3. DEVELOPMENT OF LAND

The Town and Country Planning (General Development) (Scotland) Amendment Order, 1949

1949 No. 779 (S. 42)

Made - - - -	20*th April*, 1949
Laid before Parliament	25*th April*, 1949
Coming into Operation	26*th April*, 1949

In exercise of the powers conferred on me by sections 11, 12, 14 and 15 of the Town and Country Planning (Scotland) Act, 1947(a), and of all other powers enabling me in that behalf I hereby order as follows:—

1.—(1) This Order may be cited as the Town and Country Planning (General Development) (Scotland) Amendment Order, 1949, and shall come into force on the 26th day of April, 1949.

(2) This Order shall be read as one with the Town and Country Planning (General Development) (Scotland) Order, 1948(b).

(3) The Interpretation Act, 1889(c), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. The Town and Country Planning (General Development) (Scotland) Order, 1948, shall have effect subject to the following amendments—

(*a*) in Article 3, in paragraph (2), for the words " on an application " there shall be substituted the words " otherwise than by this Order " ;

(*b*) in Article 11, in paragraph (1), for the words " specified in " there shall be substituted the words " allowed under " ;

(*c*) in Article 12, in paragraph (3), for the words " at any convenient place within " there shall be substituted the words " at a place within or convenient to " ;

(*d*) in Article 14 the words " or section 32 " shall be deleted ;

(*e*) after Article 14 there shall be inserted the following Article—

" *Applications for determinations under section* 15 *of the Act*

15.—(1) An application for a determination under section 15 of the Act shall be in writing and, unless the application is made as part of an application for planning permission, shall contain particulars of the operations or change of use proposed to be carried out or made, as the case may be, and a description of the land to which such proposal relates.

(2) The period within which the local planning authority shall give notice to the applicant of their determination, or of the reference of the application to the Secretary of State in pursuance of a direction in that behalf, shall be a period of two months from the date of receipt of the application or such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority.

(a) 10 & 11 Geo. 6. c. 53. (b) S.I. 1948 (No. 1030) I, p. 4288. (c) 52 & 53 Vict. c. 63.

(3) Every notice given under the last preceding paragraph of this Article shall be in writing and where the local planning authority determine that the carrying out of operations on or the making of a change in the use of the land would constitute or involve development of the land, they shall state in such notice the reasons for their determination and include a statement to the effect that if the applicant is aggrieved by their determination he may appeal to the Secretary of State under sections 14 and 15 of the Act within one month of receipt of notice thereof.

(4) The following provisions of this Order, namely, paragraph (5) of Article 5 and paragraphs (3) and (4) of Article 9, shall apply to applications for a determination as they apply to applications for planning permission.

(5) Any applicant who desires to appeal—

(*a*) against a determination of a local planning authority, or

(*b*) on the failure of a local planning authority to give notice of their determination or of the reference of the application to the Secretary of State,

shall give notice of appeal to the Secretary of State, stating therein the grounds on which the appeal is made, within one month of receipt of notice of the determination or of the expiry of the period allowed under paragraph (2) of this Article, as the case may be, or such longer period as the Secretary of State may allow, and shall also send a copy of the notice of appeal to the local planning authority.

(6) As soon as may be after receipt of a copy of the notice of appeal the local planning authority shall furnish to the Secretary of State a copy of the following documents—

(i) the application made to the local planning authority;

(ii) all relevant plans, drawings and particulars submitted to them;

(iii) the notice of determination, if any;

(iv) all other relevant correspondence with the applicant;

and a statement containing the observations of the local planning authority on the appeal.";

(*f*) in the First Schedule, in Class III, after paragraph (*b*) there shall be inserted the following paragraph—

"(*c*) use for any purpose within Class I of the Schedule to the Town and Country Planning (Use Classes) (Scotland) (No. 2) Order, 1948(a), from use as a restaurant.";

(*g*) in the First Schedule, for Class IV there shall be substituted the following—

"*Class IV. Temporary buildings and uses*

1. The erection or construction on land on which operations for the felling of trees are being or are about to be carried out, or on land in, on, over or under which operations, other than mining operations, are being or are about to be carried out in pursuance of planning permission granted or deemed to be granted under Part II of the Act, or on

(a) S.I. 1948 (No. 1771) I, p. 4349.

adjoining land, of buildings, works, plant or machinery needed temporarily in connection with those operations, for the period of such operations and subject to the condition that such buildings, works, plant or machinery shall be removed at the expiration of that period and where they were sited on any such adjoining land, that land shall be forthwith re-instated.

