

**2020 No. 437**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (General Permitted  
Development and Use Classes) (Scotland) Amendment Order  
2020**

*Made* - - - - *16th December 2020*

*Laid before the Scottish Parliament* *18th December 2020*

*Coming into force* - - *1st April 2021*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 26(2)(f), 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997(a) 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 and Use Classes) (Scotland) Amendment Order 2020 and comes into force on 1 April 2021.

**Application**

2.—(1) The amendments made by this Order do not apply to development begun before 1 April 2021.

(2) For the purposes of paragraph (1) 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(b) is amended in accordance with articles 4 to 15.

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(a) 1997 c.8. Section 275 was relevantly amended by section 54(16) of the Planning etc. (Scotland) Act 2006 (asp 17) and paragraph 32 of schedule 3 of the Regulatory Reform (Scotland) Act 2014 (asp 3). There are amendments to section 30 which are not relevant to the changes made by this Order. 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).

(b) S.I. 1992/223 which has been relevantly amended by S.S.I. 2011/377, S.S.I. 2014/142 and S.S.I. 2020/129.

## Amendment of article 2

### 4. In article 2(1) (interpretation)—

- (a) after the definition of “contravention of previous planning control” insert—
  - ““croft land” has the meaning given in section 12(3) of the Crofters (Scotland) Act 1993(a),”
- (b) after the definition of “microwave antenna” insert—
  - ““military explosives storage area” means any area, including an aerodrome, depot, mooring or port, at which the storage of military explosives may be undertaken and for which the associated explosives safeguarding zone is identified on a safeguarding map, issued by the Secretary of State and provided to a planning authority for the purposes of the Town and Country Planning (Safeguarded Aerodromes, Technical Sites, Meteorological Technical Sites and Military Explosives Storage Areas) (Scotland) Direction 2016,”
- (c) after the definition of “private way” insert—
  - ““Regulation 2020/1070 small cell system” means a small cell system—
  - (a) to which Commission Implementing Regulation (EU) 2020/1070 on specifying the characteristics of small-area wireless access point pursuant to Article 57 paragraph 2 of Directive (EU) 2018/1972 of the European Parliament and Council establishing the European Electronic Communications Code (recast)(b) (“Commission Regulation 2020/1070”) applies,
  - (b) which complies with the requirements of the European Standard laid down at point B of the Annex to Commission Regulation 2020/1070, and
  - (c) is either—
    - (i) fully and safely integrated into its supporting structure and therefore invisible to the general public, or
    - (ii) meets the conditions set out in Point A of the Annex to Commission Regulation 2020/1070,”
- (d) after the definition of “road” insert—
  - ““safety hazard area” means an area notified to a planning authority—
  - (a) by the Health and Safety Executive for the purposes of paragraph 3 of schedule 5 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013(c),
  - (b) by the Office for Nuclear Regulation for the purposes of paragraph 3A of schedule 5 of those Regulations,”
- (e) in the definition of “site of archaeological interest” omit “by the Secretary of State”.

## Amendment of Article 4

### 5. In article 4(6) (directions restricting permitted development)—

- (a) in sub-paragraph (a) after “provides” insert “, but this is subject to paragraph (6A)”,
- (b) after sub-paragraph (aa) insert—
  - “(ab) development permitted by Part 20 which consists of the installation, alteration or replacement of a Regulation 2020/1070 small cell system,”

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(a) 1993 c.44.

(b) EUR 2020/1070.

(c) S.S.I. 2013/155, which has been relevantly amended by S.I. 2014/469.

(c) after sub-paragraph (b) insert—

“(6A) No direction given or having effect under this article shall have effect in relation to the carrying out of development consisting of the installation, alteration or replacement of a Regulation 2020/1070 small cell system.”.

### **Amendment of Part 1 of Schedule 1**

**6.** In Part 1 (development within the curtilage of a dwellinghouse) of schedule 1 (classes of permitted development)—

(a) in class 1A before sub-paragraph (2)(a) insert—

“(za) the dwellinghouse is a dwelling by virtue of a change of use permitted under class 18B or 22A,”

(b) in class 1B before sub-paragraph (2)(a) insert—

“(za) the dwellinghouse is a dwelling by virtue of a change of use permitted under class 18B or 22A,”

(c) in class 1C before sub-paragraph (2)(a) insert—

“(za) the dwellinghouse is a dwelling by virtue of a change of use permitted under class 18B or 22A,”

(d) in class 1D before sub-paragraph (2)(a) insert—

“(za) the dwellinghouse is a dwelling by virtue of a change of use permitted under class 18B or 22A,”

(e) in class 3A—

(i) before sub-paragraph (2)(a) insert—

“(za) the dwellinghouse is a dwelling by virtue of a change of use permitted under class 18B or 22A,”

(ii) omit “in a conservation area or” in sub-paragraph (2)(g) and “or” immediately preceding that sub-paragraph,

(iii) at the end of sub-paragraph (g) insert—

“, or

(h) in the case of land in a conservation area, the resulting building would have a footprint exceeding 8 square metres”,

(f) in class 3D before sub-paragraph (2)(a) insert—

“(za) the dwellinghouse is a dwelling by virtue of a change of use permitted under class 18B or 22A,”.

