
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 189

TOWN AND COUNTRY PLANNING

The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017

| | | |
|--|---------|-----------------------|
| <i>Made</i> | - - - - | <i>31st May 2017</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>2nd June 2017</i> |
| <i>Coming into force</i> | - - | <i>31st July 2017</i> |

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997(1) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017 and comes into force on 31st July 2017.

Application

2.—(1) The amendments made by articles 4 to 6 do not apply to development begun before 31st July 2017.

(2) For the purposes of this article development is to be taken to be begun on the earliest date on which any material operation (within the meaning of section 27(4) of the Town and Country Planning (Scotland) Act 1997) comprised in the development begins to be carried out.

Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

3. The Town and Country Planning (General Permitted Development) (Scotland) Order 1992(2) is amended in accordance with articles 4 to 6.

(1) 1997 c.8. Section 275 was relevantly amended by paragraph 32 of schedule 3 of the Regulatory Reform (Scotland) Act 2014 (asp 3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.I. 1992/223.

4. In article 2(1) (interpretation), at the end of paragraph (d) of the definition of “European site” insert “or Article 4(1) or (2) of [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds⁽³⁾”.

5. After article 7 insert—

“Notification of an application for a determination under class 67

7ZA.—(1) A planning authority must give written notice in accordance with this article that an application has been submitted under sub-paragraph (23)(b) of class 67 (development by electronic communications code operators) of schedule 1.

(2) Notice under paragraph (1) is to be given where there are premises situated on neighbouring land to which the notice can be sent to the owner, lessee or occupier of such premises, by sending a notice addressed to “the Owner, Lessee or Occupier” to such premises.

(3) The notice under paragraph (1) must—

- (a) state the date on which the notice is sent;
- (b) state the name of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent;
- (c) include any reference number given to the application by the planning authority;
- (d) include a description of the development to which the application relates;
- (e) include the postal address of the land to which the application relates, or if the land has no postal address, a description of the location of the land;
- (f) state how the application and other documents submitted in connection with it may be inspected;
- (g) state that representations may be made to the planning authority with regard to the siting and appearance of the development and include information as to how representations may be made and the period within which they may be made (which must be not less than 14 days beginning with the day after the day on which the notice is sent); and
- (h) be accompanied by a plan showing the situation of the land to which the application relates in relation to neighbouring land.

(4) In this article “neighbouring land” has the same meaning as in article 7A(4)(4).

7ZB. When a planning authority is in receipt of an application submitted under sub-paragraph (23)(b) of class 67 of schedule 1 in respect of development which would be located within Cairngorms National Park they must give written notice of the application to Cairngorms National Park Authority within a period of 5 days beginning with the date on which the planning authority is in receipt of an application which conforms to all of the requirements of sub-paragraph (23)(c).

7ZC. When a planning authority is in receipt of an application submitted under sub-paragraph (23)(b) of class 67 of schedule 1 which conforms to all of the requirements of sub-paragraph (23)(c) they must until such time as they have determined the application—

- (a) publish the information described in article 7ZA(3)(b) to (g) by means of the internet on their website; and
- (b) make the application available for inspection at an office of the planning authority.

(3) OJ L 20, 26.1.2010, p.7.

(4) Article 7A was inserted by [S.S.I. 2011/357](#).

7ZD. Before determining an application submitted under sub-paragraph (23)(b) of class 67 of schedule 1 a planning authority must—

- (a) by notice in writing consult—
 - (i) Scottish Natural Heritage—
 - (aa) where the development to which the application relates may affect a site of special scientific interest;
 - (bb) where the development would be located in a national scenic area and would exceed 12 metres in height;
 - (ii) Historic Environment Scotland in the circumstances specified in paragraph 17 of schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013⁽⁵⁾;
 - (iii) where the development would be located within 3 kilometres of the perimeter of an aerodrome, the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator, as appropriate;
- (b) notify any authority, person or body required to be consulted under paragraph (a) of the period within which representations may be made (which must be a period of not less than 14 days beginning with the day after the day on which the notice is sent); and
- (c) allow the period notified under paragraph (b) to elapse.

7ZE. When determining an application submitted under sub-paragraph (23)(b) of class 67 of schedule 1 a planning authority must take into account any representations they receive before the expiry of the period notified under article 7ZD(b).”