2. The use of land (other than a building or the curtilage of a building or the site or curtilage of a building which has been demolished in consequence of war damage) for any purpose on not more than 28 days in total in any calendar year, and the erection or placing of movable structures on the land for the purposes of that use." ;

(*h*) in the First Schedule, in Class V, for subparagraph (i) of paragraph 1 there shall be substituted the following subparagraph—

" (i) buildings for such purposes permanently affixed to the ground, additional to and not more than 150 feet from a group of principal farm buildings occupied with such land, provided that any such additional building shall not have a superficial area of more than 300 square feet or a height (measured to the ridge thereof, if any) of more than 13 feet, and shall not be for human habitation ; " ;

(*i*) in the First Schedule, in Class XVI, in the heading to sub-class B and in paragraph 1 of that sub-class, after the word " Dock " there shall be inserted the word " Pier " ;

(*j*) in the First Schedule, in Class XVI, in paragraph (i) of sub-class F, after the words " overhead wires " there shall be inserted the words " underground cables, feeder pillars " ;

(*k*) in the First Schedule, in paragraph 2 of Class XVII, for the words " other than coal " there shall be substituted the words " including coal won or worked by virtue of subsection (1) of section 36 of the Coal Industry Nationalisation Act, 1946(a), but not any other coal " ;

(*l*) In the First Schedule, after Class XIX there shall be inserted the following Class—

" *Class XX. Peat*

The winning and working of peat by any person for the domestic requirements of that person."

Dated this 20th day of April, 1949.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Section 15 of the Town and Country Planning (Scotland) Act, 1947, enables a local planning authority to determine, on an application made under the section, whether the carrying out of operations or the making of a change in the use of land would constitute or involve development of the land within

(a) 9 & 10 Geo. 6. c. 59.

the meaning of the Act. Article 2 (*e*) of this Order deals with the procedure to be followed in making applications under section 15 and in appealing against a determination to the Secretary of State. Article 2 also makes minor amendments to the Town and Country Planning (General Development) (Scotland) Order, 1948. The classes of development permitted under that Order are widened so as to include (i) in Class III (Changes of use), a change from use as a restaurant to use as a shop (paragraph f), (ii) in Class IV (Temporary buildings and uses), temporary buildings, etc., required in connection with building, engineering or other operations which are already the subject of a planning permission or in connection with tree-felling operations (paragraph g), (iii) in sub-Class B of XVI, an extension to pier undertakings of the permissions given to dock, harbour, water transport, canal or inland navigation undertakings (paragraph i), and (iv) in Class XX, the winning and working of peat.

The Town and Country Planning (General Development) (Scotland) Amendment No. 2 Order, 1949

1949 No. 2304 (S. 157)

Made - - - -	12*th December*, 1949
Laid before Parliament	14*th December*, 1949
Coming into Operation	31*st December*, 1949

In exercise of the powers conferred on me by sections 11, 12 and 14 of the Town and Country Planning (Scotland) Act, 1947(**a**), and of all other powers enabling me in that behalf, I hereby order as follows:—

1.—(1) This Order may be cited as the Town and Country Planning (General Development) (Scotland) Amendment No. 2 Order, 1949, and shall come into force on the 31st day of December, 1949.

(2) The Interpretation Act, 1889(**b**), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. The Town and Country Planning (General Development) (Scotland) Order, 1948(**c**), as subsequently amended(**d**) is hereby further amended by substituting, in subparagraph (*a*) of paragraph (2) of Article 5, for the word "eighteen" the word "thirty".

Dated this twelfth day of December, 1949.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order extends from eighteen months to thirty months the period allowed to local planning authorities for consideration of applications for planning permission in respect of mining operations which, by virtue of paragraph 1 of Class XVII of the First Schedule to the Town and Country Planning (General Development) (Scotland) Order, 1948, are permitted until those applications are dealt with.

(**a**) 10 & 11 Geo. 6. c. 53.
(**b**) 52 & 53 Vict. c. 63.
(**c**) S.I. 1948 (No. 1030) I, p. 4288.
(**d**) *See* S.I. 1949 No. 779, p. 4060 above.