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TO

Amend the law relating to telecommunications masts.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendments of the Town and Country Planning (General Permitted Development) Order 1995

- (1) The Town and Country Planning (General Permitted Development) Order 1995 is amended as follows.
- (2) In Article 1(2), , there is inserted—
“telecommunications masts and associated apparatus” shall have the same meaning as electronic communications apparatus in the Electronic Communications Code.
- (3) In Schedule 2, Part 2 (Minor operations), at end insert—

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“Class D

Permitted development	Development which consists of – (a) the use of land by or on behalf of an Electronic Communications Code Operator for a period not exceeding 3 months to provide access for and station temporary movable telecommunications masts and associated apparatus, which is required for the sole purpose of temporarily replacing unserviceable telecommunications masts and associated apparatus; or (b) the replacement of telecommunications masts and associated apparatus, including associated equipment and structures and the provision of means of access, which is required for the operation of an Electronic Communications Code Operator’s system where such existing telecommunications masts and associated apparatus has become unserviceable.	5 10 15 20
Development not permitted	Development is not permitted by Class D if the telecommunications masts and associated apparatus is not of the same type and capacity as the unserviceable masts and associated apparatus it is to replace.	25
Interpretation of Class D	For the purposes of Class D – “movable telecommunications masts and associated apparatus” means masts and apparatus attached to a vehicle, trailer or moveable structure.”	30
(4)	In Schedule 2, Part 17 (Development by statutory undertakers), after A.1 (c), insert – “(d)Telecommunications masts and associated apparatus.”	35
(5)	Schedule 2, Part 24 (Development by Telecommunications Code System Operators) is revoked.	
(6)	Schedule 2, Part 25 (Other Telecommunications Development) is revoked.	
2	Revocation of Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2001 is revoked.	40

3 Amendment of the Town and Country Planning Act 1990

- (1) The Town and Country Planning Act 1990 (c. 8) is amended as follows.
- (2) After section 71A insert –

“71B Telecommunications masts: precautionary principle statement

- (1) Every application for planning permission for telecommunications masts and associated apparatus shall be accompanied by a precautionary principle statement (“the statement”). 5
- (2) A local planning authority on receipt of an application for planning permission for telecommunications masts and associated apparatus, and on the receipt of a notice of appeal, shall 10
 - (a) make copies of the statement available for inspection, and
 - (b) indicate how representations can be made in respect of the statement
 in such manner as may be prescribed by regulations.
- (3) A local planning authority in considering an application for planning permission for telecommunications masts and associated apparatus, or the Secretary of State on an appeal against a determination or non-determination, shall not make a decision until it, or he, has first taken into account the information contained within the statement and any representations received in respect of that information. 15 20
- (4) Where the statement indicates that there is a threat of damage to health or the environment, it shall not be a ground for granting planning permission that there is a lack of full scientific certainty about the extent of the threat of damage to health or the environment.

71C Telecommunications masts: beam of greatest intensity certificate 25

- (1) Every application for planning permission for telecommunications masts and associated apparatus shall be accompanied by a certificate (“the certificate”) which sets out –
 - (a) the area and maximum range of the Beam of Greatest Intensity,
 - (b) the minimum and maximum distances at ground level of the Beam of Greatest Intensity, 30
 - (c) an explanation of the way in which the intensity of radiation falls off with distance from an antenna and of the level of the intensity of radiofrequency radiation,
 - (d) an indication of where the Beam of Greatest Intensity falls and the nearest and farthest distance from the antenna to these points. 35
- (2) A local planning authority on receipt of an application for planning permission for telecommunications masts and associated apparatus, and on the receipt of a notice of appeal, shall 40
 - (a) make copies of the certificate available for inspection, and
 - (b) indicate how representations can be made
 in such manner as may be prescribed by regulations.
- (3) Where a Beam of Greatest Intensity falls on any part of any premises or land occupied by or consisting of an education or medical facility, or of residential property, planning permission shall not be granted before 45

first taking into account the information contained within the certificate, and any representations received in respect of that information.

