

Scottish Government Review of Permitted Development Rights

Phase 3 Consultation

May 2023

Contents	Page
Chapter 1. Introduction	3
Chapter 2. Domestic Renewables	7
2.1 Domestic solar energy equipment	7
2.2 Domestic air source heat pumps	10
2.3 Domestic ground and water source heat pumps	13
2.4 Free-standing domestic wind turbines	14
2.5 Domestic wind turbines attached to a dwelling	17
2.6 Flues for certain domestic heating systems	19
Chapter 3. Non-Domestic Renewables	23
3.1 Non-domestic solar panels	23
3.2 Solar canopies in parking areas	26
3.3 Non-domestic air source heat pumps	28
3.4 Non-domestic ground and water source heat pumps	30
Chapter 4. Thermal Efficiency: Domestic and Non-Domestic Buildings	31
4.1 Overview	31
4.2 Replacement Windows	31
4.3 External Cladding	35
Chapter 5. Electricity Undertakings	36
5.1 Overview	36
5.2 Class 40 (Electricity Undertakings)	36
5.3 Electric Lines	37
5.4 Substation Infrastructure	38
5.5 Communications Lines	39
5.6 Site Investigation Works	41
5.7 Fences, Gates, Walls and Other Means of Enclosure	42
5.8 Development on Operational Land	44
Chapter 6. Other Proposals	46
6.1 Reverse Vending Machines	46
6.2 Temporary Use of Land: Shooting Ranges	49
Chapter 7. Assessment of Impacts	51
Chapter 8. Responding to this Consultation	53
Respondent Information Form	55

Annexes

Annex A: Sustainability Appraisal Update
Annex B: Partial Business and Regulatory Impact Assessment
Annex C: Draft Equality Impact Assessment
Annex D: Children's Rights and Wellbeing Assessment
Annex E: Island Communities Impact Assessment
Annex F: Fairer Scotland Duty Assessment

1. Introduction

1.1 Overview

- 1.1.1 The Scottish Government is carrying out a review of permitted development rights (“PDR”) as part of our wider [planning reform programme](#). As outlined in more detail at section 1.3, PDR provide flexibility to carry out certain types of development without a planning application having to be submitted to – and approved by – the relevant planning authority.
- 1.1.2 The PDR review is being taken forward on a phased basis. Through each phase, consideration is being given to the potential introduction of new or extended PDR for specific types of development. This consultation paper relates to **Phase 3** of the review: it sets out, and seeks views on, a range of proposals for change (see Chapters 2 to 6). Views are also sought (Chapter 7) on the draft assessments that accompany the consultation proposals.
- 1.1.3 This consultation runs until Wednesday 23 August 2023, which is the closing date for responses. Chapter 8 of this document explains how to respond to the consultation. Feedback from respondents will inform the further consideration and refinement of proposals. Because PDR are set out in legislation, introducing new or extended PDR involves the preparation of a statutory instrument, which must be laid in the Scottish Parliament before it can come into force. We anticipate that a statutory instrument containing changes stemming from this consultation would be laid in the Scottish Parliament later in 2023 - 2024. If you have any questions about this consultation you can get in touch at Planning.PDR3@gov.scot.

1.2 The Context for Phase 3

- 1.2.1 The phasing of the PDR review programme is kept under review to ensure that it reflects – and helps to promote – wider Scottish Government objectives and priorities. In view of the cost and climate crises, Phase 3 of the review is primarily focussed on PDR for domestic and non-domestic renewables equipment. This focus reflects the important role that such equipment can play in helping to reduce greenhouse gas emissions and energy costs for households and businesses. Linked to this, Phase 3 also considers PDR associated with the rollout of transmission and distribution infrastructure needed to support the expansion of renewables and to meet increasing demands for electricity.
- 1.2.2 The proposals in this consultation are informed by a number of important Scottish Government plans and strategies, including:
- [National Planning Framework 4 \(February 2023\)](#): a long-term spatial strategy for Scotland containing national planning policies that will guide development to 2045.

- [Draft Energy Strategy and Just Transition Plan \(January 2023\)](#): sets out a route map and actions we will take to deliver a net zero energy system that supplies affordable, resilient and clean energy.
- [Heat in Buildings Strategy \(October 2021\)](#): outlines steps we will take to decarbonise Scotland’s buildings and sets out a pathway to zero emissions heating and cooling systems by 2045. A consultation on a Heat in Buildings Bill will be published later in 2023.
- [Cleaner Air for Scotland 2 \(July 2021\)](#): Scotland’s air quality strategy setting out a five-year policy framework and a series of actions to deliver improvements in air quality.

1.3 What are permitted development rights?

- 1.3.1 PDR refer to those forms of development which are granted planning permission by legislation, meaning they can be carried out without a planning application. Specifically, PDR are contained within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 ("the GPDO").
- 1.3.2 By allowing development to be carried out without an application for planning permission, PDR can provide certainty and save the time and expense associated with applying for planning permission. They can also reduce burdens on planning authorities, allowing them to focus resources on more complex and/or strategic cases.
- 1.3.3 PDR are organised into a series of “classes” set out in Schedule 1 to the GPDO. Each class specifies the type (or types) of development for which planning permission is granted. Throughout this consultation document, references to a “class” or “classes” should be read as referring to classes of PDR in Schedule 1 to the GPDO unless otherwise specified.
- 1.3.4 Most classes of PDR are subject to conditions and limitations. These may, for example: specify the maximum size or scale of what is permitted, restrict or dis-apply the rights in certain locations (e.g., conservation areas, National Scenic Areas etc.), or provide that the PDR only apply to certain developers (e.g., local authorities, electronic communications operators or statutory undertakers).
- 1.3.5 The GPDO already provides fairly extensive PDR for domestic and non-domestic renewables technologies, such as solar panels, wind turbines and heat pumps – as well as a wide range of development carried out by electricity undertakers. These existing PDR help to contextualise the proposed changes we are seeking views on. As such, the current provisions for each development type are explained in the relevant section of this consultation document.
- 1.3.6 When reading this consultation document, it is important to bear in mind that proposed developments which do not fall within the scope of PDR, including any conditions or limitations, are not inherently unacceptable in planning

terms. It is simply that planning permission for such development needs to be sought through a planning application before it can be carried out.

1.3.7 It is also important to note that the requirements of other legislation are not disapplied by the existence of PDR: separate consent(s) may need to be secured even if an application for planning permission is not required. For example, listed building consent is required for any works to a listed building – including works that have planning permission by virtue of the GPDO. Additionally, the GPDO provides that:

- PDR would not apply where an environmental impact assessment (“EIA”) would be required under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.
- An additional approval (from the planning authority) and appropriate assessment would be required for works likely to have significant effects on a European Site – under The Conservation (Natural Habitats &c.) Regulations 1994.

1.3.8 Article 4 of the GPDO contains provisions which allow planning authorities or the Scottish Ministers to make directions (commonly known as “article 4 directions”) restricting PDR for particular types of development or classes of development in specified locations. For example, article 4 directions are sometimes used to restrict PDR in conservation areas or other sensitive locations. Article 4 directions prepared by planning authorities are subject to approval by the Scottish Ministers.

1.4 Previous consultations

1.4.1 This Phase 3 consultation follows previous public consultations on:

- The [overall PDR review work programme and associated Sustainability Appraisal](#) (November 2019), the responses to which informed the development of the detailed proposals for change we are consulting on now. An [independent analysis](#) of the responses to that consultation was published in September 2020.
- [Phase 1 proposals](#) (October 2020) relating to relating to digital telecommunications infrastructure, agricultural development, peatland restoration and active travel. An [independent analysis](#) of the responses to that consultation was published in December 2020. The Phase 1 measures [came into force on 1 April 2021](#).
- [Phase 2 proposals](#) (May 2022) relating to electric vehicle charging equipment, operational port development and changes of use in city, town and local centres. An [independent analysis](#) of the responses to that consultation was published in February 2023. The Phase 2 measures [came into force on 31 March 2023](#).

1.4.2 The Phase 3 consultation is itself accompanied by an update to the 2019 Sustainability Appraisal (see Annex A). An update to the [Draft Strategic Environmental Assessment \(“SEA”\) Post Adoption Statement](#) will follow.

2. Domestic Renewables

2.1 Domestic solar energy equipment

Current PDR for domestic solar equipment

- 2.1.1 Various PDR already allow the installation of domestic solar panels in several contexts, including:
- Solar panels attached to a dwellinghouse (class 2B).
 - Solar panels attached to a building containing flats (class 4A).
 - Solar panels attached to buildings (e.g., sheds, garages, outbuildings) within the curtilage of a dwellinghouse (class 3A).
 - Free-standing panels within the curtilage of a dwellinghouse (class 3B).
- 2.1.2 Class 2B permits the improvement, addition or other alteration to the external appearance of a dwellinghouse. Class 4A permits the improvement or alteration to the external appearance of a dwelling situated within a building containing one or more flats.
- 2.1.3 Classes 2B and 4A are both general PDR which allow a variety of works to the exterior of houses and flats – including solar panels and associated mountings – provided that they do not protrude more than 1 metre from the outer surface of the wall or roof. For that reason, these provisions are sometimes referred to as the “1 metre bubble”. Neither class applies within a conservation area. Although class 2B and 4A PDR do apply to listed buildings, listed building consent would still be required for any installation of solar panels on a listed building (see paragraph 1.3.7).
- 2.1.4 Class 3A permits the provision, alteration, maintenance or improvement of certain buildings within the curtilage of a dwellinghouse. This class is subject to various restrictions. In particular, it does not allow development in either the front curtilage or side curtilage that fronts onto a road – and buildings developed or altered under this class may not exceed 4m in height (or have eaves exceeding 3m). Furthermore, no part of the building developed or altered under class 3A within 1m of the curtilage boundary can exceed 2.5m in height. Under class 3A, it is possible to install solar panels on a garage, shed or other outbuilding provided these restrictions are complied with.
- 2.1.5 Class 3B permits certain building, engineering, installation or other operations within the curtilage of a dwellinghouse. The class does not allow development in either the front curtilage or a side curtilage that fronts onto a road – and structures provided under this class may not exceed 3m in height. This PDR does not apply where, as a result of the development, more than 50% of the rear or front curtilage would be developed (excluding the original dwellinghouse and any hard surface or decking). Class 3B does not apply in conservation areas or within the curtilage of a listed building. Subject to these restrictions, this class would cover the installation of free-standing solar panels.

- 2.1.6 There are currently no PDR that would allow the installation of free-standing solar panels within the curtilage of a building containing flats.

