

**2009 No. 51**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Hierarchy of Developments)  
(Scotland) Regulations 2009**

*Made* - - - - - *12th February 2009*

*Coming into force* - - - *6th April 2009*

The Scottish Ministers make the following Regulations, in exercise of the powers conferred by section 26A(2) of the Town and Country Planning (Scotland) Act 1997<sup>(a)</sup> and of all other powers enabling them to do so.

In accordance with section 26A(5) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and come into force on 6th April 2009.

(2) In these Regulations—

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

“industrial process” means a process, other than a process carried out in or adjacent to, a mine or quarry, for or incidental to—

- (a) the making of any article or part of any article including a ship or vessel or a film, video or sound recording;
- (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
- (c) the dressing or treatment of minerals;

“site” means the land to which development relates.

**Hierarchy of Developments**

2.—(1) The classes of development belonging to the category of major developments are—

- (a) development described in Column 1 of the table in the Schedule, where any applicable threshold or criterion in the corresponding part of Column 2 of that table is met or exceeded in relation to that development; and
- (b) any change to or extension of development of a class described in paragraphs 2 to 9 of Column 1 of that table where such a change or extension in itself meets or exceeds the appropriate threshold or criterion for that class of development.

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(a) 1997 c.8. Section 26A was inserted by section 5 of the Planning etc. (Scotland) Act 2006 (asp 17).

(2) All development other than national developments<sup>(a)</sup> and major developments belongs to the category of local developments.

*STEWART STEVENSON*  
Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
12th February 2009

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(a) The category of national developments are development or classes of development designated as such in the National Planning Framework under section 3A(4)(b) of the Town and Country Planning (Scotland) Act 1997 (c.8), as inserted by section 1 of the Planning etc. (Scotland) Act 2006 (asp 17).

# SCHEDULE

Regulation 2(1)

## Major Developments

| <i>Description of development</i>                                                                                                                                                                   | <i>Threshold or criterion</i>                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Schedule 1 development                                                                                                                                                                           |                                                                                                                                                                                                                                    |
| Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999(a) (other than exempt development within the meaning of those Regulations). | All development.                                                                                                                                                                                                                   |
| 2. Housing                                                                                                                                                                                          |                                                                                                                                                                                                                                    |
| Construction of buildings, structures or erections for use as residential accommodation.                                                                                                            | (a) The development comprises 50 or more dwellings; or<br><br>(b) The area of the site is or exceeds 2 hectares.                                                                                                                   |
| 3. Business & General Industry, Storage and Distribution                                                                                                                                            |                                                                                                                                                                                                                                    |
| Construction of a building, structure or other erection for use for any of the following purposes—                                                                                                  | (a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square metres; or                                                                                                                      |
| (a) as an office;                                                                                                                                                                                   | (b) The area of the site is or exceeds 2 hectares.                                                                                                                                                                                 |
| (b) for research and development of products or processes;                                                                                                                                          |                                                                                                                                                                                                                                    |
| (c) for any industrial process; or                                                                                                                                                                  |                                                                                                                                                                                                                                    |
| (d) for use for storage or as a distribution centre.                                                                                                                                                |                                                                                                                                                                                                                                    |
| 4. Electricity Generation                                                                                                                                                                           |                                                                                                                                                                                                                                    |
| Construction of an electricity generating station.                                                                                                                                                  | The capacity of the generating station is or exceeds 20 megawatts.                                                                                                                                                                 |
| 5. Waste Management Facilities                                                                                                                                                                      |                                                                                                                                                                                                                                    |
| Construction of facilities for use for the purpose of waste management or disposal.                                                                                                                 | The capacity of the facility is or exceeds 25,000 tonnes per annum.<br><br>In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge. |

(a) S.S.I. 1999/1, as amended by S.S.I. 2006/614, regulation 3.

| <i>Description of development</i>                                                                                    | <i>Threshold or criterion</i>                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6. Transport and infrastructure projects                                                                             |                                                                                                                                                                                                              |
| Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.                     | The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 kilometres.                                                                                                               |
| 7. Fish Farming                                                                                                      |                                                                                                                                                                                                              |
| The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act. | The surface area of water covered is or exceeds 2 hectares.                                                                                                                                                  |
| 8. Minerals                                                                                                          |                                                                                                                                                                                                              |
| Extraction of minerals.                                                                                              | The area of the site is or exceeds 2 hectares.                                                                                                                                                               |
| 9. Other Development                                                                                                 |                                                                                                                                                                                                              |
| Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above.      | (a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres; or<br><br>(b) The area of the site is or exceeds 2 hectares. |

## **EXPLANATORY NOTE**

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

These Regulations describe and assign classes of development to the categories of major and local developments. Regulation 2(1)(a) provides that development of a class described in column 1 of the Schedule to the Regulations which meets or exceeds the corresponding threshold or criterion set out in column 2 belongs to the category of major developments. Regulation 2(1)(b) provides that an alteration or extension to such classes of development belongs to the category of major developments where the alteration or extension itself meets or exceeds the appropriate threshold or criterion. Regulation 2(1)(b) does not apply to the class of development described in paragraph 1 as Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999 already contains an equivalent provision in respect of such development.

Regulation 2(2) provides that development other than national developments and major developments belong to the category of local developments.

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