- 6.** In schedule 1 (classes of permitted development)—
- (a) in sub-paragraph (2)(f) of class 2B (alterations to dwellinghouses) of Part 1⁽⁶⁾, after “6H(1)” insert “, 67(1)”;
 - (b) in sub-paragraph (2)(h) of class 4A (alterations to flats) of Part 1ZA⁽⁷⁾, after “6H(1)” insert “, 67(1)”;
 - (c) in sub-paragraph (2)(d) of class 6H of Part 1A⁽⁸⁾ for “the air” substitute “if the air”; and
 - (d) for Part 20 (development by telecommunications code system operators)⁽⁹⁾ substitute—

“PART 20

DEVELOPMENT BY ELECTRONIC COMMUNICATIONS CODE OPERATORS

Class

67.—(1) Development by or on behalf of an electronic communications code operator for the purpose of the operator’s electronic communications network in, on, over or under land controlled by the operator or in accordance with the electronic communications code, consisting of—

(5) S.S.I. 2013/155. Paragraph 17 was inserted by S.S.I. 2015/237.

(6) Part 1 was substituted by S.S.I. 2011/357.

(7) Part 1ZA was inserted by S.S.I. 2011/357.

(8) Class 6H was substituted by S.S.I. 2016/126. Part 1A was inserted by S.S.I. 2009/34.

(9) Class 67 was amended by S.S.I. 2001/266, S.S.I. 2003/2155, S.S.I. 2011/357 and S.S.I. 2014/142.

- (a) **the construction, installation, alteration or replacement of any apparatus;**
- (b) **the use of land in an emergency for a period not exceeding 18 months to station and operate moveable apparatus required for the replacement of unserviceable apparatus, including the provision of moveable structures on land for the purposes of that use; or**
- (c) **development involving the construction, installation, alteration or replacement of structures, equipment or means of access which are ancillary to and reasonably required for the construction, installation, alteration, replacement or use of equipment housing.**

Development not permitted: national scenic areas etc.

(2) Development is not permitted by sub-paragraph (1)(a) or (c) if it would be located in a national scenic area, National Park, conservation area, historic garden or designed landscape, site of special scientific interest, historic battlefield, European Site or World Heritage Site, or within the setting of a category A listed building or a scheduled monument, unless the development—

- (a) would not be located in a conservation area and would consist of the installation, alteration or replacement of a small cell system on a building or other structure;
- (b) would be located in a conservation area and—
 - (i) would be on a building or other structure (other than a dwellinghouse or a building within the curtilage of a dwellinghouse) and would consist of—
 - (aa) the installation of a small antenna and would result in there being no more than two small antennas on the building or other structure;
 - (bb) the replacement or alteration of a small antenna and would result in there being no more than two small antennas on the building or other structure or, if greater, the number of small antennas present on the building or other structure before alteration or replacement of the small antenna; or
 - (ii) would be on a dwellinghouse or within the curtilage of a dwellinghouse and would consist of—
 - (aa) the installation of a small antenna and the number of small antennas on the dwellinghouse and within its curtilage when added together would not exceed two;
 - (bb) the replacement or alteration of a small antenna and the number of small antennas on the dwellinghouse and within its curtilage when added together would not exceed two or, if greater, the number of small antennas present before alteration or replacement of the small antenna;
- (c) would consist of the installation, alteration or replacement of a small antenna on a dwellinghouse or within the curtilage of a dwellinghouse and—

- (i) the highest part of the antenna would not be higher than the highest part of the roof of any dwellinghouse on which it would be installed;
- (ii) if located in a conservation area would be on a part of the dwellinghouse, or within a part of the curtilage of a dwellinghouse, which does not front a road;
- (d) is carried out in an emergency;
- (e) would consist of the installation, alteration or replacement of telegraph poles or the installation of overhead lines on telegraph poles, or would be ancillary to such development;
- (f) would consist of the installation, replacement or alteration of a link antenna and the height of the structure to which the satellite antenna would be attached would not exceed 4 metres;
- (g) would be development permitted by virtue of sub-paragraph (4) or would be ancillary to such development;
- (h) would be development other than development permitted by heads (a) to (g) and it would consist of the alteration or replacement of apparatus and—
 - (i) the dimensions of the apparatus would be the same, or smaller than, the dimensions of the apparatus being altered or replaced;
 - (ii) the apparatus would be in the same, or substantially the same, location as the apparatus being altered or replaced; and
 - (iii) no more items of apparatus would be present than were present before alteration or replacement.