Context for change: domestic solar equipment

- 2.1.7 As paragraphs 2.1.1 to 2.1.6 underline, current PDR already allow for the installation of solar panels on domestic properties with relatively few restrictions. The notable exception is houses and flats in conservation areas. The Scottish Government's Draft Energy Strategy envisages a significant increase in domestic renewables output by 2030. As such, and having regard to the cost-of-living and climate crises, we think it is reasonable to consider whether those living in conservation areas could be given greater flexibility to install solar panels.
- 2.1.8 Heritage protection remains an important consideration, and we recognise that the role of a conservation area is to protect that location's character and the features which contribute to its character. Where proposed installations could have significant impacts on the appearance of buildings or land within conservation areas, it is right that a planning application continues to be required.
- 2.1.9 In light of these considerations, we propose to extend PDR to allow the installation of solar panels on domestic properties in conservation areas in some – but not all – circumstances. Specifically, we are minded to allow solar panels attached to the rear elevation¹ of a property, or side elevation provided it does not front a road. In proposing this change, our intention is to strike a balance between climate and heritage considerations.
- 2.1.10 As regards solar panels within the curtilage of domestic properties, classes 3A and 3B allow householders to utilise their garden space while recognising the potential impacts on the street scene and/or neighbours. Although class 3A allows solar panels to be attached to domestic outbuildings, this is only the case where the combined height of the building and panels does not exceed the restrictions (2.5m within 1m of the curtilage boundary or 4m otherwise). This limits the applicability of these PDR to more substantial outbuildings such as garages. We are minded to extend PDR to allow for solar panels to be installed on a wider range of outbuildings within the curtilage of a dwellinghouse. This would give additional flexibility to homeowners to consider siting panels in the most appropriate position. We are not minded to amend class 3B (free-standing solar panels).

Proposals: domestic solar equipment

- 2.1.11 We propose to introduce new PDR which enable solar panels to be attached to dwellinghouses and buildings containing flats which are located in conservation areas – subject to the following conditions:

¹ In this context, an "elevation" refers to a view of the side or face of a building

- Solar panels installed under this PDR are not permitted:
 - On a principal elevation or a side elevation where that side elevation fronts a road.
 - If any part of the solar panel, including associated mountings, protrude more than 1 metre from the outer surface of the wall or roof.
 - Within the curtilage of a listed building.
- Solar panels are to be removed as soon as is practical should they become inoperative, or are no longer in use.

2.1.12 We propose to introduce additional PDR for the installation of solar panels on outbuildings ancillary to, and within the curtilage of, a dwellinghouse – subject to the following conditions:

- Solar panels installed under this PDR may not protrude more than 200mm from a wall or pitched roof of an outbuilding, or more than 500mm from the surface of a flat roof.
- The PDR would only apply to outbuildings that are located:
 - Within the rear curtilage or side curtilage not facing a road.
 - Within the rear curtilage in a conservation area.

2.1.13 The intention is that this specific PDR for solar panels attached to domestic outbuildings would provide greater flexibility than is currently offered by class 3A.

Question 1: Do you agree with the proposed PDR for solar panels attached to domestic properties in conservation areas?

Please add any comment in support of your answer

Question 2: Do you agree with the proposed PDR for the installation of solar panels on outbuildings ancillary to, and within the curtilage of, a dwellinghouse?

Please add any comment in support of your answer

2.2 Domestic Air Source Heat Pumps

Current PDR for domestic air source heat pumps

- 2.2.1 Class 6H permits the installation, alteration or replacement of an air source heat pump (“ASHP”) on a dwelling or within the curtilage of a dwelling. The class does not differentiate between dwellinghouses or buildings containing flats: it is applicable to both. There are a number of restrictions on development under class 6H, the key ones being:
- No more than one ASHP is permitted on, or within the curtilage of, any building (containing a dwelling).
 - If the ASHP is attached to a dwelling, no part of the ASHP (including housing etc.) can protrude more than 1m from the surface of any external wall or roof. Within a conservation area the ASHP must also be at ground floor level and on the rear elevation of the dwelling.
 - If the ASHP is within the curtilage of a dwelling (including those within a conservation area), it cannot be forward of the front elevation or side elevation where that elevation fronts a road. Nor can the ASHP and associated equipment or housing exceed 3m in height.
 - The class does not apply in a World Heritage Site or within the curtilage of a listed building.
- 2.2.2 Class 6H provides that any ASHP installed under the PDR must comply with [Microgeneration Certification Scheme MCS 020](#) planning standards or equivalent. MCS 020 covers the installation of ASHPs and, among other things, stipulates that noise levels for an ASHP must stay at or below 42 decibels from a 1m distance from any habitable room².

Context for change: domestic air source heat pumps

- 2.2.3 The Scottish Government published its Heat in Buildings Strategy in October 2021, which aims to see all buildings reach a good level of energy efficiency (which for homes is at least equivalent to an energy performance certificate band C) by 2033 and use zero emissions heating and cooling systems by 2045. Heat pumps are a key zero direct greenhouse gas emissions technology, and a very efficient way of using electricity to provide heat. We will consult in detail on proposals for a Heat in Buildings Bill later this year which will include further detail on how we propose to introduce regulations by 2025.
- 2.2.4 The current limitation which provides that only one ASHP per building is permitted under class 6H can be restrictive, for example where a building contains flats. Situations may arise where one owner can install an ASHP under the PDR but subsequent dwellings within the same building cannot.

² For these purposes, a habitable room means a room other than a bathroom, shower room, water closet or kitchen.

This situation could become problematic given the anticipated future uptake of ASHPs as set out in the Heat in Buildings Strategy.

- 2.2.5 We recognise that this could increase the potential for noise associated with the operation of ASHPs to affect neighbouring properties, particularly where the cumulative impact of several ASHPs is considered. The current PDR rely on the standards set out in MCS-020, including maximum noise levels, an approach we believe is effective. However, where more than one ASHP is installed on a building containing multiple dwellings, it may be appropriate to also specify restrictions on the size of the individual ASHPs and/or a minimum separation distance from other dwellings within the building (horizontally or vertically). This would be in addition to the requirement to comply with MCS-020 standards, which we are minded to retain.
- 2.2.6 Additionally, the UK Government has commissioned independent research on noise emissions from heat pumps, which will inform consideration of whether the equivalent PDR in England are fit for purpose and reflective of advances in heat pump technology. Findings will be published in the Summer. We will take account of the findings of that research, in addition to the feedback from this consultation, in finalising any amendments to the current PDR for domestic heat pumps in Scotland. Subject to the findings of the UK Government's review, we understand that the Microgeneration Certification Scheme will also consider the need to update MCS-020. Amendments to these standards would apply to Scotland.
- 2.2.7 Within conservation areas, the current PDR only allow installation of heat pumps if they are at the rear of a property and at ground level. We consider that the restriction limiting installations to rear elevations remains appropriate in terms of reducing visual impact on local amenity. However, in the interests of providing additional flexibility there may be scope to remove the restriction requiring installation at ground level.

Proposals: domestic air source heat pumps

- 2.2.8 We propose to amend the class 6H PDR for domestic ASHPs by:
- Providing that one ASHP per dwelling is permitted under the PDR, rather than the current restriction of one per building.
 - Providing that where an ASHP is installed on a building containing flats:
 - the outdoor compressor unit must not exceed 1.5 cubic metres.
 - the external parts of the ASHP (including any housing etc.) must not be within 1 metre of any window of a habitable room, or door, of another flat in the same building.
 - Remove the requirement that an ASHP installation in a conservation area must be at ground level.

Question 3: Do you agree with the proposed amendments to PDR for ASHPs?

Please add any comment in support of your answer

2.3 Domestic Ground Source and Water Source Heat Pumps

Current PDR for domestic ground and water source heat pumps

- 2.3.1 Class 6D and class 6E permit the installation, alteration or replacement of a ground source heat pump (class 6D) or a water source heat pump (class 6E) within the curtilage of a dwellinghouse or a building containing a flat.
- 2.3.2 There are no other restrictions in either class regarding location or positioning of the pump relative to the building. Nor are there any restrictions preventing installation within a conservation area or other designated area.

Context for change: domestic ground and water source heat pumps

- 2.3.3 Essentially both types of pump consist of a heat exchanger drawing heat from liquid circulating in a system of underground pipes; the pump itself can often be installed within the property. However, classes 6D and 6E refer specifically to the pump, with no reference to associated pipes. This contrasts with the PDR for non-domestic ground source and water source heat pumps (see section 3.4), which do refer to underground pipes. This could potentially cast doubt on the scope of the PDR for domestic pumps under classes 6D and 6E. We consider that it would be appropriate to address this in the interests of providing greater certainty.

Proposals: domestic ground and water source heat pumps

- 2.3.4 We propose to amend classes 6D and 6E to clarify that, in addition to the ground/water source pump itself, the PDR also cover the associated underground pipework and any above-ground connections to the pump. The pipework would need to be wholly within the curtilage of the dwellinghouse or flatted building.

Question 4: Do you agree that classes 6D and 6E should be amended to include reference to the installation etc. of pipework and associated connections required to operate a ground or water source heat pump?

Please add any comment in support of your answer

2.4 Free-standing domestic wind turbines

Current PDR for free-standing domestic wind turbines

- 2.4.1 Class 6G permits the installation of a free-standing wind turbine within the curtilage of a dwelling. For the purposes of these PDR, a dwelling refers to a dwellinghouse, a building containing one or more flats or a flat contained within such a building. The class is subject to a number of restrictions, which stipulate that:
- Only one wind turbine is permitted in the curtilage of any dwelling.
 - The turbine must be situated no less than 100m from the curtilage of another dwelling.
 - The turbine must, as far as is reasonably practical, be sited so as to minimise its effect on the amenity of the area.
 - The turbine must be used for domestic microgeneration only.
 - The turbine must be removed, as soon as is practical, if it is no longer needed or operating.
 - The turbine cannot be located within a conservation area, the curtilage of a listed building, a World Heritage Site, a Site of Special Scientific Interest or a site of archaeological interest.
- 2.4.2 The current PDR do not include any restriction on turbine height. They are, however, subject to a prior notification and approval process. This means that, prior to the turbine being installed, the developer must notify the relevant planning authority, providing a description of the proposed development, the design and size of the turbine and a location plan. The planning authority may, as they consider it appropriate, decide that the proposal is acceptable and can proceed or that further consideration of the siting and appearance of the turbine is required.
- 2.4.3 This further consideration allows the planning authority opportunity to require changes to the location and/or appearance before the development can proceed. However, the current provisions are complex and apply differently to different aspects of the proposed development with approval being required for the design and size of the turbine, and separately, a prior notification and approval process for the siting and external appearance of the turbine.

