

**2003 No. 98**

**PLANNING**

**Planning (General Development) (Amendment) Order  
(Northern Ireland) 2003**

*Made* - - - - - *25th February 2003*

*Coming into operation* *26th March 2003*

The Department of the Environment, in exercise of the powers conferred by Article 13 of the Planning (Northern Ireland) Order 1991<sup>(a)</sup> and of all other powers enabling it in that behalf, hereby makes the following Order:

**Citation and commencement**

**1.** This Order may be cited as the Planning (General Development) (Amendment) Order (Northern Ireland) 2003 and shall come into operation on 26th March 2003.

**Amendment of the Planning (General Development) Order (Northern Ireland) 1993**

**2.** For Part 17 of Schedule 1 to the Planning (General Development) Order (Northern Ireland) 1993<sup>(b)</sup> substitute Part 17 as set out in the Schedule to this Order.

Sealed with the Official Seal of the Department of the Environment on 25th February 2003.

(L.S.)

*John McConnell*

A senior officer of the Department of the Environment

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<sup>(a)</sup> S.I. 1991/1220 (N.I. 11)

<sup>(b)</sup> S.R. 1993 No. 278 as amended by S.R. 1998 No. 222; S.R. 1999 No. 73; S.R. 2000 No. 113 and S.R. 2002 No. 195

## SCHEDULE

Article 2

### SUBSTITUTION FOR PART 17 OF SCHEDULE 1 TO THE PLANNING (GENERAL DEVELOPMENT) ORDER (NORTHERN IRELAND) 1993

#### “PART 17

##### DEVELOPMENT BY TELECOMMUNICATIONS CODE SYSTEM OPERATORS

###### **Class A**

###### **Permitted Development**

**A. Development by or on behalf of a telecommunications code system operator for the purpose of the operator’s telecommunications system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of the installation, alteration or replacement of any telecommunications apparatus or development ancillary to equipment housing.**

###### *Development not permitted*

A.1 Development is not permitted by this Class if –

- (a) it is to be carried out in a conservation area, an area of outstanding natural beauty, an area of special scientific interest, a National Park, or on a listed building: –
  - (i) unless it involves the installation, alteration or replacement of any underground apparatus; or
  - (ii) unless it involves the installation of new overhead lines supported by existing poles.
- (b) the land is within a site of archaeological interest unless it involves the installation of new overhead lines supported by existing poles.
- (c) it involves the installation, alteration or replacement of a mast or the installation, alteration or replacement of an antenna, structure, or other apparatus including equipment housing associated with a mast.
- (d) it involves the installation, alteration or replacement of an antenna not included in (c) or the installation, alteration or replacement of other apparatus including equipment housing associated with such an antenna.
- (e) it involves the installation, alteration or replacement of ground based equipment housing exceeding 90 cubic metres or, if located on a roof of a building, it would exceed 30 cubic metres.
- (f) in the case of the installation, alteration or replacement of any apparatus other than –
  - (i) a public call box;
  - (ii) any apparatus which does not project above the surface of the ground; or
  - (iii) equipment housing,the ground or base area of the structure would exceed 1.5 square metres.

###### *Conditions*

A.2 (1) Class A development is permitted subject to the condition that any equipment housing or development ancillary to equipment housing installed, altered or replaced on a building in accordance with that permission shall, so far as is practicable, be sited so as to minimise its effect on the external appearance of the building.

(2) Class A development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission shall be removed from the land, building or structure on which it is situated as soon as reasonably practicable after it is no longer required for telecommunications purposes.

###### **Class B Permitted Development**

**B. Development by or on behalf of a telecommunications code system operator for the purpose of the operator’s telecommunications system in, on, over or under land controlled by that operator or in accordance with his licence, consisting of the use of land in an emergency for a period not exceeding 6 months to station and operate moveable telecommunications apparatus required for the replacement of unserviceable telecommunications apparatus,**

**including the provision of moveable structures on the land for the purposes of that use.**

- Conditions*      B.1      (1) Development is permitted by Class B subject to the condition that the operator gives written notice of the development to the Department as soon as possible after the emergency begins, and in any case not later than 3 days thereafter.
- (2) Development is permitted by Class B subject to the condition that any apparatus or structure provided in accordance with that permission, shall –
- (i) be located as close as operationally practicable to the existing unserviceable telecommunications apparatus;
  - (ii) where operationally practicable, not exceed the height of the existing telecommunications apparatus; and
  - (iii) at the expiry of the relevant period be removed from the land and the land restored to its condition before the development took place.

*Interpretation of Part 17*      For the purposes of Part 17 –

“the 1984 Act” means the Telecommunications Act 1984;

“development ancillary to equipment housing” means the construction, installation, alteration or replacement of structures, equipment or means of access which are ancillary to and reasonably required for the purposes of equipment housing;

“development in accordance with a licence” means development carried out by an operator in pursuance of a right conferred on that operator under the telecommunications code, and in accordance with any conditions relating to the application of that code imposed by the terms of his licence;

“land controlled by an operator” means land occupied by the operator in right of a freehold interest or a leasehold interest under a lease granted for a term not less than 10 years;

“mast” means a structure erected by or on behalf of a telecommunications code system operator for the support or housing of one or more antennae including a mast, pole, tower or other structure;

“relevant period” means a period which expires –

- (a) 6 months from the commencement of the use permitted by Class B;
- or
- (b) when the need for such use shall cease,

whichever occurs first;

“telecommunications apparatus” means any apparatus falling within the definition of that term in paragraph 1 of Schedule 2 to the 1984 Act;

“telecommunications code” means the code contained within Schedule 2 to the 1984 Act;

“telecommunications code system operator” means a person who has been granted a licence under section 7 of the 1984 Act which applies the telecommunications code to him in pursuance of section 10 of that Act;

“telecommunications system” has the meaning assigned to that term by section 4(1) of the 1984 Act.”.

## EXPLANATORY NOTE

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

This Order substitutes a new Part 17 of Schedule 1 to the Planning (General Development) Order (Northern Ireland) 1993 for the present Part 17.

Part 17 Class A details certain development which may be carried out on land controlled by the operator or in accordance with his licence. It specifically excludes any permitted development rights in relation to the installation, alteration or replacement of a telecommunications mast or associated apparatus.

Part 17 Class B allows for the emergency use of land for up to 6 months to provide replacement moveable apparatus in place of unserviceable apparatus.

Development permitted by Part 17 is granted planning permission subject to and by the above-noted Order (Article 3 thereof).

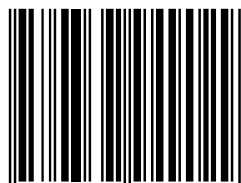
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