Development not permitted: ground based apparatus

(3) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction or installation of a ground based mast of a height, calculated in accordance with head (b), which would exceed 25 metres.

- (b) The height of the mast is to be calculated by—
 - (i) adding together the height of—
 - (aa) the mast;
 - (bb) any apparatus attached to the mast; and
 - (cc) any plinth or other structure required for the purpose of supporting the mast; and
 - (ii) deducting from that sum the height of any antenna attached to the mast to the extent that it protrudes above the highest part of the mast.

(4) Development is not permitted by sub-paragraph (1)(a) if it would consist of the alteration or replacement of a ground based mast—

- (i) not exceeding 20 metres in height where the height of the mast as altered or replaced would exceed—
 - (aa) a height calculated by adding together the height of the original mast and 7 metres; or
 - (bb) a height of 25 metres if the height calculated under head (aa) would exceed 25 metres;

- (ii) exceeding 20 metres in height but not exceeding 50 metres where the height of the mast as altered or replaced would exceed the height of the original mast by more than 5 metres;
 - (iii) exceeding 50 metres in height where the height of the mast as altered or replaced would exceed a figure calculated by adding 15% to the height of the original mast;
 - (iv) and, in the case of an increase in the width of a mast, the increase would exceed one metre or, if greater, one third of the width of the original mast;
 - (v) and, in the case of the replacement of a mast, the replacement mast would be situated more than 6 metres from the location of the original mast.
- (b) For the purposes of this sub-paragraph—
- (i) the height of a ground based mast is to be calculated by adding together the height of—
 - (aa) the mast;
 - (bb) any apparatus attached to the mast (other than an antenna); and
 - (cc) any plinth or other structure required for the purpose of supporting the mast;
 - (ii) the width of a ground based mast is to be calculated by adding together the width of—
 - (aa) the mast; and
 - (bb) any apparatus attached to the mast (other than an antenna),

and the measurements are to be taken at the highest or, as the case may be, widest point of the mast or apparatus.
- (5) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction or installation of ground based equipment housing and would exceed 3 metres in height or 90 cubic metres in volume.
- (6) Development is not permitted by sub-paragraph (1)(a) if it would consist of the alteration or replacement of ground based equipment housing which would result in the equipment housing exceeding—
- (a) 3 metres in height or, if greater, the height of the equipment housing before alteration or replacement; or
 - (b) 90 cubic metres in volume or, if greater, the volume of the equipment housing before alteration or replacement.
- (7) Development is not permitted by sub-paragraph (1)(a) if it would consist of—
- (i) the construction, installation, alteration or replacement of ground based apparatus where the ground or base area of the development would exceed 1.5 square metres or, in the case of alteration or replacement of apparatus and if greater, the ground or base area of the apparatus before alteration or replacement, unless it would be—
 - (aa) a public call box;
 - (bb) apparatus which does not project above the surface of the ground;
 - (cc) equipment housing; or

- (dd) an antenna;
- (ii) the construction or installation of ground based apparatus and the apparatus would exceed a height of 15 metres;
- (iii) the alteration or replacement of ground based apparatus and would result in the apparatus exceeding the height of the apparatus before alteration or replacement or, if greater, a height of 15 metres.
- (b) In this sub-paragraph “ground based apparatus” does not include a ground based mast and in heads (ii) and (iii) does not include equipment housing.

Development not permitted: building based apparatus

(8) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction or installation on a building of equipment housing and the equipment housing would exceed 3 metres in height or 30 cubic metres in volume.

(9) Development is not permitted by sub-paragraph (1)(a) if it would consist of the alteration or replacement of equipment housing on a building and the equipment housing would exceed—

- (a) 3 metres in height or, if greater, the height of the equipment housing before alteration or replacement; or
- (b) 30 cubic metres in volume or, if greater, the volume of the equipment housing before alteration or replacement.

