

The Scottish Government is taking forward a phased programme to review and extend permitted development rights (PDR) in Scotland. The Phase 1 consultation sought views on proposals relating to four development types: digital telecommunications infrastructure, agriculture, peatland restoration and active travel.

On 18 December 2020 Scottish Government laid a [Development Order](#) in the Scottish Parliament that will bring Phase 1 changes into effect by amending the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (“the GPDO”). They will come into force on 1 April 2021.

The purpose of this note is to provide an overview of the changes to PDR for peatland restoration.

Overview

The Phase 1 changes introduce a new class of PDR for peatland restoration projects and are intended to clarify the position with regard to the planning status of this growing sector of activity. Peatland restoration is expected to make a significant contribution to the achievement of the Scottish Government’s Climate Change targets by capturing and storing carbon. In addition, peatland restoration can also make important contributions to preserving and enhancing biodiversity, improving water quality and reducing flood risk.

The Phase 1 changes will:

- permit projects to proceed without applying for planning permission, subject to a determination on prior approval of the peatland restoration scheme by the planning authority.

In addition, the regulations define some of the peatland restoration operations that are permitted and, for the avoidance of doubt, some that are not, including the construction of access tracks.

Changes since the October consultation

There was widespread support for PDR for peatland restoration but also some concern about the possible unintended negative impact of projects that were not in receipt of Scottish Government funding through, for example, Peatland Action and had therefore not been subject to scrutiny by NatureScot. There were particular concerns about the potential impact of unregulated projects on archaeology and cultural heritage, flood risk and soils. It was therefore decided that peatland projects should be subject to prior notification/approval by the planning authority of their restoration scheme in respect of these matters. Where projects are in receipt of Scottish Government funding this is expected to be a very straightforward matter but, where they are not, this will allow proper scrutiny of the proposals.

Concerns were also expressed about the compliance of projects with sustainable forest management principles where restoration projects involve significant felling of trees and/or woodland removal. Concerns centred on the need to consider the impact on the wider Forest Plan where areas of woodland were proposed to be removed and the need to ensure that timber removed from sites was certified and the timber transport issues associated with this were properly considered and controlled. It has therefore been decided that changes will be made to the Forestry (Exemptions) (Scotland) 2019 regulations to require that relevant peatland restoration projects must still obtain a felling permission from Scottish Forestry. This change is expected to be made in 2021.

Furthermore, the consultation on the Phase 1 changes sought views on whether PDR might be introduced for temporary access tracks associated with peatland restoration projects, noting that this specific change had not been considered as part of the 2019 Sustainability Appraisal of options. There was some support for PDR for temporary access tracks but also some concern about the potential for abuse or misunderstanding of such a provision. It has therefore been decided to delay consideration of the introduction of PDR for access tracks for peatland restoration until Phase 3 of the Programme, when it is proposed to review the wider position in relation to hill tracks of all kinds. This will also provide time for assessment to be undertaken of the potential environmental impacts of such a change.

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