- (4) For the purposes of sections 71B and 71C –
- “beam of greatest intensity” means the beam that is at its highest level of Radio Frequency Emissions circling a base station; 5
 - “telecommunications masts and associated apparatus” has the same meaning as electronic communications apparatus in the Electronic Communications Code;
 - “precautionary principle statement” means a statement accompanying an application for planning permission for telecommunications masts and associated apparatus which describes the effect upon the environment or human health which might arise from the installation or use of the telecommunications masts and associated apparatus; 10
 - “education facility” means any premises used for the education of children and young adults, whether such education is full or part time, and includes a nursery school; 15
 - “medical facility” means any premises used for medical treatment or care.” 20

4 Amendments of the Communications Act 2003

- (1) The Communications Act 2003 (c. 21) is amended as follows.
- (2) In section 119(2) there is inserted –
- “(c) any application under sections 5(A), 17 and 21 of that code.”
- (3) In Schedule 4, paragraph 1, there is inserted – 25
- ““medical facility” means a facility used for medical purposes, whether such use is for residential or short-duration treatment or examination; and
 - “education establishment” means any premises used solely or partially for the education of children or young adults, and includes schools, colleges, nurseries and Sunday schools and includes all buildings and grounds of such establishments.” 30
- (4) In Schedule 4, paragraph 3(1), after “in England and Wales”, there is inserted “that is not a medical facility or education establishment”.
- (5) In Schedule 4, paragraph 4(1)(f), after “in Scotland”, insert “that is not a medical facility or education establishment”. 35

5 Amendments of the Telecommunications Act 1984

- (1) Schedule 2 of the Telecommunications Act 1984 (c. 12) is amended as follows.
- (2) After paragraph 5(3), there is inserted –
- “(3A) No order under this paragraph shall be made in respect of any land or premises consisting of an education, nursery or medical facility.” 40

(3) Afer paragraph 5, there is inserted –

“5A (1) A notice may be served by a properly constituted body on the operator of an electronic communications network which may require that –

- (a) all telecommunications masts and associated apparatus and equipment be removed from premises or land used for –
 - (i) medical or health related purposes, or
 - (ii) education, including use as a nursery; and
- (b) any land or premises, which has been the subject of a compulsory purchase made under the powers granted by section 118 of the Communications Act 2003 (c. 21), shall revert to the original owner.

(2) On an application made by the properly constituted body, at the end of a period of no less than 28 days starting with the date of the serving of the notice under subsection (1) the County Court shall make an order for –

- (a) the discontinuance of use and the removal of all telecommunications masts and associated apparatus and equipment, and
- (b) the reversion of any land or premises set out in the notice

(3) On the granting of an order under this section the Court shall order that –

- (a) all transmissions from telecommunications masts and associated apparatus which is the subject of the order shall cease at the end of a period not to exceed 28 days, and
- (b) all equipment shall be removed within a period not to exceed 3 months

from the date of the Order.

(5) No compensation shall be payable to the operator of the telecommunications masts and associated apparatus as a result of any order made by a Court under this Schedule.

(6) For the purposes of this Schedule –

- (a) “a properly constituted body” shall mean in relation to –
 - (i) a medical facility: its management committee or proprietor;
 - (ii) an education establishment: its governing body; and
 - (iii) a nursery or private education establishment: its governing body, management committee, or proprietor; and
- (b) “telecommunications masts and associated apparatus” shall have the same meaning as electronic communications apparatus.

6 Short title and extent

(1) This Act may be cited as the Town and Country Planning (Telecommunications Masts) Act 2004.

(2) This Act extends to Northern Ireland.

Town and Country Planning (Telecommunications Masts) Bill

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B I L L

To amend the law relating to telecommunications masts.

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supported by
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