Context for change: free-standing domestic wind turbines

- 2.4.4 Wind turbines can have a significant visual impact on the surrounding area, and have additional potential to affect the amenity of neighbouring properties (e.g., noise impacts). There are also safety considerations with a potential risk of injury or damage in the event of a turbine collapsing. These considerations are reflected in the restrictions class 6G is subject to – notably the 100m separation distance and the prior notification process.

- 2.4.5 While free-standing domestic wind turbines may be appropriate in more rural locations, the potential to affect neighbouring properties and uses in more urban settings is likely to be more significant. Nevertheless, the current requirement to locate the turbine at least 100m from the curtilage boundary may be overly restrictive, even in rural areas. We are therefore considering whether it would be appropriate to introduce a more flexible approach, under which separation distance is related to the height of the proposed turbine.
- 2.4.6 As noted in paragraph 2.2.2, the current PDR for domestic ASHPs are subject to a condition requiring compliance with Microgeneration Certification Scheme (MCS) planning standards – MCS 020. These standards, which cover a range of matters such as noise levels, apply to domestic wind turbines as well as ASHPs. In view of potential amenity impacts, we are minded to require that turbines installed under class 6G comply with these standards.

Proposals: free-standing domestic wind turbines

- 2.4.7 We propose to amend the class 6G PDR for free-standing wind turbines by:
- Introducing a maximum turbine height of 15m, measured to the tip of the wing blades.
 - Providing that the distance between the lowest part of the turbine blade and the ground must be at least 5m.
 - Replacing the separation 100m distance between the turbine and curtilage boundary with a calculation of the turbine height plus a specified safety factor (e.g., height + 10%).
 - Adding a requirement to comply with the MCS 020 planning standards.
 - Simplifying the prior notification and approval process so that a single procedure covers all aspects of design and siting.
 - Providing that the turbine and blades must be painted a uniform neutral colour and not bear any advertising.
- 2.4.8 We propose to retain other elements of the current class, including the requirement for prior notification and approval, to ensure that planning authorities can exercise some degree of control where a particular proposed development could have potentially unacceptable impact on amenity.

Question 5: Do you agree with the proposed amendments to PDR for free-standing domestic wind turbines?

Please add any comment in support of your answer

Question 6: Do you agree with the current list of designated areas where the PDR do not apply, noting that the list does not currently include national parks or National Scenic Areas?

Please add any comment in support of your answer

2.5 Domestic wind turbines attached to a dwelling

Current PDR for wind turbines attached to dwellings

2.5.1 At present there are no PDR for the installation of a wind turbine mounted on a domestic property.

Context for change: wind turbines attached to dwellings

2.5.2 Wall- or roof-mounted wind turbines tend to be smaller and have lower energy output than free-standing turbines. We nevertheless recognise that installing a small turbine on a domestic property could make a valuable contribution to renewable electricity generation, including providing power to other equipment such as a heat pump. As with free-standing turbines, the potential impacts on amenity and safety are important considerations. Accordingly, any new PDR for domestic turbines fixed to a dwelling would need to be subject to a number of restrictions.

2.5.3 If a new PDR for wall- or roof-mounted wind turbines is taken forward, we are not minded to make it subject to prior notification and approval. We consider that limitations on the size, location and appearance will be sufficient to minimise potential adverse impacts on neighbouring properties.

Proposals: wind turbines attached to dwellings

2.5.4 We propose to introduce a new class of PDR for the installation, alteration or replacement of wind turbines mounted on the wall or roof of a dwellinghouse, subject to the following restrictions. A turbine installed under the PDR would only be permitted if:

- Mounted on a detached dwellinghouse.
- It is the only turbine on the same dwellinghouse.
- It complies with MCS 020 planning standards.
- No part of the turbine, including blade, would protrude more than 3m above the highest part of the roof.
- No part of the turbine, including blade tips, would be less than 5m from the ground.
- Located at least 5m from any curtilage boundary.
- The swept area of the turbine is no more than 4 square metres.
- It is a uniform neutral colour with no advertising or other designs.
- It is not located in a conservation area, National Park, National Scenic Area, Site of Special Scientific Interest, World Heritage Site or within the curtilage of listed building.
- The turbine is removed as soon as is reasonably practical should it no longer be required or cease generating electricity.

2.5.5 The proposed PDR would not extend to wall- or roof-mounted turbines attached to outbuildings or structures that do not form part of the dwellinghouse itself.

Question 7: Do you agree with the proposed new PDR for wall or roof-mounted wind turbines attached to a dwellinghouse?

Please add any comment in support of your answer

2.6 Flues for certain domestic heating systems

Current PDR for domestic flues

- 2.6.1 Planning legislation provides that planning permission is required for 'development', the definition of which³ excludes works which affect only the interior of a building or do not materially alter its external appearance. In most cases the equipment for wood burning stoves, biomass boilers and biomass heating systems, other than the flue, is installed within a building, and so it does not require planning permission. Installing, altering or replacing a flue on a dwelling may not require planning permission if it does not materially alter the external appearance of the building. In the event a flue does require planning permission, it is often granted by PDR.
- 2.6.2 The GPDO contains specific PDR for the installation, alteration or replacement of domestic flues for biomass heating systems (class 6C) and combined heat and power ("CHP") systems (class 6F), which includes CHP fuelled by biomass sources. The term domestic in this context refers to existing dwellinghouses (terraced/semi-detached and detached) and existing buildings containing one or more flats. These PDR are subject to various limitations, which provide that a flue:
- must not extend more than 1m above the highest part of the roof (excluding any chimney) to which it is fixed.
 - must not be located on the principal elevation of the dwellinghouse or building containing a flat in a World heritage Site or conservation area.
 - must not be within an Air Quality Management Area (for Class 6F, this only relates to CHP fuelled by biomass).
- 2.6.3 While classes 6C and 6F PDR are specific to particular types of flue, the majority of domestic flues are permitted under general PDR, which allow improvements, additions or alterations to the exterior of dwellinghouses (class 2B) and buildings containing flats (class 4A) within a "1 metre bubble" (see paragraphs 2.1.1 to 2.1.3). The limitations on these general householder PDR classes do not relate specifically to flues, but would nevertheless restrict the installation of a flue under PDR if:
- It would protrude more than one metre from the outer surface of an external wall, roof plane, roof ridge or chimney;
 - It would be located in a conservation area or, in the case of a building containing flats, within the curtilage of a listed building; or
 - It would be permitted development under class 6C or 6F.

³ From section 26(2)(a) of the [Town and Country Planning \(Scotland\) Act 1997 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Context for change: domestic flues

- 2.6.4 The [Cleaner Air for Scotland 2 \(CAFS2\)](#)⁴ strategy has an action point for the Scottish Government to “consider with local government what changes are needed to the current PDR for flues for woodburning stoves and biomass boilers”. This relates to the PDR for flues for biomass heating systems (class 6C) and householder PDR in class 2B and class 4A that may grant permission for flues for wood burning stoves⁵.
- 2.6.5 The concerns here relate to the adequate dispersal of pollutants to the air, without causing nuisance to neighbours, but also the effects from cumulative emissions from these technologies, at least regarding urban areas.
- 2.6.6 The main pollutant of concern in this regard is fine particulate matter, for which there is no known safe threshold. Larger biomass systems, including most CHP systems, are generally more efficient in terms of emissions than smaller ones, such as wood burning stoves and biomass boilers. That, and the wide range of these smaller systems (with corresponding variability in quality and performance) are why the CAFS2 action point focusses specifically on the PDR for flues associated with wood burning stoves and biomass boilers.
- 2.6.7 It is important to acknowledge that there are limits to how far amending PDR can, in isolation, address concerns about the dispersal of pollutants from these specific technologies and the cumulative impacts of emissions in urban areas. Changes to PDR could, however, form part of a wider package of measures aimed at tackling these issues.
- 2.6.8 With regard to adequate dispersal of pollutants, CAFS2 indicates the relevant solutions tend to be unique to the circumstances of a case. Because PDR conditions and limitations apply universally, it is difficult to see how this could be addressed with sufficient granularity in the GPDO. As to cumulative impacts on urban areas, the GPDO does not distinguish between ‘urban’ and ‘rural’ locations – such terms being too vague to provide the basis for effective restrictions. There is no obvious proxy designation, with clearly defined boundaries, which would map a distinction between urban and rural areas for these purposes.
- 2.6.9 Whilst the class 6C and 6F PDR do not apply in Air Quality Management Areas (“AQMA”), individual AQMAs have been, and may increasingly be, revoked as the related legal requirements are met. As there is no known safe threshold as regards fine particulate matter, the legal objectives regarding AQMAs can be met without necessarily addressing concerns about such matter. In addition, many of the complaints about emissions arise outside AQMAs.

⁴ Chapter 7. Tackling Non-Transport Emissions Sources, discusses ‘Domestic heat Combustion (pages 54 to 58).

⁵ The term ‘wood burning stoves’ is taken to include wood burners and log burners.

2.6.10 In light of these points, our view is that any changes to (or removal of) PDR for certain flues as part of an attempt to control cumulative emissions would need to apply more generally, rather than targeted to 'urban areas' or AQMAs. Removal of PDR could help to address the issue of pollutant dispersal, at least as far as the lack of requirements to address this in the current PDR is part of the concern.

2.6.11 Any PDR changes would not be retrospective and so would not affect emissions from existing flues or chimneys. As noted at paragraph 2.6.1, the installation of a new flue may not necessarily require planning permission; hence it does not necessarily follow that removing PDR would automatically result in planning applications in all instances. Furthermore, where planning applications for flues were submitted, planning authorities would need an appropriate policy basis for decision making as regards concerns about the cumulative emissions. In light of these limitations, amending PDR for flues should not be regarded as a panacea. However, as noted at paragraph 2.6.7, we are interested in views on the role of such changes as part of a wider set of measures aimed at reducing issues associated with air pollution.

Proposals: domestic flues

2.6.12 In the context of concerns about the adequate dispersal of pollutants and the impact of cumulative emissions on air quality, we would welcome views on the removal of PDR for flues for wood burning stoves and biomass boilers. Specifically, we are interested in feedback on:

- Removing class 6C PDR (flues for biomass heating systems); and
- Amending class 2B and class 4A PDR for dwelling to exclude flues for biomass heating systems and wood burning stoves.