### **New Class 3AA**

**7.** In Part 1 of schedule 1 after class 3A insert—

**“Class 3AA.—**

**(1) The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse.**

*Limitations*

(2) Development is not permitted by this class if—

(a) the resulting building would exceed—

(i) 150 centimetres in height,

(ii) 120 centimetres in depth,

(iii) 250 centimetres in width,

- (b) there is an existing building developed by virtue of this class situated within the curtilage of the dwellinghouse,
- (c) the resulting building would obstruct clear sight of a road or footpath by the driver of a vehicle entering or leaving the curtilage of the dwellinghouse,
- (d) the resulting building would be situated within the curtilage of a listed building or a World Heritage Site,
- (e) the resulting building would create an obstruction to light to another building.

*Interpretation*

(3) In this class “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(a).”.

**New Class 4B**

8. In Part 1ZA (development to a building containing a flat) of schedule 1 after class 4A insert—

“**Class 4B.**—

**(1) The provision of a building within the curtilage of a flat.**

*Limitations*

(2) Development is not permitted by this class if—

- (a) the resulting building would exceed—
  - (i) 150 centimetres in height,
  - (ii) 120 centimetres in depth,
  - (iii) 250 centimetres in width,
- (b) the development would result in there being more than one building developed by virtue of this class situated within the curtilage of the flat,
- (c) the resulting building would obstruct clear sight of a road or footpath by the driver of a vehicle entering or leaving the curtilage of the flat,
- (d) the resulting building would be situated within the curtilage of a listed building or a World Heritage Site,
- (e) the resulting building would create an obstruction to light to another building.

*Interpretation*

(3) In this class—

“curtilage of a flat”, in relation to a flat, means land which pertains to that flat and only to that flat, and

“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.”.

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(a) UNESCO World Heritage Centre – World Heritage List.

## Cycle storage facilities

9. After Part 2F (reverse vending machines) of schedule 1(a) insert—

### “PART 2G PEDAL CYCLE STORAGE

#### **Class 9I.—**

**(1) The provision within the curtilage of a commercial building of a building for the purpose of temporary storage of pedal cycles.**

#### *Limitations*

(2) Development is not permitted by this class—

- (a) within the curtilage of a listed building,
- (b) if the resulting building would be within a conservation area and would be situated within the front curtilage of the commercial building,
- (c) if the resulting building would obstruct clear sight of a road or footpath by the driver of a vehicle entering or leaving the curtilage of the commercial building,
- (d) if the resulting building would create an obstruction to light to another building.

#### *Interpretation*

(3) In this class—

“commercial building” means a building used for any purpose within Class 4, 5 or 6 of the schedule of the Use Classes Order,

“front curtilage” means that part of the curtilage of the commercial building forward of a wall forming part of the principal elevation of the commercial building.

#### **Class 9J.—**

**(1) The provision of a building within the rear curtilage of a tenement for the purpose of storage of pedal cycles.**

#### *Limitations*

(2) Development is not permitted by this class if—

- (a) the development would result in there being more than one building developed by virtue of this class situated within the rear curtilage of the tenement,
- (b) the resulting building would be situated within the curtilage of a listed building or a World Heritage Site,
- (c) the resulting building would create an obstruction to light to another building.

#### *Interpretation*

(3) In this class—

“rear curtilage of a tenement”, in relation to a tenement, means land which—

- (a) pertains to two or more flats contained within the tenement, and
- (b) is situated adjacent to the rear elevation of the tenement,

“rear elevation” means the elevation of the tenement that is opposite to its principal elevation,

“tenement” means a building containing one more flats.

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(a) Part 2F was inserted by S.S.I. 2020/269.

**Class 9K.—**

**(1) The provision within the boundaries of a public road of a building for the purpose of temporary storage of pedal cycles.**

*Limitations*

(2) Development is not permitted by this class if—

- (a) the resulting building would exceed—
  - (i) 150 centimetres in height,
  - (ii) 250 centimetres in depth,
  - (iii) 500 centimetres in width,
- (b) the resulting building would create an obstruction to light to another building.

*Interpretation*

(3) In this class—

“public road” means a road maintainable by the Scottish Ministers or a local roads authority.

**Interpretation of Part 2G**

In this Part—

“pedal cycle” means a cycle whose motive power is provided solely by the legs of its rider or riders or which complies with the requirements specified in Regulation 4 of the Electrically Assisted Pedal Cycles Regulations 1983(a),

“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(b).”.

**Amendment of class 18**

**10.** In Part 6 (agricultural buildings and operations) of schedule 1 (classes of permitted development) in class 18 for sub-paragraph (2)(d) substitute—

“(d) the ground area to be covered by any works or structure (other than a fence) for the purposes of accommodating livestock or any plant or machinery arising from engineering operations would exceed 465 square metres, calculated as described in sub-paragraph (5),

(da) the ground area to be covered by any building erected or any building as extended or altered by virtue of this class—

- (i) is situated in a designated area and would exceed 465 square metres, calculated as described in sub-paragraph (5), or
- (ii) is situated elsewhere and would exceed 1,000 square metres, calculated as described in sub-paragraph (5).”.