(10) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction, installation, alteration or replacement of apparatus on a building (other than a ground based mast) and—

- (a) the height of the apparatus would exceed—
 - (i) 10 metres; or
 - (ii) in the case of alteration or replacement, the height of the apparatus before alteration or replacement, if greater;
- (b) the apparatus would protrude above the highest part of the building by —
 - (i) 8 metres in the case of a building which is 15 metres or more in height;
 - (ii) 6 metres in the case of a building which is below 15 metres in height; or
 - (iii) in the case of alteration or replacement, the distance by which the apparatus would protrude above the highest part of the building before alteration or replacement, if greater than the height calculated under head (i) or (ii), as the case may be.

(11) Development is not permitted by sub-paragraph (1)(a) if it would consist of the installation, alteration or replacement of an antenna (other than a small cell system or small antenna) on a building (other than a ground based mast), and the whole of the antenna would be located below a height of 15 metres above ground level and—

- (a) in the case of—
 - (i) installation of a dish antenna, the size of the dish would exceed 0.9 metres, or the aggregate size of all dish antennas on the building would exceed 4.5 metres, when measured in any dimension;

- (ii) alteration or replacement of a dish antenna—
 - (aa) the size of the dish as altered or replaced would exceed 0.9 metres or the aggregate size of all dishes on the building would exceed 4.5 metres when measured in any dimension; or
 - (bb) the size of the dish as altered or replaced would when measured in any dimension exceed the size of the dish, or the aggregate size of all the dishes on the building, before alteration or replacement if greater than 0.9 metres or 4.5 metres as the case may be;

- (b) in the case of—
 - (i) installation of an antenna other than a dish antenna there would be more than 4 antenna systems on the building;
 - (ii) alteration or replacement of an antenna other than a dish antenna, there would be more than the number of antenna systems on the building before alteration or replacement if greater than 4.

(12) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction, installation, alteration or replacement of an antenna (other than a small cell system or small antenna) on a building (other than a ground based mast), and the whole of the antenna would be located above a height of 15 metres above ground level and—

- (a) in the case of—
 - (i) installation of a dish antenna the size of the dish would exceed 1.3 metres or the aggregate size of all dish antennas on the building would exceed 10 metres when measured in any dimension;
 - (ii) alteration or replacement of a dish antenna—
 - (aa) the size of the dish as altered or replaced would exceed 1.3 metres or the aggregate size of all dishes on the building would exceed 10 metres when measured in any dimension; or
 - (bb) the size of the dish as altered or replaced would when measured in any dimension exceed the size of the dish, or the aggregate size of all the dishes on the building, before alteration or replacement if greater than 1.3 metres or 10 metres as the case may be;

- (b) in the case of—
 - (i) installation of an antenna other than a dish antenna there would be more than 5 antenna systems on the building;
 - (ii) alteration or replacement of an antenna other than a dish antenna there would be more than the number of antenna systems on the building before alteration or replacement if greater than 5.

Development not permitted: small antennas on dwellinghouses

(13) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction, installation, alteration or replacement of apparatus on a dwellinghouse or within the curtilage of a dwellinghouse unless the apparatus would be a small antenna and—

- (a) the number of small antennas on the dwellinghouse or within the curtilage of the dwellinghouse would not, when added together, exceed 4; and
- (b) the highest part of the antenna would not be higher than the highest part of the roof of the dwellinghouse on which it would be located.

Development not permitted: access tracks

(14) Development is not permitted by sub-paragraph (1)(c) if it would consist of the construction of an access track of more than 50 metres in length.

Conditions

(15) Development under sub-paragraph (1)(a) consisting of—

- (i) the construction or installation of one or more antennas or of equipment housing; or
- (ii) the alteration or replacement of a ground based mast,

is permitted subject to the condition that the developer must give written notice to the planning authority of the intention to carry out the development at least 28 days before development is to commence, but this condition does not apply to development to which the conditions in sub-paragraphs (17) or (23) apply.

(b) The notice to be given under head (a) must include—

- (i) a detailed description of the development;
- (ii) a plan showing the location of the development; and
- (iii) in the case of development consisting of the installation of one or more antennas, an ICNIRP declaration.