2.6.13 It should be noted that as well as the installation of flues on dwellings, the PDR cover the alteration or replacement of flues on dwellings. We would welcome views on whether PDR for alteration and replacement of flues should be retained, even if the installation element of the PDR is removed.

Question 8: Do you have any comments on the potential removal of PDR for flues for wood burning stoves (including wood burners and log burners), biomass boilers and biomass heating systems?

Please add any comment in support of your answer

Question 9: Noting that current PDR cover the installation, alteration or replacement of flues, should any removal of these PDR be limited to installation of new flues, or also prevent existing flues being altered or replaced under PDR?

Please add any comment in support of your answer

3. Non-Domestic Renewables

3.1 Non-Domestic Solar Panels

Current PDR for non-domestic solar

3.1.1 Class 6J of the GPDO allows the installation, alteration or replacement of solar panels (or solar thermal equipment) on any non-domestic building. Panels installed under these PDR must be mounted on the building itself and there are specific restrictions regarding the placement of the panels depending on whether they are mounted on a pitched or a flat roof or on external walls. Specifically, development is not permitted under this class if:

- In the case of equipment installed on a pitched roof:
 - any part of the equipment would protrude more than 200mm beyond the roof plane.
 - any part of the equipment would project higher than the roof ridge.
 - Any part of the equipment would protrude outwith any of the edges of the roof.
- In the case of equipment installed on a flat roof:
 - the flat roof does not have a parapet wall.
 - the equipment would exceed the height of the parapet wall, or any part of the equipment would protrude outwith the edges of the roof.
- In the case of wall-mounted equipment:
 - any part of the equipment would protrude 200mm beyond the outer surface of the wall.
 - any part of the equipment would extend beyond the curtilage of the building.
 - Any part of the equipment would be situated within 200mm of any edge of the wall.

3.1.2 Additional restrictions apply to any installation under class 6J, whether on a wall or a roof. The PDR do not apply if installed on buildings in certain designated areas, namely: sites of archaeological interest; National Scenic Areas; historic gardens and designed landscapes; conservation areas, National Parks and within the curtilage of a listed building. Class 6J is also restricted within 3km of an aerodrome or technical site associated with civilian and military air traffic services. This 3km restriction also applies to solar canopies permitted under class 9M: this consultation also proposes to amend those PDR (see Question 11 and section 3.2).

3.1.3 The final restriction relates to the total energy output of equipment installed on a building. This is limited to 50 kW in relation to electricity generation, or

45 kW thermal if used to produce heat. There are currently no specific PDR for free-standing solar panels within the curtilage of non-domestic buildings.

Context for change: non-domestic solar

- 3.1.4 The current restriction on energy output limits the amount of energy that can be produced and does not necessarily reflect the energy requirements of any business occupying the building. It also fails to maximise potential for energy generation utilising available roof and wall space – particularly on larger premises. We are therefore minded to remove this output limit.
- 3.1.5 To give businesses greater flexibility to install small-scale solar equipment other than attached to buildings, we are also considering the introduction of a new PDR for free-standing solar panels within the curtilage of non-domestic buildings. This would be subject to restrictions on the maximum size of installations allowed, to avoid this proposed PDR being used to develop solar farms.
- 3.1.6 We are also considering the potential to amend the 3km exclusion zone around airports and technical sites associated with civilian and military air traffic services – with regard to PDR for both non-domestic buildings (class 6J) and solar canopies in parking areas (class 9M). The importance of aviation safety and the role that safeguarding plays in ensuring this is recognised, however, we note that large-scale solar installations are planned or have been developed close to airports, including by airport operators themselves. In this context, we are interested in whether there may be some scope to allow solar panels on non-domestic buildings closer to airports (and the abovementioned technical sites) under PDR. This could potentially be achieved by reducing the size of the 3km exclusion zone, allowing limited installations and/or allowing installations only on certain elevations.

Proposals: non-domestic solar

- 3.1.7 In light of the considerations above, we propose to amend class 6J PDR for non-domestic solar panels by:
- Removing the output restrictions of 50Kw and 45Kw respectively
 - Removing the requirement for wall mounted panels to be not less than 200mm from the edge of the wall, allowing installations to extend to the edge and to ‘wrap around’ corners.
 - Retaining the 200mm limit on protrusion from wall or pitched roof and allowing 500mm protrusion from surface of flat roof (in line with proposal at section 2.1).
 - Enabling solar panels to be attached to non-domestic buildings which are located in conservation areas – subject to conditions that they are not permitted on a principal elevation or side elevation fronting a road or within the curtilage of a listed building.
 - Stipulating that solar panels must be removed as soon as is practical should they become inoperative, or are no longer in use.

3.1.8 Additionally, we would welcome respondents' views on the potential to:

- Remove or reduce the current 3km exclusion zone around airports and aviation or defence installations to 2km; or
- Retain the 3km distance but allow limited installation of solar panels within that area in certain circumstances.

3.1.9 We also propose to introduce a new PDR for free-standing solar panels within the curtilage of non-domestic buildings. It is proposed that such a PDR would be subject to conditions and limitations specifying that:

- The surface area of the panels may not exceed 12 square metres.
- The installation must be wholly within the curtilage of the non-domestic building the solar panels provide power or heat to.
- No more than one installation within any particular curtilage.
- The PDR does not apply in national scenic areas, national parks or within the curtilage of a listed building.
- If the building is located in a conservation area, the PDR only permits installations in the rear curtilage.
- Equipment is to be removed if inoperable or no longer in use.

Question 10: Do you agree with the proposed amendments to class 6J PDR for solar panels attached to non-domestic buildings?

Please add any comment in support of your answer

Question 11: Do you have any comments on the potential to amend the current restrictions that apply to solar panels on non-domestic properties (class 6J) and solar canopies in parking areas (class 9M) within 3km of airports and technical sites associated with civilian and military air traffic services?

Please add any comment in support of your answer

Question 12: Do you agree with the proposed new PDR for solar panels within the curtilage of non-domestic buildings?

Please add any comment in support of your answer

3.2 Solar Canopies in Parking Areas

Current PDR for solar canopies

- 3.2.1 On 31 March 2023, new PDR for solar canopies in qualifying parking areas⁶ (“parking areas”) were introduced in a [new Class 9M of the GPDO](#). This followed the consultation on Phase 2 of the PDR review and formed part of a package of changes to PDR for electric vehicle (“EV”) chargers. In line with the Phase 2 consultation, the purpose of such canopies was primarily to power EV chargers. The legislation does not rule out the use of any excess power generated for other purposes, but the primary purpose of the solar canopies must be to power EV chargers.
- 3.2.2 Class 9M PDR grant planning permission for a solar canopy, battery storage and equipment (including equipment housing) necessary for the operation of a solar canopy. This is limited to parking areas, but there is no limit on the number of solar canopies, and equipment necessary for its operation, which can be installed in a parking area.
- 3.2.3 A solar canopy in this context is defined as a canopy structure which:
- a) is open on three or more sides;
 - b) supports solar photovoltaics for the purposes of the generation of electricity from solar energy;
 - c) has as its primary use the recharging of vehicles; and
 - d) is designed to allow one or more vehicles to be parked underneath it.
- 3.2.4 Class 9M PDR specify various limitations and conditions to the size, siting and illumination of these solar canopies⁷. In particular, such development is not permitted within 3km of an aerodrome or technical site associated with civilian and military air traffic services.

Context for change: solar canopies

- 3.2.5 The requirement within class 9M that solar canopies installed under those PDR must primarily be used for recharging vehicles reflects the particular scope of Phase 2 of the review. The Phase 2 consultation was focussed on EV charging infrastructure and the proposals were framed accordingly. Given Phase 3 is looking at how existing PDR could be extended to support renewable energy generation more generally, we are minded to remove that requirement. That is to say, the PDR described in paragraphs 3.2.1 to 3.2.3 would apply in parking areas regardless of the purpose for which solar power is generated.

⁶ An area which (a) has as its primary use lawful off-street parking, and (b) has a hard surface.

⁷ See article 7 of [The Town and Country Planning \(General Permitted Development and Use Classes\) \(Scotland\) Miscellaneous Amendment Order 2023 \(legislation.gov.uk\)](#).

- 3.2.6 This would mean that solar canopies installed under class 9M PDR could, for example, be installed solely to supply power to the grid, or solely to supply power to a building associated with the parking area. This may result in more parking areas having such solar canopies and supporting equipment, or such development being more extensive in individual parking areas, regardless of the presence of electric vehicle chargers.
- 3.2.7 The definition of solar canopy for the purposes of Class 9M specifies that it is a structure which “supports solar photovoltaics for the purposes of the generation of electricity from solar energy”. Consequently, these PDR do not include solar canopies with solar thermal equipment, which are associated with the heating of water, and would appear to be irrelevant to parking areas.
- 3.2.8 In line with paragraph 3.1.4 in section 3.1 on non-domestic solar panels, we also propose that no maximum output capacity in relation to electricity generation be attached to the amended PDR for such solar canopies. This will depend on the size of the parking area involved.

Proposals: solar canopies

- 3.2.9 The proposal is to remove the restriction that solar canopies installed under Class 9M must primarily be for the powering of EV chargers – that is, remove part (c) from the definition of “solar canopy” at Class 9M(5) (see paragraph 3.2.3). With this proposed change, and in line with the proposals for solar panels attached to non-domestic buildings, the proposal is that no new maximum output capacity for electricity generation would be introduced to Class 9M.
- 3.2.10 In addition, in line with paragraph 3.1.6, we are interested in views on whether the current restriction relating to using these PDR within 3 km of an aerodrome or technical sites associated with civilian and military air traffic services could be amended – see Question 11.

Question 13: Do you agree with the proposal to extend the Class 9M PDR to allow these to apply to solar canopies generally, rather than only those for which the primary use is charging of electric vehicle?

Please add any comment in support of your answer

Question 14: Do you agree that any extension of Class 9M PDR to be for the purposes of producing electric power generally, should not have a maximum power generation capacity?

Please add any comment in support of your answer

3.3 Non-domestic air source heat pumps

Current PDR for non-domestic air source heat pumps

- 3.3.1 There are currently no specific PDR for ASHPs associated with non-domestic buildings.

Context for change: non-domestic air source heat pumps

- 3.3.2 The Heat in Buildings Strategy commits us to “develop and introduce strengthened regulation for non-domestic buildings, to ensure they reduce demand for heat where feasible and install a zero emissions heating supply”. ASHPs are likely to play an important role in this.
- 3.3.3 We are considering introducing PDR along similar lines to the domestic ASHP provisions. It is anticipated that there would be similar restrictions on location and dimensions of equipment mounted externally, although we recognise that non-domestic buildings may require larger ASHPs. We would also need to consider some form of minimum separation from other buildings to address potential noise issues, not least because the MCS 020 standards which include noise assessment apply specifically to domestic installations.