**New Class 18B and 18C**

**11.** In Part 6 of schedule 1 after class 18A insert—

**“Class 18B**

**(1) Development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use as a dwelling together with**

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(a) S.I. 1983/1168 as relevantly amended by S.I. 2015/24.

(b) UNESCO World Heritage Centre – World Heritage List.

**the following building operations to the extent which they are reasonably necessary to convert the building to use as a dwelling—**

- (a) the installation or replacement of—**
  - (i) windows, doors, roofs, or exterior walls,**
  - (ii) water, drainage, sewerage, electricity, gas or other services,**

**to the extent reasonably necessary for the building to function as a dwelling,**

- (b) partial demolition to the extent reasonably necessary to carry out building operations allowed by sub-paragraph (a)(i),**
- (c) the provision of access to the dwelling and of a hard surface for the purpose of the parking of vehicles incidental to the enjoyment of the dwelling.**

*Limitations*

(2) Development is only permitted by this class if—

- (a) the building was used solely for an agricultural use as part of an agricultural unit on 4 November 2019, or
- (b) in the case of a building which was not in use on 4 November 2019 but was in use before that date, when the building was last in use it was used solely for an agricultural use as part of an agricultural unit.

(3) Development is not permitted by this class if—

- (a) the building is constructed after 4 November 2019,
- (b) the cumulative number of separate residential units developed by virtue of this class and contained in a building or buildings situated within the original agricultural unit would exceed 5,
- (c) the floor space of any residential unit developed by virtue of this class would exceed 150 square metres,
- (d) the development would result in the external dimensions of the building (excluding guttering and pipes required for drainage or sewerage, flues and aerials) extending beyond the external dimensions of the existing building at any given point,
- (e) the building is a listed building,
- (f) the building is situated on croft land or within—
  - (i) the curtilage of a listed building,
  - (ii) a site of archaeological interest,
  - (iii) a safety hazard area, or
  - (iv) a military explosives storage area.

*Conditions*

(4) Development is permitted by this class subject to the following conditions—

- (a) the developer must before beginning the development apply to the planning authority for a determination as to whether the prior approval of the authority is required in respect of—
  - (i) the design or external appearance of the building,
  - (ii) the provision of adequate natural light in all habitable rooms of the dwelling,
  - (iii) the impacts of the proposed development on transport,
  - (iv) access to the dwelling,
  - (v) the impacts of noise on residents or occupiers of the building if used as a dwelling,
  - (vi) risks to occupiers of the proposed dwelling from contamination from the site,
  - (vii) the risk of flooding of the site,

- (b) the application is to be accompanied by—
  - (i) a written description of the development, including a description of any building operations and materials to be used,
  - (ii) a plan showing the location of the development,
  - (iii) such other plans and drawings as are necessary to describe the development,
  - (iv) any fee required to be paid,
- (c) the development is not to be commenced before the occurrence of one of the following—
  - (i) the receipt by the applicant from the planning authority of a written notice of their determination that their prior approval is not required,
  - (ii) the expiry of a period of 28 days following the date on which the application was received by the planning authority without the planning authority giving notice to the applicant of their determination that, or the extent to which, such approval is required,
  - (iii) the applicant has (or to the extent required has) received such approval from the planning authority,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) to the extent to which prior approval is required, in accordance with the details approved,
  - (ii) to the extent to which prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out within a period of three years from the date on which all approvals required in accordance with this sub-paragraph have been given.

*Interpretation*

(5) The reference in sub-paragraph (1) to the use of a building as an agricultural building includes a building which when last used was used as an agricultural building.

(6) For the purposes of this class—

“dwelling” means a dwellinghouse, a building containing one or more flats or a flat contained within such a building,

“original agricultural unit” in respect of a building, means, the agricultural unit of which the building formed part on 4 November 2019,

“residential unit” means a dwellinghouse or a flat.

**Class 18C**

**(1) Development consisting of a change of use of a building and any land within its curtilage from—**

- (a) use as an agricultural building to a flexible commercial use, or**
- (b) a flexible commercial use permitted by virtue of this class to another flexible commercial use,**

**together with the following building operations described in sub-paragraph (2) to the extent which they are reasonably necessary to convert the building to a flexible commercial use.**

**(2) The building operations are—**

- (a) the installation or replacement of—**
  - (i) windows, doors, roofs, or exterior walls,**
  - (ii) water, drainage, sewerage, electricity, gas or other services,**



**to the extent reasonably necessary for the building to function for the purposes of the flexible commercial use to which the building converted,**

- (b) partial demolition to the extent reasonably necessary to carry out building operations allowed by sub-paragraph (a)(i),**
- (c) the provision of access to the building and of a hard surface for the purpose of the parking of vehicles incidental to the enjoyment of the building for the purposes of the flexible commercial use.**