(16) Development under sub-paragraph (1)(a) or (c) consisting of the alteration of a ground based mast which would result in an increase in the height of the mast, or consisting of the replacement of a ground based mast, on land within a safeguarding area identified on a safeguarding map relating to an aerodrome, technical site, meteorological technical site or military explosives storage area is permitted subject to the condition that the developer must give written notice—

- (i) in relation to a safeguarding map issued by the Civil Aviation Authority, to the owner or operator of the aerodrome or technical site identified on the safeguarding map;
- (ii) in relation to a safeguarding map issued by the Secretary of State for Defence, to the Secretary of State for Defence; and
- (ii) in relation to a safeguarding map issued by the Met Office, to the Met Office.

(b) The notice to be given under head (a) must—

(i) include—

- (aa) the information referred to in sub-paragraph 22(c)(i) to (iv) and a grid reference (to at least 6 figures each of Eastings and Northings) and the elevation height of the site (to an accuracy of 0.25 metres above Ordnance Datum); and
- (bb) where development is carried out in an emergency, the date development commenced or is to commence;

(ii) be given—

- (aa) at least 28 days before development is to commence; or

(bb) where development is carried out in an emergency, as soon as possible after the emergency arises.

(17) Development under sub-paragraph (1)(a) or (c) which is carried out in an emergency, or development under sub-paragraph (1)(b), is permitted subject to the condition that the developer must, as soon as possible after the emergency arises, give written notice to the planning authority containing the information, plan and declaration referred to in sub-paragraph (15)(b) and the date when development commenced or is to commence.

(18) Development under sub-paragraph (1)(a) or (c) is permitted subject to the condition that if the development is on a building (other than a ground based mast) it must, so far as is practicable, be sited so as to minimise the effect of the development on the external appearance of the building.

(19) Development under sub-paragraph (1)(a) or (c) consisting of the alteration or replacement of a ground based mast (including the installation of apparatus on the mast), is permitted subject to the condition that the visual and environmental impact of the development must be minimised, so far as is practicable.

(20) Development under sub-paragraph (1)(a) or (c) is permitted subject to the following conditions:—

- (a) it must be removed from the land on which it is situated—
 - (i) if it was carried out in an emergency, 18 months from development commencing or, if earlier, when the need for that development ceases; or
 - (ii) in any other case, as soon as it is no longer needed for electronic communication purposes; and
- (b) the land must be restored to its condition before the development took place, or to any other condition as may be agreed in writing with the planning authority.

(21) Development under sub-paragraph (1)(b) is permitted subject to the condition that when the period of 18 months referred to in sub-paragraph (1)(b) expires or, if earlier, when the need for the development ends, it must be removed from the land and the land must be restored to its condition before the development took place, or to any other condition as may be agreed in writing with the planning authority.

(22) Development under sub-paragraph (1)(a) or (c) which is described in sub-paragraph (23) is permitted subject to the conditions in this sub-paragraph.

- (b) The developer must before submitting an application under sub-paragraph (23)(b) give written notice of the proposed development containing the information referred to in head (c) to—
 - (i) any person (other than the developer) who is an owner of the land on which the development would be located; and
 - (ii) any agricultural tenant of the land on which the development would be located.
- (c) The notice must contain—
 - (i) the date on which the notice is sent;
 - (ii) the name and address of the developer and, where an agent is acting on behalf of the developer, the name and address of that agent;