Proposals: non-domestic air source heat pumps

- 3.3.4 We propose to introduce a new class of PDR which would apply to all non-domestic buildings and would allow the installation, alteration or replacement of an ASHP on the building or within its curtilage. The PDR would only apply:
- In the case of ASHPs attached to buildings: if it is attached to a rear or side elevation (or a rear elevation in a conservation area).
 - In the case of ASHPs within the curtilage of buildings: if it is within the rear curtilage and not within 5m of a curtilage boundary.
 - It is not located within a World Heritage Site or within the curtilage of a listed building.
- 3.3.5 We do not propose size limits on ASHPs installed under this new PDR. However, If installed on a building which also contains residential accommodation (for example ground floor shop in a tenement building), we propose that the outdoor compressor unit must not exceed 1.5 cubic metres; and the external parts of the ASHP (including any housing etc.) must not be within 1m of any window of a habitable room, or door of a flat in the same building. Additionally, the ASHP would need to be removed as soon as is reasonably practical where it is no longer needed or no longer capable of providing heating or hot water.

Question 15: Do you agree with the proposed PDR for air source heat pumps on non-domestic buildings?

Please add any comment in support of your answer

3.4 Non- Domestic Ground Source and Water Source Heat Pumps

Current PDR for non-domestic ground and water source heat pumps

3.4.1 Class 6I PDR permit the installation, alteration or replacement of underground pipes within the curtilage of a non-domestic building required in connection with a ground source heat pump or a water source heat pump or both. There are a number of restrictions:

- The surface area of the land under which the pipes are located must not exceed 0.5 hectares.
- Development is not permitted within a site of archaeological interest, the curtilage of a listed building, a World Heritage Site, or a historic garden or designed landscape.
- The total heat output of all microgeneration installed within the curtilage of a non-domestic building would exceed 45 kilowatts thermal.
- The surface of the land must be restored as soon as possible after the installation, alteration or replacement of pipes.

Context for change: non-domestic ground and water source heat pumps

3.4.2 Given that existing PDR for domestic ground and water heat pumps (classes 6D and 6E – see section 2.3.3) refer to the installation of the pumps specifically, we consider that the non-domestic PDR should also do so. In other words, we intend to clarify that class 6I PDR cover both the pump itself and the associated pipework.

3.4.3 We also consider that the restriction on the total output of microgeneration equipment in the curtilage of a non-domestic building is no longer relevant and could act as a barrier to improving energy efficiency.

Proposals: non-domestic ground and water source heat pumps

3.4.4 We propose to amend class 6I to:

- Clarify that in addition to the underground pipes, the PDR also cover the ground/water source pump and any above-ground connections to the pump.
- Remove the reference to maximum heat output.

Question 16: Do you agree with our proposed amendments to class 6I PDR for ground and water source heat pumps on non-domestic buildings?

Please add any comment in support of your answer

4. Thermal Efficiency: Domestic and Non-Domestic Buildings

4.1 Overview

- 4.1.1 Chapters 2 and 3 of this consultation look at various technologies providing renewable heat and power. However, the increased use of such technologies is one part of the wider drive to reduce emissions associated with powering and heating buildings. Improving buildings' thermal efficiency has an important role to play too. That is the focus of this Chapter.
- 4.1.2 In many cases, improving the thermal performance of a building will involve internal works, such as loft or wall insulation, draught-proofing, secondary glazing and the use of shutters or lined curtains. Under planning legislation⁸, works which affect only the interior of a building – or which do not materially affect the external appearance of a building – do not constitute 'development' for planning purposes, and so do not require planning permission.
- 4.1.3 Notable examples of thermal efficiency improvements which could affect the exterior of a building, and therefore might require planning permission, include the installation of replacement windows (section 4.2) and external cladding (section 4.3). This Chapter outlines the current position and seeks views on proposals for change in respect of such works.

4.2 Replacement Windows

- 4.2.1 The installation of like-for-like replacement windows (i.e., where the building's external appearance is not materially affected) does not require planning permission. That is because such works do not involve development (see paragraph 4.1.2).
- 4.2.2 Even where the replacement of windows would affect the external appearance of a building, planning permission is in many cases granted by existing PDR and so a planning application is not needed. Whether or not a planning application is required depends on the type and location of the building, as explained below.
- 4.2.3 Irrespective of whether planning permission is required, listed building consent must be obtained where the building in question is listed.

Current PDR for replacement windows in domestic buildings

- 4.2.4 Existing PDR allow for the alteration or improvement of dwellinghouses (class 2B) and buildings containing flats (class 4A), outwith conservation areas, as long as the works do not extend beyond the so-called "1 metre bubble" (see also paragraphs 2.1.1 to 2.1.3). These provisions cover the

⁸ Section 26(2)(a) of the [Town and Country Planning \(Scotland\) Act 1997 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

replacement of windows, with no constraints on the design of the new windows installed.

- 4.2.5 Classes 2B and 4A do not apply in conservation areas or, under Class 4A, within the curtilage of a listed building. As such, replacing the windows of domestic buildings which are located in a conservation area will generally require an application for planning permission – unless the replacements are exact replicas of what is being replaced and the external appearance of the building is not materially affected.

Current PDR for replacement windows in non-domestic buildings

- 4.2.6 As with domestic properties, there is no specific PDR for the replacement of windows in non-domestic buildings. Rather, replacement windows are permitted by general PDR classes which provide for the alteration of certain types of non-domestic building:

- Class 9A: extension or alteration of shops, financial and professional service establishments falling within class 1A of the use classes order⁹
- Class 9C: extension or alteration of schools, colleges, university or hospital buildings, nursing homes and other buildings used for the provision of care.
- Class 9D: extension or alteration of office buildings.

- 4.2.7 Clearly, not all types of non-domestic building are covered by these classes (e.g., hotels, cafes and restaurants). Furthermore, the list of designated areas within which classes 9A, 9C and 9D do not apply is more extensive than the equivalent classes providing for the alteration of domestic buildings (i.e., classes 2B and 4A). Specifically, 9A, 9C and 9D are disapplied within: sites of archaeological interest, National Scenic Areas, historic gardens or designed landscapes, historic battlefields, conservation areas, National Parks and World Heritage Sites.

Context for change: replacement windows

- 4.2.8 We are interested in the potential to extend PDR for replacement windows so that they cover houses and flats within conservation areas. Doing so could help provide greater certainty to households who are looking to install more thermally efficient windows in their properties, and save them the time and expense of submitting a planning application. Depending on how it is taken forward (in terms of what it permits and any conditions it is subject to), a PDR could also offer further savings by enabling households to utilise more cost-effective materials.
- 4.2.9 Making it simpler and quicker to replace windows in conservation areas may also help to facilitate the on-going upkeep and maintenance of our historic

⁹ [Introduced in April 2023, class 1A brings together those uses previously falling within use class 1 \(shops\) and use class 2 \(financial, professional and other services\) into a single class.](#)

buildings and ensure that they can meet the challenges of our changing climate. By reducing the number of planning applications handled by authorities, PDR could also lessen burdens on planning departments.

- 4.2.10 We nevertheless recognise that a conservation area's special architectural or historic interest may in part derive from the design and appearance of buildings' windows – and that they can make an important contribution to the area's character or appearance. It follows that if planning controls on the replacement of windows within conservation areas were lifted entirely – and this enabled the installation of replacements with no constraint on their design at all – this could have an adverse impact on their overall character or appearance.
- 4.2.11 For these reasons, we envisage that a PDR for the replacement of windows in conservation areas – if taken forward – would not take the “blanket” approach that currently applies outwith conservation areas (class 2B and 4A). We consider that a more nuanced approach would be required within conservation areas – one which strikes an appropriate balance between: supporting households to improve the thermal efficiency of their properties on the one hand, and protecting the historic environment on the other.
- 4.2.12 If it is to balance these twin objectives, we anticipate that a PDR of this nature would need to be subject to conditions and limitations relating to particular elements of a window's design. For example, conditions could require that the replacement window matches the current one in respect of:
- Its opening mechanism (e.g., sash and case).
 - The dimensions and colour of its frame and astragals¹⁰.
 - The number, orientation and colour of panes.
- 4.2.13 A condition could potentially also require that the replacement window matches the existing one in respect of materials. This would mean that if the current window is, for example, timber-framed then the replacement would also need to be. However, this type of approach could significantly reduce flexibility to install materials which are more thermally efficient and/or more sympathetic in design terms. Furthermore, conditions relating to matching materials may be unnecessary (from the perspective of safeguarding visual amenity) if the matters listed in paragraph 4.2.12 are controlled by conditions. In other words, if the PDR required that the opening mechanism, frame dimensions and panes of the replacement window match those of the current window, then this may ensure that visual amenity is sufficiently protected without needing to explicitly refer to materials. We would welcome views on these points.
- 4.2.14 Furthermore, it may be that conditions could vary depending on the elevation of the building. For example, the PDR could be more restrictive in respect of windows on principal elevations (and side elevations fronting a road) on the

¹⁰ “Astragals” are the bars which divide a window into multiple panes.

basis that these are more sensitive to alterations than rear elevations. A further consideration is whether the PDR, if taken forward, should apply in World Heritage Sites. In practice, if a PDR for replacement windows did not apply in World Heritage Sites, this would principally affect Edinburgh Old Town and New Town.

- 4.2.15 We would also welcome views on what “matching” would mean in practice. If this were to be taken as an exact replica or like-for-like replacement, then arguably a PDR would be unnecessary because works would not be development for planning purposes (see paragraphs 4.1.2 and 4.2.1). As regards frame dimensions, for example, it may be necessary to allow a reasonable degree of tolerance.
- 4.2.16 For non-domestic properties, it is not considered proportionate that only buildings in a relatively narrow range of uses (i.e., those covered by classes 9A, 9C and 9D PDR) can install replacement windows without a planning application. It is reasonable to expect that a wider range of occupiers might wish to improve the thermal efficiency of their premises by replacing the windows – and it is not clear why only those buildings covered by classes 9A, 9C and 9D should be able to do so under PDR.
- 4.2.17 As such, we are minded to bring non-domestic buildings into line with domestic buildings as regards PDR for replacement windows. In other words, amend the GPDO so it is possible to replace the windows of all non-domestic buildings without a planning application, unless the building is located within a conservation area. Listed building consent would continue to be required to replace the windows of any listed building.
- 4.2.18 Should new PDR be taken forward for the replacement of windows in houses and flats within conservation areas, subject to conditions, it would seem logical to take a similar approach to non-domestic buildings in conservation areas.
- 4.2.19 If new PDR for replacement windows were introduced, planning authorities would retain powers to prepare an article 4 direction (see paragraph 1.3.8) which, subject to the approval of the Scottish Ministers, can be used to restrict PDR in certain locations.

