

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (USE CLASSES) (AMENDMENT)
(ENGLAND) REGULATIONS 2020

2020 No. 757

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Town and Country Planning (Use Classes) Order 1987 (1987/764) (the Use Classes Order) as it applies to England. The Use Classes Order groups different uses of buildings and other land into use classes. A change of use within a single use class is not considered to be development and therefore does not require planning permission. The changes made by these Regulations create new use classes in relation to England contained in the new Schedule 2 to the amended Order.

3. Matters of special interest to Parliament

Matters of special interest to the [Joint Committee on Statutory Instruments]

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Planning permission is required for ‘development’ as defined in section 55 of the Town and Country Planning Act 1990 (the 1990 Act). The making of a material change in the use of any building or other land is normally defined as ‘development’ and therefore requires planning permission.
6.2 However, section 55(2)(f) of the 1990 Act allows the Secretary of State to make an order which groups different uses of buildings and other land into use classes. A

change of use within a single use class is not considered to be development and therefore does not require planning permission.

- 6.3 The Use Classes Order applies nationally across England and Wales. However, there are differences between the use classes in place in England and Wales.
- 6.4 The Schedule to the Use Classes Order sets out use classes which are grouped into four main typologies. These are: A classes which cover retail and food and drink consumption; B classes which cover places of work like offices and manufacturing; C classes which cover places of residence and D classes which cover institutions and leisure uses. These Regulations amend and simplify the system of use classes in England by creating new use classes which are contained in the new Schedule 2 to the Use Classes Order: namely, Class E (Commercial, Business and Service), Class F.1 (Learning and Non-residential institutions) and Class F.2 (Local community). It also moves certain uses which were in the Schedule to the Use Classes Order into regulation 3(6) (namely, uses which cannot be included in a specified class). It makes consequential amendments to the Use Classes Order and other related legislation. This instrument also makes transitional and savings provision with respect to other related planning legislation: the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596) and with respect to planning applications which have been submitted prior to the coming into force of this instrument. These Regulations amend the Use Classes Order in reliance on section 105 of the Deregulation Act 2015 (c.20).

7. Policy background

What is being done and why?

- 7.1 The current Use Classes Order was introduced in 1987 and has been amended a number of times since. However, the government considers that it requires a complete overhaul to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands. This is particularly important at the present time as town centres seek to recover from the economic impact of Coronavirus. Modern high streets and town centres have changed so that they now seek to provide a wider range of facilities and services, including new emerging uses, that will attract people and make these areas viable now and in the future.
- 7.2 These Regulations amend and simplify the system of use classes in England.
- 7.3 They create a new broad ‘Commercial, business and service’ use class (Class E) which incorporates the previous shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices (B1) use classes. Uses such as gyms, nurseries and health centres (previously in use classes D1 Non-residential institutions and D2 Assembly and leisure) and other uses which are suitable for a town centre area are also included in the class. This new class allows for a mix of uses to reflect changing retail and business models. It therefore, recognises that a building may be in a number of uses concurrently or that a building may be used for different uses at different times of the day. Changes to another use, or mix of uses, within this class do not require planning permission. Bringing these uses together and allowing movement between them will give businesses greater freedom to adapt to changing circumstances and to respond more quickly to the needs of their communities.

- 7.4 These Regulations also create new ‘Learning and non-residential institutions’ (F1) and ‘Local community’ (F2) use classes to ensure that those uses which are important to local communities can be protected through the planning system. Changes of use within each of these classes do not require planning permission. However, other material changes of use do require planning permission ensuring that such changes of use can be fully considered by the local planning authority and residents.
- 7.5 The ‘Learning and non-residential institutions’ use class (F1) incorporates those uses from the former D1 Non-residential institutions use class which are more likely to involve buildings which are regularly in wider public use such as schools, libraries and art galleries.
- 7.6 The ‘Local community’ use class (F2) groups together those uses from the former D2 use class which provide for group activities of a more physical nature – swimming pools, skating rinks and areas for outdoor sports. It also includes the use of buildings where this is principally by the local community. The class also recognises the importance of small, local shops in meeting the day to day shopping needs of local communities, particularly in rural communities, large residential estates and outside main shopping areas generally. Therefore, alongside community social facilities, the F2 class includes what would be considered shops servicing the essential needs of local communities. This is defined as a shop mostly for the sale of a range of essential dry goods and food to visiting member of the public where there is no commercial class retail unit within 1000 metres and the shop area is no larger than 280m². This provides some protection for such shops while placing those shops found on high streets and town centres in the new ‘commercial’ class.
- 7.7 The residential (C classes), General industrial (B2) and Storage and distribution (B8) use classes remain unchanged (except for a new cross reference in B2 to the new ‘commercial’ class).
- 7.8 The revisions to the Use Classes Order also provide for the need for local consideration of some uses. The former A4 Drinking establishments and A5 Hot food takeaway use classes have been removed. We recognise that changes of use to or from these uses can give rise to important local considerations, for example, to ensure that local pubs can be protected or to prevent the proliferation of hot food takeaways. We have therefore, included these uses in the list of uses which are specifically identified in the Use Classes Order (see Article 3(6)) as uses which do not now fall within any use class. We have also taken this approach with cinemas, concert, dance and bingo halls which fell within the former D2 use class. This will mean that changes to and from these uses will be subject to full local consideration through the planning application process.
- 7.9 These reforms are primarily aimed at creating vibrant, mixed use town centres by allowing businesses greater freedom to change to a broader range of compatible uses which communities expect to find on modern high streets, as well as more generally in town and city centres. They apply to all uses of land and buildings across England.
- 7.10 There are a number of permitted development rights which grant general planning permission allowing changes of use between the former use classes without the need to submit a planning application. These regulations provide transitional provisions which retain the effect of the permitted development right based on the classes that were in place prior to these regulations coming into force. A building or use will continue to be subject to any permitted development rights that it was entitled to on or