*Limitations*

- (3) Development is only permitted by this class if—
  - (a) the building was used solely for an agricultural use as part of an agricultural unit on 4 November 2019, or
  - (b) in the case of a building which was not in use on 4 November 2019 but was in use before that date, when the building was last in use it was used solely for an agricultural use as part of an agricultural unit.
- (4) Development is not permitted by this class if—
  - (a) the building is constructed after 4 November 2019,
  - (b) the cumulative floor space developed by virtue of this class within the original agricultural unit would exceed 500 square metres,
  - (c) the development would result in the external dimensions of the building (excluding guttering and pipes required for drainage or sewerage, flues and aerials) extending beyond the external dimensions of the existing building at any given point,
  - (d) the building is a listed building,
  - (e) the building is situated within—
    - (i) the curtilage of a listed building,
    - (ii) a site of archaeological interest,
    - (iii) a safety hazard area,
    - (iv) a military explosives storage area.

*Conditions*

- (5) Development is permitted by this class subject to the following conditions—
  - (a) the developer must before beginning the development apply to the planning authority for a determination as to whether the prior approval of the authority is required in respect of—
    - (i) the design or external appearance of the building,
    - (ii) the impacts of the proposed development on transport,
    - (iii) access to the dwelling,
    - (iv) the impacts of noise on those using the building or as a result of the development,
    - (v) risks to those using the building from contamination from the site,
    - (vi) the risk of flooding of the site,
  - (b) the application is to be accompanied by—
    - (i) a written description of the development, including a description of any building operations and materials to be used,
    - (ii) a plan showing the location of the development,
    - (iii) such other plans and drawings as are necessary to describe the development,
    - (iv) any fee required to be paid,

- (c) the development is not to be commenced before the occurrence of one of the following—
  - (i) the receipt by the applicant from the planning authority of a written notice of their determination that their prior approval is not required,
  - (ii) the expiry of a period of 28 days following the date on which the application was received by the planning authority without the planning authority giving notice to the applicant of their determination that, or the extent to which, such approval is required,
  - (iii) the applicant has (or to the extent required has) received such approval from the planning authority,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) to the extent to which prior approval is required, in accordance with the details approved,
  - (ii) to the extent to which prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out within a period of three years from the date on which all approvals required in accordance with this sub-paragraph have been given.

*Interpretation*

(6) The reference in sub-paragraph (1) to the use of a building as an agricultural building includes a building which when last used was used as an agricultural building.

(7) For the purposes of this class—

“flexible commercial use” means a use falling within the following classes of the Use Classes Order, or a combination of such uses—

- (a) class 1 (shops),
- (b) class 2 (financial, professional and other services),
- (c) class 3 (food and drink),
- (d) class 4 (business),
- (e) class 6 (storage or distribution),
- (f) class 10 (non-residential institutions),

“original agricultural unit” in respect of a building, means, the agricultural unit of which the building formed part on 4 November 2019.”.

**Peatland restoration**

**12.** In Part 6 of schedule 1 after class 20 insert—

**“Class 20A**

**(1) The carrying out on peatland of works for the restoration of that peatland—**

- (a) including—**
  - (i) works for the stabilisation, revegetation and re-profiling of bare peat and related drainage works, and**
  - (ii) the extraction of peat from within a peatland site for the purpose, and only for the purpose, of the use of such peat in the restoration of peatland within that peatland site, but**
- (b) not including works for the formation of alteration of a private way.**

### *Conditions*

- (2) Development is permitted by this class subject to the following conditions—
- (a) the developer must before beginning the development submit a peatland restoration scheme to the planning authority and apply to the planning authority for a determination as to whether the prior approval of the authority is required for that peatland restoration scheme,
  - (b) the application is to be accompanied by—
    - (i) a peatland restoration scheme,
    - (ii) a map showing the location of the peatland site to be restored,
    - (iii) any fee required to be paid,
  - (c) the development is not to be commenced before the occurrence of one of the following—
    - (i) the receipt by the applicant from the planning authority of a written notice of their determination that their prior approval is not required,
    - (ii) the expiry of a period of 28 days following the date on which the application was received by the planning authority without the planning authority giving notice to the applicant of their determination that, or the extent to which, such approval is required,
    - (iii) the applicant has (or to the extent required has) received such approval from the planning authority,
  - (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
    - (i) if prior approval is required, in accordance with the peatland restoration scheme as approved,
    - (ii) if prior approval is not required, in accordance with the peatland restoration scheme submitted with the application, and
  - (e) the development is to be carried out within a period of 10 years from the date on which any approval required in accordance with this sub-paragraph has been given.