Proposals: replacement windows

- 4.2.20 For domestic properties (houses and flats), we propose to introduce PDR for the replacement of windows of buildings within conservation areas – subject to conditions or limitations specifying that:
- The PDR does not apply in World Heritage Sites.
 - For windows situated on the front elevation of the building, or side elevation fronting a road, the PDR would only apply if the replacement window matches the existing window with respect to:
 - Its opening mechanism.

- The dimensions and colour of its frame and astragals.
- The number, orientation and colour of panes.

4.2.21 For non-domestic properties, we propose to align PDR with domestic properties, as regards the replacement of windows.

Question 17: Do you agree with the proposed PDR for replacement windows of domestic buildings located in conservation areas?

Please comment in support of your answer

Question 18: Do you have any comments on the conditions that we propose the PDR for replacement windows would be subject to?

Please add any comment in support of your answer

Question 19: Do you agree with the proposal to align non-domestic buildings with domestic buildings, as regards PDR for replacement windows? Are there any types of non-domestic building that should be excluded?

Please add any comment in support of your answer

4.3 External cladding

4.3.1 As with replacement windows, the “1 metre bubble” provisions for domestic alterations (classes 2B and 4A) would currently cover the installation of external cladding in many cases. However, these PDR do not apply in conservation areas.

4.3.2 Given the potentially substantial impact that the installation of external cladding could have on a building’s visual appearance, and the impact this could have on the character of an area, we do not intend to provide for such works to be carried out under PDR in a conservation area. It is considered that such works should continue to require a planning application if located within a conservation area.

5. Electricity Undertakings

5.1 Overview

- 5.1.1 Linked to the focus on domestic and non-domestic renewables, this Chapter considers the PDR available for electricity undertakings included at class 40 of the GDPO. This recognises that our electricity networks will need to be significantly upgraded and expanded in the coming years to support new renewable energy generation and to meet growing demands for electricity associated with the transition to low carbon technologies.
- 5.1.2 This follows a recent UK Government Call for Evidence on [Land Rights and Consents for Electricity Network Infrastructure](#) (August 2022) which sought views on amending the equivalent PDR that apply to electricity licence holders in England. This Call for Evidence placed particular focus on existing PDR for the installation or replacement of substation infrastructure with a capacity less than 29 cubic metres. Views were sought on whether this 29 cubic metre threshold remains fit for purpose. Because any changes to license holder PDR by the UK Government would only apply in England, we are keen to explore the case for updating the equivalent provisions in Scotland.

5.2 Class 40 (Electricity Undertakings)

Current PDR for electricity undertakings

- 5.2.1 Class 40 (Electricity Undertakings) of the GPDO provides PDR for certain development undertaken by statutory undertakers for the generation, transmission or supply of electricity. Statutory undertakers include licence holders within the meaning of section 6(1) of the [Electricity Act 1989](#). These cover generation licence holders, transmission licence holders, distribution licence holders, supply licence holders, interconnector licence holders and smart meter communication licence holders.
- 5.2.2 Class 40 PDR cover a range of development needed for the upgrading and expansion of electricity networks, including electric lines (section 5.3), substations (section 5.4), communications lines (section 5.5), site investigation works (section 5.6) and certain development on operational land (section 5.8). These PDR have not been substantively amended for some time and there may be opportunities to update them to reflect our changing energy system.

Context for change: electricity undertakings

- 5.2.3 We note that the electricity undertakings permitted at class 40 are described as works for the 'generation, transmission, or supply of electricity'. This description does not fully reflect the range of licenced undertakings listed at section 6 of the Electricity Act 1989, however. Some scope therefore exists to clarify this description so that it is explicit that these PDR relate to works

for ‘smart meter communications’ and the ‘distribution’ and ‘interconnection’ of electricity alongside its ‘generation, transmission, or supply.’

- 5.2.4 We also consider that, in addition to reviewing the PDR available to statutory undertakers for the installation or replacement of substation infrastructure, there are opportunities to review the wider PDR available to statutory undertakers to cover changes in technology and to support forthcoming programmes for the upgrading and expansion of electricity networks.

Proposals: electricity undertakings

- 5.2.5 In light of the considerations above, we propose to amend class 40 to clarify that the PDR can be used by statutory undertakers for purposes of ‘smart meter communications’ and the ‘distribution’ and ‘interconnection’ of electricity alongside its ‘generation, transmission, or supply.’

Question 20: Do you agree that class 40 PDR should be amended to clarify that they can be applied by statutory undertakers for the purposes of ‘smart meter communications’ and the ‘distribution’ and ‘interconnection’ of electricity as well as its ‘generation’, ‘transmission’ and ‘supply’?

Please add any comment in support of your answer

5.3 Electric Lines

- 5.3.1 Electric lines transport electricity across various distances to areas of demand. They include electrical cables that can be installed underground or overground suspended on steel or aluminium towers or wooden poles¹¹.

Current PDR for electric lines

- 5.3.2 PDR at class 40(1)(a) allow undertakers to install or replace electric lines above or below ground provided that there is no requirement to apply to the Scottish Ministers for consent under section 37 of the Electricity Act 1989.
- 5.3.3 These PDR therefore apply to all below ground electric lines and any above ground electric line that is listed amongst the exemptions identified at section 37(2) of the Electricity Act 1989 or within the [Overhead Lines \(Exemption\)](#)

¹¹ The term ‘Electric Line’ is defined at Section 64 (1) of the Electricity Act 1989. It means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires, (a) any support of any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended; (b) any apparatus connected to any such line for the purpose of carrying electricity; and (c) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.

[\(Scotland\) Regulations 2013](#). Class 40(1)(a) also allows undertakers to construct any shafts or tunnels and substations (see section 5.4) reasonably necessary in connection with an electric line.

- 5.3.4 Works for the installation and replacement of electric lines permitted under Class 40(1)(a) are subject to conditions. These set out that any conditions relating to the height, design or position of an electric line should apply when it is replaced. They also require the removal of electric lines and the reinstatement of land following temporary diversions.

Proposals: electric lines

- 5.3.5 We do not propose amending the PDR available at class 40(1)(a) to statutory undertakers for the installation or replacement of electric lines. There may, however, be some opportunity to allow additional smaller scale electric lines to be permitted under the PDR at class 40(1)(a) as part of a broader review of consenting under section 37 of the Electricity Act 1989 and the exemptions included within the Overhead Lines (Exemption) (Scotland) Regulations 2013. This work is outside the scope of the phased review of PDR, however, and we will consider separately whether it is appropriate to extend the scope of the 2013 Regulations.

5.4 Substation Infrastructure

- 5.4.1 Substations convert electricity into different voltages and regulate the flow of current. Substations contain electrical equipment for these purposes (transformers, switches etc.) which can be housed in chambers made of metal, brick or plastic. The size, appearance and configuration of substations can vary significantly. Substations are fenced off from the public and feature yellow and black triangular signs that carry electrocution warnings.

Current PDR for substation infrastructure

- 5.4.2 Class 40(1)(a) allows electricity undertakers to install or replace substation infrastructure reasonably necessary in connection with an electric line. This substation infrastructure includes feeder pillars, service pillars, transforming stations, switching stations and chambers. These PDR do not apply to substation infrastructure housed in a chamber with a capacity greater than 29 cubic metres, however.

Context for change: substation infrastructure

- 5.4.3 Additional substation infrastructure will be required in areas of demand as electricity networks are upgraded and extended to support the deployment of low carbon technologies such as heat pumps and EV chargers.
- 5.4.4 We understand that the current 29 cubic metre limitation on the PDR available to statutory undertakers for substation infrastructure does not allow for the installation of certain standard designs employed across the network. Additionally, we understand that a larger development footprint can allow for

safer access for the maintenance of substations. There may also be a requirement to replace and enlarge existing substation infrastructure to create additional capacity within electricity networks as demand increases.

- 5.4.5 It is recognised that new or replacement substations which are larger than the current 29 cubic metre threshold could have additional impacts on amenity. As such, we consider that it may be appropriate to add limitations relating to the size and/or siting of larger substation infrastructure.

Proposals: substation infrastructure

- 5.4.6 In light of the above considerations, we propose to amend class 40 by:
- Increasing the maximum size threshold from 29 cubic metres to 45 cubic metres.
 - Providing that a new/replacement substation installed under class 40:
 - May not exceed a 3m height limit.
 - May not be within 5m of a dwelling if it exceeds 29 cubic metres.

Question 21: Do you agree with the proposed amendments to the provisions of class 40 PDR which relate to new or replacement substations?

Please add any comment in support of your answer

5.5 Communications Lines

5.5.1 Telecommunications lines are incorporated into electricity networks to ensure electrical safety and to monitor the operation of the network. They allow communication between substations and end points so that faults can be anticipated, and circuits can be switched off if necessary. They comprise wirelines or fibre-optic cables used to carry information. Proposals for overhead electric lines often incorporate communications technologies and carry data in addition to electricity. Separate communications infrastructure can, however, sometimes be required.

5.5.2 When not incorporated into an overhead electric line, communications lines are typically installed in a duct below ground or on wooden poles above ground. Inspection chambers are also needed for the maintenance of below ground communications lines and the covers for these chambers are often visible above ground level.

Current PDR for electric communications lines

5.5.3 Class 40(1)(b) allows statutory undertakers to install or replace any telecommunications line which connects any part of an electric line to any

electrical plant or building. It also covers any supports needed for communications lines. These PDR do not apply in a National Scenic Area or a Site of Special Scientific Interest. Restrictions also apply to electronic communications lines greater than 1,000m in length or supported on a structure greater than 15 metres in height.

Context for change: electric communications lines

5.5.4 Electronic communications lines provide essential communication links for the operation of electricity networks. Given that PDR are already available to statutory undertakers for the installation or replacement of below ground electric lines and above ground electric lines and chambers not requiring section 37 consent, there may be some opportunity to create efficiencies by extending the PDR for linked electronic communications lines.