before 31 August 2020. These transitional provisions will remain in place until 31 July 2021 when new, revised permitted development rights will be introduced. These savings provisions also apply to relevant Article 4 Directions.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This statutory instrument amends The Town and Country Planning (Use Classes) Order 1987 (as amended by S.I. 1991/1567, 1992/610, 1992/657, 1994/724, 1995/297, 1999/293, 2005/84, 2006/220, 2006/1282, 2010/653, 2011/988, and 2015/597). There are other amendments not relevant to this instrument. There are no current plans to consolidate this legislation.

10. Consultation outcome

- 10.1 In October 2018, the government undertook a public consultation ([Planning reform: supporting the high street and increasing the supply of new homes](#)) including proposals on updating the Use Classes Order to reflect changing high streets and make them more resilient. The consultation ran from 29 October until 14 January 2019. It was open to everyone with an interest in the matter.
- 10.2 A total of 276 responses were received in relation to the high street use classes proposals. Respondents came from a wide range of interested parties from across the public and private sectors, as well as from the general public.
- 10.3 More than half of the respondents agreed that changes to the A use classes would support the high street, and of the 211 who expressed a preference there was considerable support to simplify the A1(Shops) use class to accommodate new and emerging retail models. Responses considered that retaining a separate, simplified A1 use class would allow local areas to manage change to create and maintain flourishing high streets, while recognising that retail models continue to evolve. It was recognised that merging the A1 (shops), A2 (financial and professional services) and A3 (restaurants and cafes) use classes means that there could be change to restaurant use without any local consideration of the potential impacts from longer opening hours and increased noise and odours. It could lead to a proliferation and increased concentration of restaurants, including fast food restaurants, in an area with an impact on the health of local residents and local amenity. There was also a concern that it would limit the ability of local communities to shape their high streets as set out in local or neighbourhood plans.
- 10.4 Following that consultation, the government [announced](#) that it would amend the A1 (shops) use class to ensure it captured current and future retail models and include clarification on the ability of (A) use classes to diversify and incorporate ancillary uses.
- 10.5 However, in response to the economic impact of Coronavirus on our high streets and those premises in A1 and A3 use in particular, the government has decided to go further and to introduce these more wide-reaching reforms to the change of use rules.

Given the pressing need to support town centres, these reforms have been implemented without further public consultation.

11. Guidance

- 11.1 Planning practice guidance will be updated to reflect these changes before they come into effect on 1 September 2020.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies of the greater freedoms provided by Class E is to reduce the cost and time burden of having to submit a planning application in more cases. Class F2 should also provide protection for buildings used by community based charities and voluntary bodies.
- 12.2 The impact on the public sector should be a reduction in administrative cost and time of processing planning applications for change of use, where the development would previously have come forward through an application.
- 12.3 In recognition of the urgency to support economic renewal, this legislation has been brought forward at pace. An interim assessment of impact has been provided alongside the instrument. A full Regulatory Impact Assessment will be produced in due course and submitted for independent verification against any Business Impact Target set under the requirements of the Small Business, Enterprise and Employment Act 2015.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 Overall, the impact of the changes is deregulatory. The changes to the uses classes are largely deregulatory in effect, helping to reduce bureaucracy and cost in the planning system.
- 13.3 Changes to save time and resources are likely to benefit small businesses more when compared to larger business as they have less resource available. As such, small businesses have not been exempted from the effects of this measure.

14. Monitoring & review

- 14.1 This measure will be monitored as part of the Government's package of planning reforms to support economic recovery, with changes made accordingly to ensure the intended outcomes. The Government has announced that it will be considering major and wide-ranging reforms of the planning system.

15. Contact

- 15.1 Julie Shanahan at the Ministry of Housing, Communities and Local Government (Tel: 0303 444 3378 or e-mail: julie.shanahan@communities.gov.uk) can be contacted with any queries on this instrument.
- 15.2 Lucy Hargreaves, Deputy Director for Planning - Development Management, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.