### *Interpretation*

- (3) For the purposes of this class—
- “peatland restoration scheme” means a scheme setting out the work to be carried out to restore peatland within an area of peatland identified by the scheme and including details in respect of—
- (a) any measures to mitigate—
    - (i) impacts of the proposed development on archaeology,
    - (ii) the risk of contamination or flooding as a result of the development on the peatland site,
    - (iii) the impacts of the proposed development on soil, and
  - (b) the removal, felling, lopping or topping of any trees,
- “peatland site” is the area identified in the peatland restoration scheme as the area of peatland to be restored in accordance with that scheme,
- “re-profiling” means changing the surface of the peatland to reduce water runoff and encourage revegetation by spreading turves across the bare surface,
- “revegetation” means by planting, applying locally won turves or seeding with peatland plants,
- “stabilisation” means re-establishment of vegetation by seeding and the introduction of pre-grown seedlings (known as plug plants) with the use of temporary protective coverings, including a plant mulch or manufactured stabilisation product or fertilisers.”.

### **Amendment of Interpretation section of Part 6**

**13.** In Part 6 of schedule 1, in the interpretation section—

- (a) after the definition of “building” insert—
  - ““designated area” means—
  - (a) a national scenic area,
  - (b) a National Park
  - (c) a World Heritage Site,
  - (d) a historic garden or designed landscape,
  - (e) the curtilage of a category A listed building,
  - (f) a site of archaeological interest,
  - (g) a conservation area,”
- (b) for the definition of “significant extension” and “significant alteration” substitute—
  - ““significant extension” and “significant alteration” mean—
  - (a) in respect of the period before 1 April 2021, any extension or alteration of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building,
  - (b) in respect of the period beginning on 1 April 2021, any extension or alteration of the building where the cubic content of the original building would be exceeded by more than 20% or the height of the building as extended or altered would exceed the height of the original building,”
- (c) after the definition of “slurry” insert—
  - ““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.”

### **Amendment of Part 6A**

**14.** In Part 6A (fish farming) of schedule 1, in Class 21A—

- (a) in sub-paragraph (2)(a) for “100” substitute “200”,
- (b) in sub-paragraph (2)(b) for “796” substitute “3,182”,
- (c) in sub-paragraph (3)(a) for “greater than 15,000” substitute “, or would be greater than, 20,000”, and
- (d) in sub-paragraph (3)(b)(i) for “1,000” substitute “1,100”.

### **New Class 22A and 22B**

**15.** In Part 7 (forestry building and operations) of schedule 1, after class 22 insert—

#### **“Class 22A**

**(1) Development consisting of a change of use of a building from use for the purposes of forestry to use as a dwelling together with the following building operations to the extent which they are reasonably necessary to convert the building to use as a dwelling—**

- (a) the installation or replacement of—**
    - (i) windows, doors, roofs, or exterior walls,**
    - (ii) water, drainage, sewerage, electricity, gas or other services,**
- to the extent reasonably necessary for the building to function as a dwelling,**

- (b) partial demolition to the extent reasonably necessary to carry out building operations allowed by subparagraph (a)(i),**
- (c) the provision of access to the dwelling and of a hard surface for the purpose of the parking of vehicles incidental to the enjoyment of the dwelling.**

*Limitations*

- (2) Development is only permitted by this class if—
  - (a) the building was used solely for the purposes of forestry on 4 November 2019, or
  - (b) in the case of a building which was not in use on 4 November 2019 but was in use before that date, when the building was last in use it was used solely the purposes of forestry.
- (3) Development is not permitted by this class if—
  - (a) the building is constructed after 4 November 2019,
  - (b) the cumulative number of separate residential units developed by virtue of this class within the same building would exceed 5,
  - (c) the floor space of any residential unit developed by virtue of this class would exceed 150 square metres,
  - (d) the development would result in the external dimensions of the building (excluding guttering and pipes required for drainage or sewerage, flues and aerials) extending beyond the external dimensions of the existing building at any given point,
  - (e) the building is a listed building,
  - (f) the building is situated on croft land or within—
    - (i) the curtilage of a listed building,
    - (ii) a site of archaeological interest,
    - (iii) a safety hazard area,
    - (iv) a military explosives storage area.

*Conditions*

- (4) Development is permitted by this class subject to the following conditions—
  - (a) the developer must before beginning the development apply to the planning authority for a determination as to whether the prior approval of the authority is required in respect of—
    - (i) the design or external appearance of the building,
    - (ii) the provision of adequate natural light in all habitable rooms of the dwelling,
    - (iii) the impacts of the proposed development on transport,
    - (iv) access to the dwelling,
    - (v) the impacts of noise on residents or occupiers of the building if used as a dwelling,
    - (vi) risks to occupiers of the proposed dwelling from contamination from the site,
    - (vii) the risk of flooding of the site,
  - (b) the application is to be accompanied by—
    - (i) a written description of the development, including a description of any building operations and materials to be used,
    - (ii) a plan showing the location of the development,
    - (iii) such other plans and drawings as are necessary to describe the development, including plans showing the elevations of the development and the location of windows and doors,
    - (iv) any fee required to be paid,

- (c) the development is not to be commenced before the occurrence of one of the following—
  - (i) the receipt by the applicant from the planning authority of a written notice of their determination that their prior approval is not required,
  - (ii) the expiry of a period of 28 days following the date on which the application was received by the planning authority without the planning authority giving notice to the applicant of their determination that, or the extent to which, such approval is required,
  - (iii) the applicant has (or to the extent required has) received such approval from the planning authority,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) to the extent to which prior approval is required, in accordance with the details approved,
  - (ii) to the extent to which prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out within a period of three years from the date on which all approvals required in accordance with this sub-paragraph have been given.

