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STATUTORY INSTRUMENTS

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**1997 No. 1871 (S.137)**

**TOWN AND COUNTRY PLANNING, SCOTLAND**

**The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 1997**

<i>Made</i>	- - - -	<i>23rd July 1997</i>
<i>Laid before Parliament</i>		<i>11th August 1997</i>
<i>Coming into force</i>	- -	<i>1st September 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 30, 31 and 275(8) of the Town and Country Planning (Scotland) Act 1997<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 1997 and shall come into force on 1st September 1997.

(2) In this Order “the 1992 Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992<sup>(2)</sup>.

**Amendment of interpretation article**

2. In article 2 of the 1992 Order—

(a) after the definition of “aerodrome” insert—

““annex 1 application” and “annex 2 application” have the meanings respectively assigned to them by regulation 4 of the Environmental Assessment Regulations;”;

(b) after the definition of “dwellinghouse” insert—

““Environmental Assessment Regulations” means the Environmental Assessment (Scotland) Regulations 1988<sup>(3)</sup>

**Permitted development**

3. In article 3 of the 1992 Order—

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(1) 1997 c. 8.  
(2) S.I. 1992/223; amended by S.I. 1992/1078 and 2084, 1993/1036, 1994/1442, 2586 and 3294, and 1996/252, 1266 and 3023 and as read with Part IV of S.I. 1994/2716.  
(3) S.I. 1988/1221; amended by S.I. 1990/526, S.I. 1994/2012 and S.I. 1997/1870.

(a) after paragraph (7) insert–

“(8) Subject to paragraph (10), the permission granted by Schedule 1 shall not authorise development if, were that development the subject of an application for planning permission, that application would be–

- (a) an annex 1 application; or
- (b) an annex 2 application where the proposed development would be likely to have significant effects on the environment by virtue inter alia of its nature, size or location.

(9) Where–

- (a) a planning authority have given an opinion under regulation 7, or stated their opinion under regulation 25(1A), of the Environmental Assessment Regulations that proposed development would fall within a description mentioned in Schedule 1 to those Regulations, or within a description mentioned in Schedule 2 to those Regulations and would be likely to have significant effects on the environment, and the Secretary of State has issued no direction to the contrary under regulation 7(9A) of those Regulations; or
- (b) the Secretary of State has given or is deemed to have given a direction under regulation 7(9A) of the Environmental Assessment Regulations that proposed development would fall within a description mentioned in Schedule 1 to those Regulations, or within a description mentioned in Schedule 2 to those Regulations and would be likely to have significant effects on the environment,

the development to which that opinion or direction relates shall be treated for the purposes of paragraph (8) as development which is not permitted by this Order.

(10) Paragraph (8) does not apply to–

- (a) development which comprises or forms part of a project serving national defence purposes;
- (b) development which consists of the carrying out of drainage works to which Part V of the Environmental Assessment Regulations applies;
- (c) development which consists of the installation of an electric line (within the meaning of Part I of the Electricity Act 1989<sup>(4)</sup>) which replaces an existing line (as defined in regulation 2 of the Overhead Lines (Exemption) Regulations 1990<sup>(5)</sup>) and in respect of which consent under section 37 of that Act is not required by virtue of regulation 3(1)(e) of those Regulations; provided that, in the circumstances mentioned in paragraph (1)(a) or (b) of regulation 5 of those Regulations, the determination for the purposes of that regulation that there is not likely to be a significant adverse effect on the environment shall have been made otherwise than as mentioned in paragraph (2) of that regulation;
- (d) development for which permission is granted by Part 7, Class 26 of Part 8, Part 11, Class 39(1)(a) of Part 13, Class 58 of Part 17 or Class 64 of Part 18 of Schedule 1;
- (e) development for which permission is granted by Class 54 of Part 15, Class 59 or 60 of Part 17 or Class 63 of Part 18 of Schedule 1 provided that the development is to be carried out–
  - (i) in the case of Class 54 of Part 5 on the same land or, as the case may be, on land adjoining that land;

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(4) 1989 c. 29.

(5) S.I. 1990/2035.

- (ii) in the case of Class 59 or 60 of Part 17, on the same authorised site;
- (iii) in the case of Class 63 of Part 18, on the same premises or, as the case may be, the same ancillary mining land,  
as that on which development of any description permitted by the same Class has been carried out before 1st September 1997;
- (f) the completion of any development begun before 1st September 1997.”.

St Andrew’s House,  
Edinburgh  
23rd July 1997

*Malcolm Chisholm*  
Parliamentary Under Secretary of State, Scottish  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. It is concerned with the further implementation in Scotland of Council Directive [85/337/EEC](#) (OJ No L175, 5.7.85, p.40) on the assessment of the effects of certain public and private projects on the environment.

A new article 3(8) of the General Permitted Development Order excludes from the descriptions of development for which planning permission would otherwise be granted by article 3 any proposed development which, if it were to be the subject of a planning application, would require environmental assessment under the Environmental Assessment (Scotland) Regulations 1988. Article 3(9) provides for opinions and directions as to whether proposed development would require environmental assessment to have effect for the purposes of paragraph (8). Article 3(10) excludes certain descriptions of development from the ambit of paragraph (8).