Proposals: electric communications lines

5.5.5 We propose to allow for the replacement of communications lines in those designated areas (National Scenic Areas or Sites of Special Scientific Interest) where the PDR does not currently apply. This would be subject to a condition ensuring that the height, design or position of the replacement communications line reflects that of the existing communications line. As currently, the installation of new communications lines in those areas would not be covered by PDR.

5.5.6 We are also considering extending these PDR to allow statutory undertakers to install or replace communications lines which are longer than 1,000m - and would welcome thoughts on what (if any) alternative threshold might be appropriate.

Question 22: Do you agree with the proposal to allow the replacement of communications lines in National Scenic Areas and Sites of Special Scientific Interest under class 40 PDR provided that the design, height or position of the replacement line matches the original?

Please add any comment in support of your answer

Question 23: Do you have any thoughts on the potential to provide for the installation or replacement of communications lines of a greater length than 1,000m under class 40? If so, do you have a view on an appropriate alternative threshold?

Please add any comment in support of your answer

5.6 Site Investigation Works

- 5.6.1 Site investigation works are required to collect information on, assess and report potential hazards or constraints associated with a site used for electricity undertakings.

Current PDR for site investigation works

- 5.6.2 Class 40(1)(c) allows statutory undertakers to sink boreholes to ascertain the nature of the subsoil, and to install plant or machinery reasonably necessary in connection with such boreholes. These works are subject to a condition at class 40(3)(c) that on the completion of the development or at the end of a period of six months from the beginning of that development (whichever is sooner) any such plant or machinery shall be removed, and the land shall be restored as soon as reasonably practicable. The land must be restored to its condition before the installation took place, or to such condition as may have been agreed in writing between the planning authority and the developer.

Context for change: site investigation works

- 5.6.3 The nature of investigation works needed to assess sites for electricity undertakings has evolved beyond the sinking of boreholes to ascertain the nature of the subsoil. In addition to the sinking of boreholes to undertake soil testing, a range of methods and equipment may be used to evaluate the suitability of sites. These include the sinking of rotary boreholes to investigate the mineral stability of the site, peat-probing, the excavation of trial pits and gas and water ground monitoring. We are giving consideration to amending the PDR to reflect this.

Proposals: site investigation works

- 5.6.4 In line with the considerations above, we propose to extend the type of site investigation works that statutory undertakers can carry out under class 40 PDR. This would involve broadening the scope of works to include additional intrusive survey and site investigation works and associated temporary plant, including: rotary boreholes, peat-probing, excavation of trial pits and gas and water ground monitoring.
- 5.6.5 Any additional site investigation works permitted would be subject to the condition at class 40(3)(c) that any plant or machinery shall be removed, and the land shall be restored as soon as reasonably practicable upon completion of the development (or within six months from the beginning of the development). We are, nevertheless, interested in respondents' views on whether potential adverse effects linked to site investigation works should be mitigated through restrictions on certain works in designated areas, or through limitations on the scale of trial pits to be excavated.

Question 24: Do you agree with the proposal to extend the range of site investigation works that can be carried out under class 40?

Please add any comment in support of your answer

Question 25: Do you consider that there are any designated areas where PDR for certain site investigation works should be restricted? Should there be any limitations on the scale of certain intrusive site investigation works permitted, for example, the size of trial pits?

Please add any comment in support of your answer

5.7 Fences, Gates, Walls and Other Means of Enclosures

5.7.1 Facilities for electricity undertakings will often require fencing-off from the public as a safety measure. Fencing can also reduce the visual impact of electricity network infrastructure and allow for better relationships with surrounding development.

Existing PDR for gates, fences, walls and other enclosures

5.7.2 Class 7 of the GPDO relates to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure without the need to apply for planning permission. These PDR are not specific to particular parties and are applicable to anyone: this includes, but is not limited to, electricity undertakers.

5.7.3 Class 7 PDR do not apply where the height of the enclosure, after carrying out the development, would exceed 1m above ground level when constructed within 20m of a road. They also do not apply for the construction or erection of any enclosure which would exceed 2m in height.

5.7.4 Further restrictions on these PDR apply where the height of any enclosure would, as a result of works for its maintenance, improvement or alteration, exceed its former height or would exceed the height thresholds identified above. These PDR also do not apply where the proposed enclosure would involve development within the curtilage of a listed building.

Context for change: gates, fences, walls and other enclosures

- 5.7.5 The [Electricity Safety, Quality and Continuity Regulations 2002](#) place a number of requirements on the delivery of electricity network infrastructure to ensure public safety. Part III of these Regulations specify that substations are enclosed where necessary to prevent, so far as is reasonably practicable, danger or unauthorised access. These regulations also specify that any part of an electricity substation, which is open to the air and contains live equipment, which is not encased, is enclosed behind a fence or wall not less than 2.4m in height.
- 5.7.6 Given the above, we are minded to introduce specific PDR within class 40 for the erection or construction of fences, gates, walls and other enclosures linked to electricity undertakings. These PDR would not be subject to the height restrictions included at class 7, reflecting the specific public safety considerations associated with electricity undertakings.

Proposals: gates, fences, walls and other enclosures

- 5.7.7 It is proposed to introduce specific PDR enabling statutory undertakers to erect, construct, maintain, improve or alter a gate, fence, wall or other means of enclosure linked to electricity undertakings. These would be linked to class 40 and so not available to other parties.
- 5.7.8 These amended provisions would not be subject to the height restrictions that apply to class 7 and, instead, would be subject to a general height limit of 3m. Additionally, it should be noted that there is a general limitation at section 3(5)(a) of the GDPO on development that creates an obstruction to the view of persons using any road used by vehicular traffic would apply.

Question 26: Do you agree with the proposed introduction of specific PDR enabling electricity undertakers to erect, construct, maintain or improve gates, fences, walls or other means of enclosure up to 3m in height?

Please add any comment in support of your answer

5.8 Development on Operational Land

- 5.8.1 As demand for electricity from renewable sources increases, existing renewable energy generation and electricity network facilities will need to be upgraded to ensure resilience and enable the generation of additional capacity. This is likely to require the development of additional apparatus and the incorporation of new technologies on operational land in use for electricity undertakings.

Existing PDR for development on operational land (electricity undertakers)

- 5.8.2 Class 40(1)(d-f) allows electricity undertakers to carry out certain developments on operational land. In this context, 'operational land' is defined at sections 215 and 216 of the Town and Country Planning (Scotland) Act 1997.
- 5.8.3 Class 40(1)(d-f) permits a range of development on operational land including the extension or alteration of buildings and the erection of new buildings for the protection of plant or machinery.
- 5.8.4 These PDR are subject to certain limitations and conditions. Most notably, Class 40(3)(d) requires that prior notification is given to the relevant planning authority, who may then require that prior approval is obtained from them on the details of the siting, design and external appearance of new buildings erected on operational land for the protection or plant or machinery. This is in addition to a 15m height limitation on such development.

Context for change: development on operational land (electricity undertakers)

- 5.8.5 'Operational land' is defined at sections 215 and 216 of the Town and Country Planning (Scotland) Act 1997. Any proposal to review the definition of 'operational land' included within the Town and Country Planning (Scotland) Act 1997 would be outside the scope of the phased review of PDR, however.
- 5.8.6 The requirement for prior notification of and approval from the relevant local planning authority on the siting, design and external appearance of new buildings for housing plant/machinery to be developed on operational land, has been identified as an additional process for applicants and planning authorities which does not necessarily improve outcomes given the existing use of land for electricity undertakings. We are therefore considering the removal of this prior notification and approval mechanism from class 40.

Proposals: development on operational land (electricity undertakers)

- 5.8.7 We propose to remove the requirement for prior notification and approval from planning authorities on the siting, design and external appearance of new buildings for housing plant/machinery permitted on operational land for electricity undertakings.

Question 27: Do you agree with the proposed removal of prior notification and approval requirements that apply to certain works under class 40 PDR?

Please add any comment in support of your answer

Question 28: Please provide any further views you may have on the proposals in this section on the PDR associated with electricity undertakings.

Please add any comment in support of your answer

6. Other Phase 3 Proposals

6.1 Reverse Vending Machines

Current PDR for reverse vending machines

- 6.1.1 Under the provisions of the Deposit and Return Scheme (“DRS”) for Scotland Regulations 2020, certain items of glass, metal and plastic packaging will be subject to a deposit payable at point of sale and refundable when the packaging is returned to any participating return point. These provisions are proposed to come into force on 1 March 2024.
- 6.1.2 Reverse vending machines (“RVMs”) will play an important role in the operation of the deposit return scheme. RVMs are machines which: accept packaging which falls within the deposit return scheme; reimburse deposits for each accepted; and retain the packaging for collection.
- 6.1.3 [The Town and Country planning \(General Permitted Development\) \(Reverse Vending Machine\) \(Scotland\) Amendment Order 2020](#) introduced PDR for the installation, alteration or replacement of RVMs in the wall of, or within the curtilage of, a shop (class 9H). There are a number of restrictions on the location and size of an RVMs installed under class 9H PDR. The PDR do not apply if:
- The RVM would exceed 3.5 metres in height.
 - Its footprint would exceed 80 square metres.
 - In the case of an RVM installed in the wall of a shop, any part of the machine would protrude 2 metres beyond the outer surface of that wall.
 - It would be situated within 15 metres of the curtilage of a building used for residential purposes.
 - It would face onto and be within 5 metres of a road.
- 6.1.4 Additionally, development is not permitted under class 9H within sites of archaeological interest, National Scenic Areas, historic gardens or designed landscapes, historic battlefields, conservation areas, National Parks, or World Heritage Sites. RVMs no longer in operation must be removed and the site reinstated to its prior condition as soon as reasonably practicable.

Context for change: reverse vending machines

- 6.1.5 The current PDR allow the installation of units on shop frontages (similar to cash machines) and for larger, free-standing units in retail curtilages including carparks. However, we are aware such options may not be appropriate for smaller retailers which have limited internal floorspace or are not served by dedicated off-street parking. RVMs located on or adjacent to the street, potentially serving as a collection point for multiple outlets, may be a more efficient and effective solution for smaller retailers. However, this type of approach would not be covered by current PDR and a planning

application would be required. We are therefore considering the introduction of a PDR providing for the installation of free-standing on-street RVMs.

