

2021 No. 29

TOWN AND COUNTRY PLANNING

The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2021

Made - - - - - *19th January 2021*

Laid before the Scottish Parliament *21st January 2021*

Coming into force - - - *28th February 2021*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997(a) and sections 98 and 122(3) of the Planning and Compulsory Purchase Act 2004(b) 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) (Coronavirus) (Scotland) Amendment Order 2021 and comes into force on 28 February 2021.

Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

2.—(1) The Town and Country Planning (General Permitted Development) (Scotland) Order 1992(c) is amended in accordance with paragraphs (2) and (3).

(2) In schedule 1 (permitted development), in Part 25C (development by local authorities and health service bodies) in sub-paragraph (3)(b) of class 72C for “1 July 2021” substitute “31 December 2021”.

(3) In schedule 1 after Part 25C insert—

“PART 25D

Development by the Crown relating to a pandemic

Class 72D

(1) Development by or on behalf of the Crown on Crown land for the purposes of—

(a) preventing a pandemic,

(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) 2004 c.5.

(c) S.I. 1992/223 which has been relevantly amended by S.S.I. 2020/129 and S.S.I. 2020/366.

- (b) reducing, controlling or mitigating the effects of a pandemic, or**
- (c) taking other action in connection with a pandemic.**

Limitations

- (2) Development is not permitted by this class if—
 - (a) any part of the development is on land which is, or forms part of—
 - (i) a site of special scientific interest,
 - (ii) a site of archaeological interest,
 - (iii) a historic battlefield, or
 - (iv) a historic garden or designed landscape,
 - (b) any development, other than a change of use, would be carried out within 5 metres of any boundary of the curtilage of a dwellinghouse,
 - (c) the height of any new building exceeds—
 - (i) a height of 6 metres above ground where any part of the new building is within 10 metres of any boundary of the land, or
 - (ii) a height of 18 metres above the ground, or, where the development is within the curtilage of a building, the height of the highest part of the roof of the original building, whichever is the greater,
 - (d) the height of any building enlarged, improved or altered exceeds—
 - (i) the height of the highest part of the roof of the original building, or a height of 6 metres above the ground, whichever is the greater, where any part of the enlarged, improved or altered building is within 10 metres of an boundary of the curtilage of the original building, or
 - (ii) the height of the highest part of the roof of the original building, or height of 18 metres above the ground, whichever is the greater,
 - (e) any moveable structure, works, plant or machinery required temporarily and in connection with and for the duration of the development would be located in a position—
 - (i) within 5 metres of any boundary of the land, or
 - (ii) within 10 metres of any boundary of the curtilage of a dwellinghouse.

Conditions

- (3) Development is permitted by this class subject to the following conditions—
 - (a) the developer must, as soon as practicable after commencing development, notify the planning authority of that development,
 - (b) on or before the expiry of the period of 18 months beginning with the date on which the development began—
 - (i) any use of that land for a purpose of this class ceases and any buildings, plant, machinery, structures and erections permitted by this class is removed, and
 - (ii) the land is restored to its condition before the development took place, or to such other state as may be agreed in writing between the planning authority and the developer,
- unless permission for the development has been granted on an application under Part 3 of the Act.

Interpretation of Part 25D

For the purposes of this Part—

“pandemic” means a public health emergency of international concern within the meaning given by the International Health Regulations (2005) of the World Health Organisation adopted by the fifty-eighth World Health Assembly on 23rd May 2005(a),

“World Health Assembly” has the meaning set out in the Constitution of the World Health Organisation adopted by the International Health Conference held in New York from the 19th June to 22nd July 1946 and signed on 22nd July 1946(b),

“World Health Organisation” means the specialised agency within the terms of Article 57 of the Charter of the United Nations, established by the Constitution of the World Health Organisation(c).”.

Amendment of the Town and Country Planning (Application of Subordinate Legislation to the Crown) (Scotland) Order 2006

3.—(1) The Town and Country Planning (Application of Subordinate Legislation to the Crown) (Scotland) Order 2006 (d) is amended in accordance with paragraph (2).

(2) In the schedule in class 91 (emergency development by the Crown)—

(a) in paragraph (2)(b) for “period of six months beginning with the date on which the development began” substitute “relevant period”,

(b) after paragraph (3) insert—

“(3A) For the purposes of paragraph (2)(b), “the relevant period” means—

(a) in the case of development permitted by this class for the purposes of—

(i) preventing a pandemic;

(ii) reducing, controlling or mitigating the effects of a pandemic; or

(iii) taking other action in connection with a pandemic,

the period of 18 months beginning with the date on which the development began,

(b) in the case of other development permitted by this class, the period of 6 months beginning with the date on which the development began.

(3B) For the purposes of this class—

“pandemic” means a public health emergency of international concern within the meaning given by the International Health Regulations (2005) of the World Health Organisation adopted by the fifty-eighth World Health Assembly on 23rd May 2005,

“World Health Assembly” has the meaning set out in the Constitution of the World Health Organisation adopted by the International Health Conference held in New York from the 19th June to 22nd July 1946 and signed on 22nd July 1946,

“World Health Organisation” means the specialised agency within the terms of Article 57 of the Charter of the United Nations, established by the Constitution of the World Health Organisation.”.

-
- (a) The International Health Regulations (2005) of the World Health Organisation adopted by the fifty-eighth World Health Assembly on 23 May 2005
https://apps.who.int/iris/bitstream/handle/10665/43883/9789241580410_eng.pdf;jsessionid=73BCAD85F145CE5CF4220563D242419F?sequence=1
- (b) The Constitution of the World Health Organisation adopted by the International Health Conference held in New York from the 19th June to 22nd July 1946 and signed on 22nd July 1946-
https://www.who.int/governance/eb/who_constitution_en.pdf.
- (c) The Charter of the United Nations, established by the Constitution of the World Health Organisation -
<https://www.un.org/en/sections/un-charter/un-charter-full-text/>.
- (d) S.S.I. 2006/270.

Amendment of the Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020

4.—(1) The Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020(a) is amended in accordance with paragraphs (2) to (4).

(2) In article 9 (cycle storage facilities) in sub-paragraph (3) of class 9J to be inserted by that article, in the definition of “tenement” after “one” insert “or”.

(3) In article 11 (new class 18B and 18C) in class 18C to be inserted by that article—

(a) in sub-paragraph (2)(a) before “converted” insert “is”, and

(b) in sub-paragraph (5)(a)(iii) for “dwelling” substitute “building”.

(4) In article 15 (new class 22A and 22B) in class 22B to be inserted by that article—

(a) in sub-paragraph (2)(a) before “converted” insert “is”, and

(b) in sub-paragraph (5)(a)(iii) for “dwelling” substitute “building”.

KEVIN STEWART

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
19th January 2021

(a) S.S.I. 2020/437.

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 class 72D which provides permitted development rights for temporary development by the Crown in relation to the prevention, control and mitigation of a pandemic. The Order also extends the duration of planning permission under class 91 from 6 to 18 months where temporary development relates to the prevention, control or mitigation of a pandemic.

© Crown copyright 2021

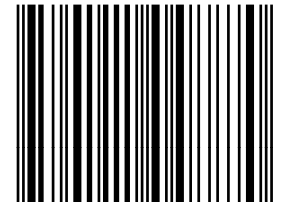
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen’s Printer for Scotland.

£4.90

S202101201001 01/2021 19585

<http://www.legislation.gov.uk/id/ssi/2021/29>

ISBN 978-0-11-104887-0



9 780111 048870