

---

## EXPLANATORY NOTE

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

Section 90 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) provides that the Scottish planning Acts bind the Crown. Section 119(2) of the 2004 Act enables the Scottish Ministers to make transitional provision for those proposed developments by the Crown previously dealt with by way of non-statutory arrangements.

Article 3 makes transitional provisions to apply the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) in terms of proposals for development by the Crown in progress on the relevant date, as defined in Article 3(2).

Article 3(4) provides for developments which have been notified by the planning authority or the Scottish Ministers as acceptable under the informal arrangements in place before 12th June 2006, to be treated as if planning permission were granted under the 1997 Act, unless the proposed development comes with Schedule I or II of the Environmental Impact Assessment (Scotland) Regulations 1999.

In those cases, article 3(6) provides that planning permission is not granted, unless the requirements of the regulations had been complied with as if an application for planning permission had been made in respect of the proposed development.

Under article 3(5), if a notice was subject to conditions, these are to have effect as if they were conditions attached to a planning permission under article 3(5).

Article 3(7) applies section 47 (appeals) to enable an appeal to the Scottish Ministers where the planning authority has notified the developer that a proposed development is not acceptable or acceptable subject to conditions.

Article 3(8) requires the Scottish Ministers to treat the proposal as an appeal where it has been referred to them but not yet decided.

Article 3(9) requires an application for planning permission to be made for proposals for development where on the relevant date the planning authority has not given notice and the matter is not referred to the Scottish Ministers.

Article 4 makes similar transitional provisions to apply the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in respect of proposals for listed building works by the Crown in progress on the relevant date as defined in article 4(2).

Article 5 inserts a new section 30D into the Planning (Hazardous Substances) (Scotland) Act 1997 to make provision for the application of the Crown for deemed hazardous substances consents during the transitional periods where such substances had been present on site at or above controlled quantities in the 12 months prior to the application to the Crown of the Planning (Hazardous Substances) (Scotland) Act 1997.