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SCOTTISH STATUTORY INSTRUMENTS

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**2024 No. 102**

**The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2024**

**Amendment of Part 2I of schedule 1**

**14.** In Part 2I (solar canopies, battery storage and equipment housing for recharging vehicles) for class 9M substitute—

**“Class 9M**

- (1) The installation, alteration or replacement—
- (a) within a qualifying parking area of—
    - (i) a solar canopy,
    - (ii) equipment (including equipment housing) necessary for operation of the solar canopy,
  - (b) within a qualifying parking area of—
    - (i) battery storage which is wholly or primarily associated with the operation of a solar canopy permitted under this class,
    - (ii) equipment (including equipment housing) necessary for operation of the battery storage.

*Limitations*

- (2) Development is not permitted by paragraph (1)(a) or (b) of this class—
- (a) if the development would—
    - (i) be within 5 metres of a road,
    - (ii) be within the curtilage of a dwellinghouse, or a building containing one or more flats,
    - (iii) be within 10 metres of the curtilage of a dwellinghouse or a building containing one or more flats,
    - (iv) be within 3 kilometres of the perimeter of an aerodrome or technical site,
  - (b) if any part of the development would exceed 4 metres in height from the level of the surface used for the parking of vehicles or if part of the development (other than a solar canopy) would exceed 3 metres in height from the level of the surface used for the parking of vehicles,
  - (c) if any battery storage unit or piece of equipment (including equipment housing but excluding a solar canopy or cabling) would exceed 29 cubic metres in size,
  - (d) in the case of development falling within paragraph (1)(b), if the combined size of all battery storage units and all pieces of equipment (including equipment housing but excluding cabling) would exceed 58 cubic metres in size,
  - (e) within—
    - (i) a site of archaeological interest,

- (ii) a national scenic area,
- (iii) a historic garden or designed landscape,
- (iv) a historic battlefield,
- (v) a conservation area
- (vi) a National Park,
- (vii) a World Heritage Site,
- (viii) the curtilage of a listed building,
- (f) if the development would take place—
  - (i) on the roof of a building, or
  - (ii) on the top level of an open top multi-storey car park.

*Conditions*

- (3) Development is permitted by this class subject to the following conditions—
  - (a) if the development is no longer needed for the generation of electricity—
    - (i) the development must be removed as soon as reasonably practicable, and
    - (ii) the land on which the development was mounted or into which the development was set must be reinstated—
      - (aa) as soon as reasonably practicable, and so far as reasonably practicable, to its condition before that development was carried out, or
      - (bb) in accordance with a restoration plan agreed in writing with the planning authority,
  - (b) any lighting or illumination forming part of the development—
    - (i) is directed towards the surface used for the parking of vehicles, and
    - (ii) only illuminates the immediate area of the development.
- (4) Development to which paragraph (1)(b) applies 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 will be required in respect of the design and siting of the battery storage or equipment,
  - (b) the application is to be accompanied by—
    - (i) a description of the proposed development,
    - (ii) a plan or plans indicating the location of the site of the proposed development and location of the proposed development within the site,
    - (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 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, and
  - (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 paragraph (4)(b).

### *Interpretation*

- (5) In this class—

“battery storage” means equipment and apparatus for the storage of energy which is converted from electricity and is stored for the purpose of its future reconversion into electricity,

“qualifying canopy structure” means a canopy structure which supports solar photovoltaics and which—

- (a) is open on one or more sides, and
- (b) is designed to allow one or more vehicles to be parked underneath it,

“qualifying parking area” means an area—

- (a) which has as its primary use the lawful off-street parking of vehicles, and
- (b) where vehicles are parked on a hard surface,

“solar canopy” means solar photovoltaics supported by a qualifying canopy structure and the qualifying canopy structure and connecting cabling,

“technical site” means—

- (a) any area within which is sited or is proposed to be sited equipment operated by or on behalf of NATS Holdings Limited, any of its subsidiaries or such other person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 for the provision of air traffic services, particulars of which have been furnished by the Scottish Ministers or the Civil Aviation Authority to the planning authority or authorities for the area in which it is situated, or
- (b) any area within which is sited or is proposed to be sited equipment operated by or on behalf of the Secretary of State for Defence for the provision of air traffic services, particulars of which have been furnished by the Secretary of State for Defence to the planning authority or authorities for the area in which it is situated.”.