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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 432**

**The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008**

**PART 1**

Introductory

**Citation and commencement**

1.—(1) These Regulations may be cited as the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and come into force in accordance with paragraphs (2) and (3).

(2) Parts 1, 2 and 10 of these Regulations come into force on 6th April 2009.

(3) These Regulations (other than Parts 1, 2 and 10) come into force on 3rd August 2009.

**Application**

2.—(1) Subject to regulation 45 and paragraphs (2) and (3), these Regulations apply to—

- (a) applications for planning permission;
- (b) applications for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle; and
- (c) applications for a certificate under sections 150 or 151 of the Act,

made on or after 3rd August 2009.

(2) If a special development order is made, or has been made before the commencement of these Regulations, in relation to any land, these Regulations shall apply thereto to such extent only and subject to such modifications as may be specified in that order.

(3) These Regulations do not apply to applications for planning permission made under section 31A of the Act (planning permission in respect of the operation of a marine fish farm).

**Interpretation**

3.—(1) In these Regulations—

“the 1992 Order” means Town and Country Planning (General Development Procedure) (Scotland) Order 1992(1);

“the Act” means the Town and Country Planning (Scotland) Act 1997;

“agricultural land” has the meaning given to it by section 35(7) of the Act;

“agricultural tenant” means the tenant of agricultural land any part of which is comprised in the land to which an application relates;

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(1) S.I.1992/224 as amended by S.I. 1992/20083, S.I. 1994/2585, S.I. 1994/3293, S.I. 1996/467, S.I. 1997/749, S.S.I. 2000/179, S.S.I. 2001/245, S.S.I. 2003/1, S.I. 2003/2155, S.S.I. 2004/332, S.S.I. 2007/177 and S.S.I. 2007/268.

“category A listed building” means a listed building specified as being category A in a list of buildings compiled or approved and amended as the case may be by the Scottish Ministers in accordance with section 1(4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997<sup>(2)</sup>;

“cemetery” includes a burial ground or any other place of interment for the dead;

“community council” means a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973<sup>(3)</sup>;

“conservation area” means an area for the time being designated under section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“design statement” and “design and access statement” have the meaning given in regulation 13;

“electronic communications network” has the same meaning as in section 32 of the Communications Act 2003<sup>(4)</sup>;

“the Fees Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004<sup>(5)</sup>;

“the General Permitted Development Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992<sup>(6)</sup>;

“historic garden or designed landscape” means a garden or landscape identified in the “Inventory of Gardens and Designed Landscapes in Scotland – List of Sites 2007”, published by the Scottish Ministers in 2007, (ISBN 978 1 904966 449);

“ICNIRP declaration” means a declaration by the applicant that the antenna is designed to be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non Ionising Radiation Protection, as expressed in EU Council recommendation of 12th July 1999<sup>(7)</sup> on the limitation of exposure of the general public to electro magnetic fields (0Hz to 300GHz);

“landscaping” means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes screening by fences, walls or other means, the planting of trees, hedges, shrubs or grass, the formation of banks, terraces or other earthworks, the laying out or provision of gardens, courts or squares, water features, sculpture, or public art and the provision of other amenity features;

“licensed premises” means premises licensed for the sale of alcoholic liquor pursuant to the provisions of the Licensing (Scotland) Act 2005<sup>(8)</sup> or premises authorised by a premises licence under Part 8 of the Gambling Act 2005<sup>(9)</sup> to be used for activities described in section 150 of that Act;

“listed building” means a listed building within the meaning of section 1(4) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“marine fish farm development” means the placing or assembly of any equipment in marine waters for the purposes of fish farming (“equipment” and “fish farming” having the same meaning as in section 26(6) of the Act) and any material change of use of equipment so placed or assembled;

(2) 1997 c. 9.

(3) 1973 c. 65.

(4) 2003 c. 21.

(5) S.S.I. 2004/219 as amended by S.S.I. 2007/253 and S.S.I. 2007/268.

(6) S.I. 1992/223 as amended by S.I. 1992/1078, S.I. 1992/2084, S.I. 1993/1036, S.I. 1994/1442, S.I. 1994/2586, S.I. 1994/3294, S.I. 1996/252, S.I. 1996/1266, S.I. 1996/3032, S.I. 1997/3060, S.I. 1998/1226, S.S.I. 1999/1, S.I. 2000/2040, S.S.I. 2001/266, S.S.I. 2003/341, S.I. 2003/2155, S.S.I. 2004/332, S.S.I. 2006/1157, S.S.I. 2007/209, S.S.I. 2007135, S.S.I. 2008/74 and S.S.I. 2008/203.

(7) 1999/519/EC.

(8) 2005 asp 16.

(9) 2005 c. 19.

“marine planning zone” has the same meaning as in the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007(10);

“marine waters” means the waters described in paragraphs (b) and (c) of subsection (6) of section 26 of the Act;

“minerals application” means an application for planning permission for development consisting of the winning and working of minerals by underground working;

“National Scenic Area” means an area defined as a national scenic area in Part II of ‘Scotland’s Scenic Heritage’ published by the Countryside Commission for Scotland on 26th April 1978(11);

“neighbouring land” means land which is conterminous with or within 20 metres of the boundary of the land for which the development is proposed;

“planning permission in principle” means a planning permission granted pursuant to an application made under regulation 10 for the carrying out of building, engineering, mining or other operations in, on, over or under land which is granted subject to a condition (in addition to any other conditions which may be imposed) that the development in question will not begin until certain matters have been approved by the planning authority or, as the case may be, the Scottish Ministers;

“pre-application consultation report” means a written report prepared in accordance with section 35C of the Act;

“road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984(12);

“scheduled monument” has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979(13);

“validation date” is the date on which an application is taken to have been made in terms of regulation 14;

“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(14);

(2) In these Regulations “EIA development” and “environmental statement” have the same meaning as in the Environmental Impact Assessment (Scotland) Regulations 1999(15).

(3) Any reference to a numbered regulation or Schedule is a reference to the regulation or as the case may be the Schedule bearing that number in these Regulations and a reference to a numbered paragraph or sub paragraph is a reference to the paragraph or sub paragraph having that number in the regulation or paragraph in the Schedule in which the reference appears.

(4) References to distance are references to distance measured along a horizontal plane.

(5) Any requirement that a form shall be as set out in a specified Schedule shall be construed as meaning a form as so specified or a form substantially to the like effect.

(6) Any power conferred by these Regulations to give a direction shall be construed as including power to cancel or vary the direction by a subsequent direction.

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(10) S.S.I. 2007/268.

(11) ISBN no. 0 902226 42 8. Available from the Scottish Natural Heritage website at <http://www.snh.org.uk/publications/on-line/scotlandsscenicareas/>. Copies are also available on request from Scottish Natural Heritage, Silvan House, 231 Corstorphine Road, Edinburgh, EH9 2AS.

(12) 1984 c. 54.

(13) 1979 c. 46.

(14) See command paper 9424.

(15) S.S.I. 1999/1 as relevantly amended by S.S.I. 2002/324, S.S.I. 2003/341 and S.S.I. 2006/614.