*Interpretation*

(5) For the purposes of this class—

“dwelling” means a dwellinghouse, a building containing one or more flats or a flat contained within such a building, and

“residential unit” means a dwellinghouse or a flat.

**Class 22B**

**(1) Development consisting of a change of use of a building from—**

- (a) use for the purposes of forestry to a flexible commercial use, or**
- (b) a flexible commercial use permitted by virtue of this class to another flexible commercial use,**

**together with the following building operations described in sub-paragraph (2) to the extent which they are reasonably necessary to convert the building to a flexible commercial use.**

**(2) The building operations are—**

- (a) the installation or replacement of—**
  - (i) windows, doors, roofs, or exterior walls,**
  - (ii) water, drainage, sewerage, electricity, gas or other services,**

**to the extent reasonably necessary for the building to function for the purposes of the flexible commercial use to which the building converted,**

- (b) partial demolition to the extent reasonably necessary to carry out building operations allowed by sub-paragraph (a)(i),**
- (c) the provision of access to the building and of a hard surface for the purpose of the parking of vehicles incidental to the enjoyment of the building for the purposes of the flexible commercial use.**

*Limitations*

(3) Development is only permitted by this class if—

- (a) the building was used solely for the purposes of forestry on 4 November 2019, or

- (b) in the case of a building which was not in use on 4 November 2019 but was in use before that date, when the building was last in use it was used solely for the purpose of forestry.
- (4) Development is not permitted by this class if—
- (a) the building is constructed after 4 November 2019,
  - (b) the cumulative floor space developed by virtue of this class would exceed 500 square metres,
  - (c) the development would result in the external dimensions of the building (excluding guttering and pipes required for drainage or sewerage, flues and aerials) extending beyond the external dimensions of the existing building at any given point,
  - (d) the building is a listed building,
  - (e) the building is situated within—
    - (i) the curtilage of a listed building,
    - (ii) a site of archaeological interest,
    - (iii) a safety hazard area,
    - (iv) a military explosives storage area.

*Conditions*

- (5) Development is permitted by this class subject to the following conditions—
- (a) the developer must before beginning the development apply to the planning authority for a determination as to whether the prior approval of the authority is required in respect of—
    - (i) the design or external appearance of the building,
    - (ii) the impacts of the proposed development on transport,
    - (iii) access to the dwelling,
    - (iv) the impacts of noise on those using the building or as a result of the development,
    - (v) risks to those using the building from contamination from the site,
    - (vi) the risk of flooding of the site,
  - (b) the application is to be accompanied by—
    - (i) a written description of the development, including a description of any building operations and materials to be used,
    - (ii) a plan showing the location of the development,
    - (iii) such other plans and drawings as are necessary to describe the development,
    - (iv) any fee required to be paid,
  - (c) the development is not to be commenced before the occurrence of one of the following—
    - (i) the receipt by the applicant from the planning authority of a written notice of their determination that their prior approval is not required,
    - (ii) the expiry of a period of 28 days following the date on which the application was received by the planning authority without the planning authority giving notice to the applicant of their determination that, or the extent to which, such approval is required,
    - (iii) the applicant has (or to the extent required has) received such approval from the planning authority,

- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) to the extent to which prior approval is required, in accordance with the details approved,
  - (ii) to the extent to which prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out within a period of three years from the date on which all approvals required in accordance with this sub-paragraph have been given.

*Interpretation*

(6) The reference in sub-paragraph (1) to the use of a building as an agricultural building includes a building which when last used was used as an agricultural building.

(7) For the purposes of this class—

“flexible commercial use” means a use falling within the following classes of the Use Classes Order, or a combination of such uses—

- (a) class 1 (shops),
- (b) class 2 (financial, professional and other services),
- (c) class 3 (food and drink),
- (d) class 4 (business),
- (e) class 6 (storage or distribution),
- (f) class 10 (non-residential institutions).”.

**Electronic communications**

**16.** In Part 20 (development by electronic communications code operators) of schedule 1 in class 67—

- (a) in sub-paragraph (2)(a) after “small cell system” insert “or a Regulation 2020/1070 small cell system”,
- (b) for sub-paragraph (2)(b) substitute—
  - “(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 cell system or a Regulation 2020/1070 small cell system and would result in there being no more than two small cell systems or Regulation 2020/1070 small cell systems on the building or other structure,
      - (bb) the replacement or alteration of a small cell system or a Regulation 2020/1070 small cell system and would result in there being no more than two small cell systems or Regulation 2020/1070 small cell systems on the building or other structure or, if greater, the number of small cell systems or Regulation 2020/1070 small cell systems present on the building or other structure before alteration or replacement of the small cell system or a Regulation 2020/1070 small cell system, or