- (iii) the postal address of the land to which the development relates or, if the land has no postal address, a description of the location of the land;
 - (iv) a description of the development to which the notice relates, including its siting, appearance and dimensions (including the height of any mast and the height of any apparatus attached to the mast to the extent that it would protrude above the highest part of the mast);
 - (v) a statement that the developer is to apply to the planning authority in whose area the land to which the development relates would be located for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development;
 - (vi) the name and address of the planning authority to which the application referred to in head (v) is to be made;
 - (vii) a statement that the application will be available for public inspection at the offices of the planning authority;
 - (viii) a statement that written representations may be made to the planning authority with regard to the siting and appearance of the development; and
 - (ix) information as to how representations may be made and the period within which they may be made, being a period of 21 days beginning on the day after the day on which the notice is sent.
- (d) Where the development would be on land within a safeguarding area identified on a safeguarding map relating to an aerodrome, technical site, meteorological technical site or military explosives storage area the developer must before submitting an application under sub-paragraph (23)(b) give written notice of the proposed development containing the information referred to in head (c), a grid reference (to at least 6 figures each of Eastings and Northings) and the elevation height of the site (to an accuracy of 0.25 metres above Ordnance Datum)—
- (aa) in relation to a safeguarding map issued by the Civil Aviation Authority, to the owner or operator of the aerodrome or technical site identified on the safeguarding map;
 - (bb) in relation to a safeguarding map issued by the Secretary of State for Defence, to the Secretary of State for Defence; and
 - (cc) in relation to a safeguarding map issued by the Met Office, to the Met Office.
- (23) Development under sub-paragraph (1)(a) or (c) which would—
- (i) consist of the construction or installation of a ground based mast; or
 - (ii) be associated with the construction or installation of that mast and would—
 - (aa) consist of the construction or installation of apparatus; or
 - (bb) be development ancillary to the construction, installation or use of equipment housing,
- is permitted subject to the conditions in this sub-paragraph, but the conditions do not apply to development carried out in an emergency or development consisting

of the installation of a link antenna if the height of the structure on which the satellite antenna would be installed would not exceed 4 metres.

- (b) Before commencing development the developer must submit an application, which complies with head (c), to the planning authority in whose area the land to which the development relates would be located for a determination as to whether the prior approval of the planning authority is required in respect of the siting and appearance of the development.
- (c) The application must—
 - (i) contain—
 - (aa) the name and address of the developer and, where an agent is acting on behalf of the developer, the name and address of that agent;
 - (bb) a description of the development to which the application relates, including its siting, appearance and dimensions (including the height of any mast and the height of any apparatus attached to the mast to the extent that it would protrude above the highest part of the mast); and
 - (cc) the postal address of the land to which the development relates or, if the the land has no postal address, a description of the location of the land; and
 - (ii) be accompanied by—
 - (aa) a plan sufficient to identify the land on which the development would be located and showing the situation of that land in relation to neighbouring land;
 - (bb) other plans and drawings which are necessary to describe the development to which the application relates, showing in particular the dimensions, appearance and position of development on the site;
 - (cc) where the application relates to an antenna, an ICNIRP declaration;
 - (dd) any fee required to be paid; and
 - (ee) evidence of compliance with sub-paragraph (22)(b) and (d) where relevant.
- (d) The development described in the application made under head (b) may not commence before the occurrence of one of the following events:—
 - (i) the receipt by the developer of written notice from the planning authority indicating that prior approval is not required;
 - (ii) where the planning authority gives the developer written notice that prior approval is required—
 - (aa) the giving of that approval in writing within a period of 56 days beginning with the date of receipt of the application or such longer period as is agreed in writing with the planning authority;
 - (bb) the expiry of a period of 56 days beginning with the date on which the planning authority receives the application, or such longer period as is agreed with the planning

- authority, without the planning authority notifying the developer in writing that approval is given or refused; or
- (iii) the expiry of the period of 56 days beginning with the date on which the planning authority receives the application, or such longer period as is agreed in writing with the planning authority, without the planning authority notifying the developer in writing of their determination as to whether prior approval is required.
- (e) Where the Cairngorm National Park Authority issues a direction in exercise of its powers under article 7(3) of the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003⁽¹⁰⁾ in respect of an application made under head (b) the period of 56 days, or such longer period as is agreed in writing with the Authority, begins with the date the direction was issued.
- (f) Development which is the subject of an application under head (b) must, unless the planning authority otherwise agree in writing, be carried out—
- (i) to the extent to which prior approval is granted, in accordance with the approved details; and
 - (ii) in any other case, in accordance with the details submitted with the application.
- (g) Development which is the subject of an application under head (b) is to commence—
- (i) where approval is granted, within a period of 3 years beginning on the date on which the planning authority approves the details; and
 - (ii) in any other case, within a period of 3 years beginning with the date on which the planning authority receives the application.