- 6.1.6 The DRS is intended to operate as a “return to retail” model, in which items can be taken back to any location that sells materials that are within the scope of the scheme. The introduction of a PDR enabling the installation of on-street RVMs would enable smaller stores with space restrictions to provide an alternative return point – whether on a high street or in more rural setting – where return to retail is not as widely available. In doing so, on-street RVMs may provide more decentralised return points in a wider range of locations, which could help to increase the overall accessibility of the DRS and reduce the need to travel by car.
- 6.1.7 We recognise that structures placed within the public realm can create obstructions that can affect certain groups disproportionately – such as those with visual impairments. In this context, it is important to note that under section 59 of the Roads (Scotland) Act 1984, the consent of the roads authority is required before anything (including a structure such as an RVM) is placed on a road if it would cause an obstruction. The definition of road includes the pavement.
- 6.1.8 Consent under section 59 of the Roads (Scotland) Act 1984 must be obtained in addition to any requirement for planning permission – these are separate regimes. The need to obtain consent under the 1984 Act would continue to apply even if planning permission were granted through a new PDR for on-street RVMs. This ongoing requirement would ensure that safety and accessibility issues could continue to be considered and addressed in the absence of a planning application. Even so, given the potential for RVMs to contribute to street clutter, it is envisaged that any new PDR for free-standing, on-street RVMs would be subject to conditions specifying: a minimum separation distance between RVMs located on the road, and size limits for such RVMs. We anticipate these size limits would be more restrictive than those which apply to class 9H PDR for off-street RVMs. We also envisage including a condition preventing the installation of an RVM under PDR if it would result in a pavement being narrower than a specified minimum width.

Proposals: reverse vending machines

- 6.1.9 We would welcome views on the introduction of PDR that would permit the installation of RVMs located on the road (the definition of which includes the pavement). It is proposed that such PDR would be subject to conditions and limitations specifying that:
- Any RVM installed under the PDR must:
 - Be at least 400m from any other on-street RVM.
 - Not exceed 2.5m width or depth, or exceed 2m in height (including any canopy or housing).
 - Not result in a clear pavement width of less than 1.5m

- Be oriented to ensure returns can be readily accepted from those using a footpath/pavement.
- The PDR does not apply unless consent under section 59 of the Roads (Scotland) Act 1984 has first been obtained.
- No advertising other than that related to the DRS (or to recycling in general) is permitted.

6.1.10 We also propose to remove the current restriction that a reverse vending machine cannot be installed facing onto and within 5m of a road as this may restrict the installation of wall mounted RVMs within shop frontages.

Question 29: Do you agree with the proposed amendments to PDR for reverse vending machines?

Please add any comment in support of your answer

6.2 Temporary Use of Land: Shooting Ranges

Current PDR for temporary use of land

6.2.1 Class 15 of the GPDO allows a temporary activity – or different use – to take place on land for up to 28 days, within a calendar year, without needing to apply for planning permission. The terms of class 15 are flexible: they apply to any activity, except use of land for a caravan site, and they do not apply to land within the curtilage of a building. Moveable structures associated with the temporary use can be placed on the land during the 28-day period but must be removed from the land at other times. The 28 days is a cumulative total in any calendar year.

Context for change: temporary use of land

6.2.2 It has been brought to our attention that these provisions might be used to establish temporary firing ranges comprising the provision of fixed targets associated with the use of firearms. Concerns have been expressed about the potential disruption and amenity impacts that such uses can have, particularly in respect of noise. It should be noted that, whether or not a planning application is required, the use of firearms is subject to separate licensing and checks by Police Scotland to ensure public safety. For ranges this will include a requirement of a safety certificate issued by the National Rifle Association or a similar body, as well as having adequate insurance being in place.

6.2.3 In light of the potential amenity impacts associated with such uses or activities, we would welcome views on whether there is merit in excluding them from the scope of class 15 PDR. In considering such an amendment, our intention would not be to remove PDR for temporary activities that do not involve fixed targets, such as game shooting, clay pigeon shooting or paintball. In many instances, such activities carried out on a temporary basis may not constitute ‘development’ under the Town and Country Planning (Scotland) Act 1997. In those cases, planning permission is not required – whether granted via PDR or following a planning application.

6.2.4 A further consideration is that certain types of shooting activities, which may involve target shooting, are exempt from authorisation under firearms legislation. Namely, activities which fall under:

- The following provisions of the Firearms Act 1968:
 - Section 11(4) (miniature rifle ranges);
 - Section 11(6) (approved shotgun events);
 - The activities of servants of the Crown, including cadet corps, operating in their official capacity under Section 54.
- The following provisions of the Air Weapons and Licensing (Scotland) Act 2015:
 - Section 17 (approved air weapon events);

- Section 23 (recreational shooting facilities);
- Paragraph 6 of Schedule 1 (cadet corps);
- Paragraph 17 of Schedule 1 (public servants carrying out official duties).

6.2.5 If class 15 is amended so that it does not apply to temporary target shooting ranges, the activities listed above would (where they involve development) require a planning application. However, they would continue to be exempt from authorisation under firearms legislation. Although planning and firearms legislation deal with separate matters, we would nevertheless be interested to hear respondents' thoughts on: a) whether it would be proportionate to withdraw PDR for those temporary shooting activities which are exempt from firearms authorisation; and b) whether there is sufficient planning justification for doing so (e.g., amenity impacts associated with noise).

6.2.6 It should be noted that any amendment to class 15 PDR would have no effect on established shooting or gun clubs with an existing planning permission. Nor would such a change affect organisations intending to use land for a particular purpose for more than 28 days a year, which would be beyond the scope of class 15 in any case. If an amendment is taken forward, those temporary uses no longer permitted under class 15 would need to be the subject of a planning application before they could be carried out (see paragraph 1.3.6).

Proposals: temporary use of land

6.2.7 We would welcome views on potentially amending class 15 of the GPDO to exclude the use of land as a temporary shooting range comprising fixed targets associated with firearms.

Question 30: Do you have any comments on the potential exclusion of the use of land as a target shooting range from class 15 PDR? If such a change were taken forward, do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?

Please add any comment in support of your answer

7. Assessment of Impacts

7.1 Sustainability Appraisal Update

- 7.1.1 The Scottish Government set out its Proposed Work Programme for reviewing and extending PDR (referred to as “the proposed programme”) in November 2019. The proposed programme was the first step in an iterative and ongoing policy process which has been, and will continue to be, informed by a Sustainability Appraisal (“SA”) incorporating Strategic Environmental Assessment (“SEA”) requirements¹². The SA was undertaken by independent consultants LUC commissioned by the Scottish Government.
- 7.1.2 An SA Report setting out the potential environmental, social and economic effects arising from the proposed PDR review programme was [consulted on from 5 November 2019 until 28 January 2020](#). The 2019 SA report considered broad options for changes to PDR across a range of development types.
- 7.1.3 An updated SEA Post Adoption Statement was also published alongside the Phase 1 and Phase 2 consultations in October 2020 and May 2022 respectively; it set out how the views gathered on the environmental, social and economic considerations incorporated within the Sustainability Appraisal were taken into account in finalising the PDR work programme and in progressing the Phase 1 and Phase 2 proposals.
- 7.1.4 The updated SEA Post Adoption Statement is a live document; it will continue to be updated as future work on the remaining phases of the PDR programme is progressed. We will also consider whether any further appraisal or assessment is required at each step of the iterative policy process. Accordingly, an update to the SEA Post Adoption Statement will follow.
- 7.1.5 Furthermore, we have also undertaken some additional appraisal of the Phase 3 proposals (see **Annex A**). This includes the consideration of proposals (e.g., reverse vending machines, temporary use of land as firing range) that were not considered in the original Sustainability Appraisal.

Question 31: What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A?

Please add any comment in support of your answer.

¹² The Sustainability Appraisal incorporates SEA requirements under the Environmental Assessment (Scotland) Act 2005

7.2 Other Assessments

7.2.1 In addition to Strategic Environmental Assessment, we have undertaken a number of other assessments of our draft proposals (or screened proposals to see whether an assessment is required). Our initial and draft assessments are set out in Annexes A-F and we would welcome feedback on these as part of the consultation. The draft assessments and screening assessments undertaken include:

- A Business and Regulatory Impact Assessment (BRIA) that considers the costs and benefits, particularly with regard to business, of the proposed changes (see **Annex B**);
- An Equality Impact Assessment (“EqIA”) that considers the impact of the draft proposals on various equalities groups defined by protected characteristics such as age, sex, religious or other belief, race or sexual orientation (see **Annex C**);
- A Children’s Rights and Wellbeing Impact Assessment (“CRWIA”) that considers the impact of the proposed changes on children. Our initial conclusion following a screening of proposals is that a full assessment is not required (see **Annex D**);
- An Island Communities Impact Assessment (“ICIA”) that considers the impact of proposed changes on Scotland’s islands. Our initial conclusion following a screening of proposals is that a full assessment is not required (see **Annex E**); and
- A Fairer Scotland Duty Assessment that considers how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. Our initial conclusion following a screening of proposals is that a full assessment is not required (see **Annex F**).

7.2.2 A Data Protection Impact Assessment (“DPIA”) was not considered relevant to these proposals because none pose any risk to privacy or data protection.

7.2.3 We invite views on these draft and partial impact assessments as part of this consultation. In particular:

Question 32: Do you have any comments on the partial and draft impact assessments undertaken for Phase 3?

Please add any comment in support of your answer.

Question 33: Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

Please add any comment in support of your answer.

8. Responding to this Consultation

8.1 Summary

8.1.1 We are inviting responses to this consultation by Wednesday 23 August 2023. Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space by accessing and responding to this consultation online at <https://consult.gov.scot/planning-performance/scottish-government-review-of-pdr3>. You can save and return to your responses while the consultation is still open.

8.1.2 If you are unable to respond using our consultation hub, please send your response, together with the Respondent Information Form, to: Planning.PDR3@gov.scot.

or

Development Management Team (PDR Review)
Planning and Architecture Division
Scottish Government
Area 2F South
Victoria Quay
Edinburgh EH6 6QQ

8.2 Handling your response

8.2.1 If you respond using the consultation hub, you will be directed to the "About You" page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and will treat it accordingly.

8.2.2 All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise. To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

8.3 Next steps

8.3.1 Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be published at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email. An analysis report will also be made available.

8.3.2 Responses to the consultation will help inform the refinement of proposals and the drafting of regulations that would bring any PDR changes flowing from this consultation into force. We anticipate that such regulations would be laid in the Scottish Parliament later in 2023 - 2024.

8.4 Scottish Government consultation process

8.4.1 Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

8.4.2 Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

8.4.3 While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email Address

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes No



© Crown copyright 2023



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80525-884-1 (web only)

Published by The Scottish Government, May 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1297282 (05/23)

W W W . g o v . s c o t