- (ii) would be on a dwellinghouse or within the curtilage of a dwellinghouse and would consist of—
  - (aa) the installation of a small cell system or a Regulation 2020/1070 small cell system and the number of small cell systems or Regulation 2020/1070 small cell systems on the dwellinghouse and within its curtilage when added together would not exceed two,
  - (bb) the replacement or alteration of a small cell system or a Regulation 2020/1070 small cell system and the number of small cell systems or Regulation 2020/1070 small cell systems on the dwellinghouse and within its curtilage when added together would not exceed two or, if greater, the number of small cell systems or Regulation 2020/1070 small cell systems present before alteration or replacement of the small cell system or Regulation 2020/1070 small cell system,”
- (c) in sub-paragraph (2)(c) for “small antenna” substitute “small cell system or a Regulation 2020/1070 small cell system”,
- (d) after sub-paragraph (2)(g) insert—
  - “(ga) would consist of the construction, installation, alteration or replacement of ground based equipment housing which would not exceed 2.5 cubic metres in volume,
  - (gb) would consist of the construction, installation, alteration or replacement on a building of equipment housing which would not exceed 2.5 cubic metres in volume,
  - (gc) would be permitted by virtue of sub-paragraph (10) or would be ancillary to such development,
  - (gd) would be development permitted by virtue of sub-paragraph (11) or (12) or would be ancillary to such development,
  - (ge) would consist of the construction or installation of apparatus under land and would not be located in a historic battlefield or World Heritage Site,”
- (e) in sub-paragraph (3)(a) for “25” substitute “30”,
- (f) for sub-paragraph (4)(a) substitute—
  - “(a) 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 30 metres in height where the height of the mast as altered or replaced would exceed a figure by adding 50% to the height of the original mast,
    - (ii) exceeding 30 metres in height where the height of the mast as altered or replaced would exceed 50 metres,
    - (iii) exceeding 50 metres in height where the height of the mast as altered or replaced would exceed a figure calculated by adding 20% to the height of the original mast,
    - (iv) in the case of an increase in the width of a mast, the increase would exceed 2 metres or, if greater, one half of the width of the original mast,
    - (v) 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.”,
- (g) in sub-paragraph (11)—
  - (i) for “small antenna” substitute “Regulation 2020/1070 small cell system,”,
  - (ii) in each of head (a)(i), (ii)(aa) and (bb)—
    - (aa) for “0.9” substitute “1.3”, and
    - (bb) for “4.5” substitute “10”,

- (iii) in both head (b)(i) and (ii) for “4” substitute “5”,
- (h) in sub-paragraph (12) for “small antenna” substitute “Regulation 2020/1070 small cell system”,
- (i) for sub-paragraph (13) and the related cross-heading substitute—

**“Development not permitted: small cell systems 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 cell system and—

- (a) the number of small cell systems on the dwellinghouse or within the curtilage of the dwellinghouse would not, when added together, exceed 4, and
- (b) the highest part of the small cell system would not be higher than the highest part of the roof of the dwellinghouse on which it would be located.”,
- (j) in sub-paragraph (15)(a) for “or (23)” substitute “, (23) or (23B)”,
- (k) after sub-paragraph (23) insert—

“(23A) Before beginning development to which this sub-paragraph applies the developer must apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting and visual impacts of the proposed development,

- (a) this sub-paragraph applies to development described in sub-paragraph (1)(a) or (c) which is permitted by virtue of sub-paragraph (2)(gc) and which would be located in—
  - (i) a conservation area,
  - (ii) a historic garden or designed landscape,
  - (iii) within the setting of a category A listed building or a schedule monument,
- (b) the application is to be accompanied by—
  - (i) a written description of the proposed development,
  - (ii) details of the design and the materials to be used,
  - (iii) a plan indicating the location,
  - (iv) the dimensions of the proposed development,
  - (v) any fee required to be paid,
- (c) the development is not to be commenced before the occurrence of one of the following—
  - (i) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required,
  - (ii) where the planning authority gives the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval,
  - (iii) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) where prior approval is required, in accordance with the details approved, or
  - (ii) where prior approval is not required, in accordance with the details submitted with the application,

- (e) the development is to be carried out—
  - (i) where approval has been given by the planning authority, within a period of 3 years from the date on which approval was given,
  - (ii) in any other case, within a period of 3 years from the date on which the planning authority were given the information referred to in head (b).

(23B) Before beginning development to which this sub-paragraph applies the developer must apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and appearance of the proposed development,

- (a) this sub-paragraph applies to development described in sub-paragraph (1)(a) or (c) which is permitted by virtue of sub-paragraph (2)(gd) and which would be located in—
  - (i) a conservation area,
  - (ii) a historic garden or designed landscape,
  - (iii) the setting of a category A listed building or a schedule monument,
  - (iv) a historic battlefield,
  - (v) a World Heritage Site,
- (b) the application is to be accompanied by—
  - (i) a written description of the proposed development,
  - (ii) details of the design and the materials to be used,
  - (iii) a plan indicating the location,
  - (iv) the dimensions of the proposed development,
  - (v) any fee required to be paid,
- (c) the development is not to be commenced before the occurrence of one of the following—
  - (i) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required,
  - (ii) where the planning authority gives the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval,
  - (iii) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) where prior approval is required, in accordance with the details approved, or
  - (ii) where prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out—
  - (i) where approval has been given by the planning authority, within a period of 3 years from the date on which approval was given,
  - (ii) in any other case, within a period of 3 years from the date on which the planning authority were given the information referred to in head (b).

