within which they are displayed.

Regulation 10

SCHEDULE 4 (continued)

THE SPECIFIED CLASSES OF ADVERTISEMENTS DISPLAYED WITH DEEMED CONSENT

<i>Description of advertisement</i>	<i>Maximum height of letters or figures</i>	<i>Maximum height above ground level of highest part of advertisement</i>	<i>Other conditions</i>
<p>CLASS VI:</p> <p>Illuminated Advertisements: Illuminated advertisements displayed on business premises wholly with reference to all or any of the following matters: the business or other activity carried on, goods sold or services provided and the name or names and qualifications of the person or persons carrying on such business or activity or providing such goods or services on those premises.</p>	0.75 metre	4.6 metres	<p>(i) Each character of such advertisements to be illuminated individually from within, the background to be non-illuminated.</p> <p>(ii) Not to be displayed in a conservation area or an area of special control.</p> <p>(iii) To be displayed only on the external face of business premises and parallel to that face.</p> <p>(iv) Not more than one such advertisement to be displayed on any external face of the business premises.</p> <p>(v) No part of the advertisement to be less than 2.5 metres above ground level.</p> <p>(vi) Not to incorporate any moving feature or animation or to be illuminated intermittently.</p> <p>(vii) Not to be displayed on any wall which does not contain a shop window.</p> <p>(viii) Any part of such an advertisement not to project more than 0.25 metre from the wall.</p> <p>(ix) Switches, wires or other electrical installations necessary for the purpose of illumination to be concealed as far as is reasonably practicable.</p>

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations re-enact the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1961 with amendments.

The regulations provide for the control by planning authorities of the display of advertisements. They specify certain classes of advertisements which may be displayed without express consent (subject to certain limitations and conditions and subject to the power of the planning authority to serve a notice requiring the display to be discontinued); make provision for the making of an application to the planning authority for express consent for the display of an advertisement and the granting of such consent; give power to the planning authority to revoke or modify an express consent; give power to the planning authority to enforce control of advertisements; provide for the definition by the planning authority of areas of special control; and impose limitations on the display of certain classes of advertisements in areas of special control and in conservation areas.

The following changes of substance have been made:—

- (a) in regulation 2(1) the definition of “advertisement” is enlarged to include tethered balloons and similar objects which are used or adapted for use for the display of advertisements; and a new paragraph (3) is added to regulation 2 providing that references in the regulations to the land, the building, the site or the premises on which an advertisement is displayed shall be construed in relation to an advertisement displayed on, or consisting of, a tethered balloon as a reference to the land, building, site or premises to which the balloon is attached;
- (b) regulation 3 (which specifies the categories of advertisement to which the regulations do not apply) contains new provisions relating to advertisements displayed on, or consisting of, balloons; paragraph (1)(e) exempts from the regulations advertisements displayed on, or consisting of, a tethered balloon flown at a height of more than 60 m above ground level; paragraph (3) exempts the display of one such advertisement (flown at any height) on any site for not more than 10 days in any calendar year; and paragraph (4) defines “site” for the purposes of paragraph (3). Regulation 3 also contains a new paragraph (1)(f) exempting certain small advertisements on petrol pumps and similar objects;
- (c) the following new classes have been added to the specified classes of advertisements which may be displayed without the grant of express consent:—
 - (i) certain advertisements displayed on hoardings around construction sites while construction is in progress (class III (6) of Schedule 4);
 - (ii) certain advertisements within buildings (class V of Schedule 4);
 - (iii) illuminated advertisements consisting of internally illuminated individual characters (class VI of Schedule 4);
- (d) regulation 14 introduces for the first time discontinuance procedures under which a planning authority may issue a notice requiring the

discontinuance of any advertisement displayed with deemed consent or the discontinuance of the use of a site for the display of such an advertisement. Such action may be taken if the planning authority consider it expedient in order to remedy a substantial injury to the amenity of the locality or a danger to members of the public;

- (e) the requirement that planning authorities should obtain the approval of the Secretary of State for the grant of express consent for more than 5 years has been removed (regulation 18);
- (f) the period within which an appeal against the refusal of express consent or any condition imposed on the grant of such consent can be submitted has been extended to 6 months (regulation 21);
- (g) appeals against enforcement notices are to be made to the Secretary of State rather than to the sheriff (regulation 25);
- (h) the powers of the Secretary of State to issue directions to planning authorities (regulation 28) have been reduced; he no longer has power to issue directions requiring authorities (i) to refer to him for decision particular applications for consent or any class or description of such applications; (ii) to consult in the exercise of their functions under the regulations with particular persons or classes of persons, bodies or authorities.

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