Interpretation

(24) In this Part—

“the 2003 Act” means the Communications Act 2003⁽¹¹⁾;

“antenna system” means a set of antennas installed on a building or other structure and operated in accordance with the electronic communications code;

“apparatus” means electronic communications apparatus;

“electronic communications apparatus”, “electronic communications code”, “electronic communications network” and “electronic communications service” have the same meaning as in the 2003 Act;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106(3)(a) of the 2003 Act;

“ground based mast” means a mast constructed or installed on the ground either directly or on a plinth or other structure constructed or installed for the purpose of supporting the mast;

“ICNIRP declaration” means a declaration by the developer that the antenna is designed to be in full compliance with the requirements of the radio

⁽¹⁰⁾ S.S.I. 2003/1.

⁽¹¹⁾ 2003 c.21.

frequency public exposure guidelines of the International Commission on Non-Ionising Radiation Protection, as expressed in EU Council recommendation of 12th July 1999 (1999/519/EC, OJ L 1999, 30.7.1999) on the limitation of exposure of the general public to electromagnetic fields (0Hz to 300GHz)(12);

“land controlled by the operator” means land occupied by the operator in respect of which, under the Lands Clauses Acts, the operator would be enabled to sell the land to the promoters of an undertaking or the operator holds a lease granted for a term of no fewer than 10 years;

“link antenna” means a satellite antenna together with the structure on which it is installed and apparatus which is ancillary to the satellite antenna, where the satellite antenna is used in connection with an existing ground based mast and—

- (a) the satellite antenna is installed on a structure other than the existing ground based mast; and
- (b) the link antenna is located in a compound specified in a grant of planning permission, or in a grant of prior approval issued by virtue of sub-paragraph (23), for the construction or installation of the existing ground based mast;

“mast” means a structure erected by or on behalf of an electronic communications code operator for the support of one or more antennas and includes any mast, pole, tower or other similar structure;

“neighbouring land” means an area or plot of land which, or part of which, is conterminous with, or within 20 metres of the boundary of, the land on which development which is the subject of an application submitted under sub-paragraph (23)(b) is located;

“original mast” means a mast as it is first constructed or installed and includes any apparatus attached to the mast at that time (other than an antenna) and any plinth or other structure to which it was attached at that time;

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

“small antenna” means an antenna which—

- (a) operates on a point to multi-point basis or area basis in connection with an electronic communications service;
- (b) may be described as a femtocell, picocell, metrocell or microcell antenna;
- (c) has, in two-dimensional measurement, a surface area of 5,000 square centimetres or less; and
- (d) has a volume of 50,000 cubic centimetres or less,

and any calculation for the purposes of heads (c) and (d) is to include any power supply unit or casing, but is not to include any mounting, fixing, bracket or other support structure;

“small cell system” means a small antenna and any apparatus which is ancillary to that antenna;

“World Heritage Site” means land appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage adopted at Paris on 16th November 1972**(13)**.

- (b) Expressions used in sub-paragraphs (16) and (22)(d) which are used in the Town and Country Planning (Safeguarded Aerodromes, Technical Sites, Meteorological Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2016**(14)** have the same meaning in sub-paragraphs (16) and (22)(d) as they have in that Direction.
- (c) For the purposes of sub-paragraph (1)(c), development which is ancillary to and reasonably required for the construction, installation, alteration, replacement or use of equipment housing includes security equipment, perimeter walls, fences, handrails, steps and ramps, other than on land within a site of special scientific interest.”.

St Andrew’s House,Edinburgh
31st May 2017

KEVIN STEWART
Authorised to sign by the Scottish Ministers

(13) UNESCO World Heritage Centre - World Heritage List.

(14) ISBN 0-7559-2311-1. 23rd March 2016 version. Planning Circular 2 2003 - Scottish Planning Series: Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2003.

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (“the 1992 Order”). The 1992 Order grants planning permission for classes of development described in schedule 1 of that Order.

Article 4 updates the definition of “European site” in article 2(1) of the 1992 Order.

Article 5 of this Order inserts new articles 7ZA to 7ZE into the 1992 Order. Those articles impose obligations on planning authorities with regard to applications by electronic communications code operators for a determination as to whether prior approval is required with regard to the siting and appearance of new ground based masts.

Article 6 of this Order inserts a new class 67 into schedule 1 of the 1992 Order. Class 67 grants permitted development rights for development by electronic communications code operators so that they do not have to submit applications for planning permission for certain development. The permitted development rights are subject to limitations and conditions. Article 6 also makes minor amendments to other classes of schedule 1 of the 1992 Order.