(23C) Before beginning development to which this sub-paragraph applies the developer must apply to the planning authority for a determination as to whether the prior approval of the authority will be required in respect of the impact of the proposed development on an area listed in head (a),

- (a) this sub-paragraph applies to development described in sub-paragraph (1)(a) or (c) which is permitted by virtue of sub-paragraph (2)(ge) and which would be located in—
  - (i) a conservation area,
  - (ii) a historic garden or designed landscape,
  - (iii) the curtilage of a category A listed building,
  - (iv) a site of archaeological interest,
- (b) the application is to be accompanied by—
  - (i) a written description of the proposed development,
  - (ii) details of the design and the materials to be used,
  - (iii) a plan indicating the location,
  - (iv) the dimensions of the proposed development,
  - (v) any fee required to be paid,
- (c) the development is not to be commenced before the occurrence of one of the following—
  - (i) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required,
  - (ii) where the planning authority gives the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval,
  - (iii) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
  - (i) where prior approval is required, in accordance with the details approved, or
  - (ii) where prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out—
  - (i) where approval has been given by the planning authority, within a period of 3 years from the date on which approval was given,
  - (ii) in any other case, within a period of 3 years from the date on which the planning authority were given the information referred to in head (b).”
- (l) in sub-paragraph (24) (interpretation)—
  - (i) omit the definition of “small antenna”,
  - (ii) for the definition of “small cell system” substitute—
 

““small cell system” means an antenna which may be described as a femtocell, picocell, metrocell or microcell antenna, together with any ancillary apparatus which—

    - (a) operates on a point to multi-point basis or area basis in connection with an electronic communications service,
    - (b) has, in two-dimensional measurement, a surface area of 5,000 square centimetres or less, and
    - (c) has a volume of 50,000 cubic centimetres or less,

but does not include Regulation 2020/1070 small cell systems, and any calculation for the purposes of heads (b) and (c) is to include any power supply unit or casing, but is not to include any mounting, fixing, bracket or other support structure,”.

## **Amendment of the Town and Country Planning (Use Classes) (Scotland) Order 1997**

**17.**—(1) The Town and Country Planning (Use Classes) (Scotland) Order 1997<sup>(a)</sup> is amended in accordance with paragraph (2).

(2) In article 3(5) (exclusion from use classes)—

(a) omit “or” occurring after sub-paragraph (l); and

(b) at the end of sub-paragraph (m) insert—

“or

(n) of a building for flexible commercial use within the meaning of, and as permitted by virtue of class 18C or class 22B of schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.”.

*KEVIN STEWART*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
16th December 2020

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<sup>(a)</sup> S.I. 1997/3061 which has been relevantly amended by S.S.I. 2016/421.

## 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”) to introduce new classes of permitted development rights and makes a minor amendment to the Town and Country Planning (Use Classes) (Scotland) Order 1997.

The Order introduces new classes 3AA and 4B into the schedule of the 1992 Order. These permit the provision of storage facilities (intended for cycles) within the curtilage of a dwellinghouse or in land to the front of a flatted property. There are limitations as to the size of building permitted and restrictions on location to protect light and sight lines for access.

Article 9 introduces a new Part 2G including classes 9I to 9K. These classes respectively permit the provision of facilities for the storage of pedal cycles within the curtilage of commercial buildings, on land situated at the rear of a tenement and within the boundary of a public road.

New classes 18B and 22A permit the change of use of an existing agricultural or forestry building to use a dwelling together with certain building operations reasonably necessary to convert the building to use as a dwelling.

New classes 18C and 22B permit the change of use of an existing agricultural or forestry building to use a for a flexible commercial use together with certain building operations reasonably necessary to convert the building to that use. Flexible commercial uses are uses within classes 1, 2, 3, 4, 6 or 10 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (“the Use Classes Order”).

New class 20A provides permitted development for peatland restoration.

Article 14 makes changes to permitted development rights in respect of the size of finfish pen permitted under class 21A as a replacement or addition finfish pen within the area of an existing marine fish farm.

Article 16 amends class 67 to provide permitted development rights in respect of certain small cell telecommunications systems.

Article 17 amends the Use Classes Order to include flexible commercial uses permitted by virtue of new classes 18C or 22B in the list of sui generis uses in article 3(5).

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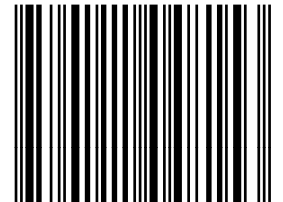


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