

## SCHEDULE 3

### CLASSES OF ADVERTISEMENT FOR WHICH DEEMED CONSENT IS GRANTED

## PART 2

### INTERPRETATION

#### 1.—(1) In this Schedule—

“business premises” means any building or part of a building normally used for the purpose of any professional, commercial, or industrial undertaking, or for providing services to members of the public or of any association, and includes a public restaurant, licensed premises and a place of public entertainment, but does not include—

- (a) a building designed for use as one or more separate dwellings, unless—
  - (i) it has normally been used in each of the preceding ten years for the purpose of any professional, commercial, or industrial undertaking, or for providing services to members of the public or of any association; or
  - (ii) it has been adapted for use for any such purpose by the construction of a shop front or the making of a material alteration of a similar kind to its external appearance;
- (b) a building used as an institution of a religious, educational, cultural, recreational, or medical or similar character;
- (c) any forecourt or other land forming part of the curtilage of a building;
- (d) any fence, wall or similar screen or structure, unless it forms part of the fabric of a building;

“electronic communications apparatus” means apparatus falling within the definition of that term in paragraph 1(1) of Schedule 2 to the Telecommunications Act 1984<sup>(1)</sup>;

“electronic communications code operator” means—

- (a) a provider of an electronic communications network in whose case the electronic communications code applies by virtue of a direction given by OFCOM under section 106 of the Communications Act 2003<sup>(2)</sup>; and
- (b) a person who is treated after the commencement of that section as a person in whose case that code applies by virtue of a direction given by OFCOM<sup>(3)</sup>;

“electronic communications service” means a service falling within the definition of that term in section 32(2) of the Communications Act 2003;

“forecourt”, in relation to any building or part of a building, means an area of land (whether or not enclosed) within the curtilage of the building or part, to which the public may have access only with the permission (express or implied) of the owner; and includes any fence, wall or similar screen or structure that defines the boundaries of that area;

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

“highway land” means any land within the boundaries of a highway;

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(1) 1984 c. 12. The definition was inserted by the Communications Act 2003 (c. 21), Schedule 3, paragraph 2(2).

(2) 2003 c. 21. As to “the electronic communications code”, see section 106 of the Communications Act 2003 (“the 2003 Act”) and Schedule 2 to the Telecommunications Act 1984 (c. 12). As to “electronic communications network”, see the definition of that expression in paragraph 1(1) of Schedule 2 to the Telecommunications Act 1984, inserted by the 2003 Act, Schedule 3, paragraph 2(2). See also section 32(1) of the 2003 Act. As to “OFCOM”, see the definition in section 405(1) of the 2003 Act.

(3) See paragraph 17(1) and (2) of Schedule 18 to the Communications Act 2003.

*Status: This is the original version (as it was originally made).*

“joined boards” means boards joined at an angle, so that only one surface of each is usable for advertising;

“practitioner in human health” includes a chiropodist, chiropractor, dentist or doctor of medicine, an optician or osteopath, and a physiotherapist;

“public transport undertaking” means an undertaking engaged in the carriage of passengers in a manner similar to that of a statutory undertaking;

“retail park” means a group of 3 or more retail stores, at least one of which has a minimum internal floor area of 1,000 square metres and which—

- (a) are set apart from existing shopping centres but within an existing or proposed urban area;
- (b) sell primarily goods other than food; and
- (c) share one or more communal car parks; and

“telephone kiosk” means any kiosk, booth, acoustic hood, shelter or similar structure which is erected or installed for the purpose of housing or supporting electronic communications apparatus and at which an electronic communications service is provided (or is to be provided) by an electronic communications code operator.

(2) Where a maximum area is specified, in relation to any class in this Schedule, in the case of a double-sided advertisement, the area of one side only shall be taken into account.

**2.**—(1) The permitted levels of luminance for advertisements falling within Classes 2B, 2C, 4A, 4B or 5 are—

- (a) where the illuminated area is not more than 10 square metres, 600 candela per square metre; and
- (b) where the illuminated area is more than 10 square metres, 300 candela per square metre.

(2) In calculating an area for the purposes of paragraph (1)—

- (a) each advertisement, or in the case of a double-sided projecting advertisement, each side of the advertisement, is to be taken separately; and
- (b) no unilluminated part of the advertisement is to be taken into account.

**3.** In relation to advertisements within Class 4A or 4B, “halo illumination” means illumination of the background to the text of the advertisement, where the light source cannot be viewed directly from any angle.

**4.**—(1) For the purposes of Class 7B—

“aggregate number” means the aggregate of the number of houses constructed, in the course of construction, or proposed to be constructed, on the land concerned;

“flat” means a separate and self-contained set of premises constructed for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“house” includes a flat;

“planning permission” does not include any outline planning permission in relation to which some or all of the matters reserved for subsequent approval remain to be approved; and

“the land concerned”, in relation to any development, means—

- (a) except in a case to which sub-paragraph (2) or (3) applies, the land to which the planning permission for the development relates;
- (b) in a case to which sub-paragraph (2) applies, the land on which a particular phase of that development was or, as the case may be, is being or is about to be carried out;

- (c) in a case to which sub-paragraph (3) applies, the part of the land to which the permission relates on which a person has carried out part of that development, or, as the case may be, is carrying it out or is about to carry it out.
  - (2) Subject to sub-paragraph (3), this sub-paragraph applies where the development is carried out in phases.
  - (3) This sub-paragraph applies where the development is carried out by two or more persons who each carry out part of it on a discrete part of the land to which the planning permission relates (whether the whole of the development or any part of it is carried out in phases or otherwise).
5. For the purposes of Class 15, “the 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 to which the balloon is attached for a particular activity (other than the display of advertisements) for a temporary period, the whole of the land used, or to be used, for that activity;
  - (b) in any other case, the land to which the balloon is attached and all land normally occupied with it.