

2020 No. 757

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Use Classes) (Amendment)
(England) Regulations 2020**

<i>Made</i>	- - - -	<i>20th July 2020</i>
<i>Laid before Parliament</i>		<i>21st July 2020</i>
<i>Coming into force</i>	- -	<i>1st September 2020</i>

The Secretary of State, in exercise of the powers conferred by sections 55(2)(f), and 333(2A) and (7) of the Town and Country Planning Act 1990(a), (“the 1990 Act”) makes the following Regulations.

Citation, application, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and come into force on 1st September 2020.

(2) The amendments made by these Regulations apply in relation to England only.

(3) In these Regulations—

“the Use Classes Order” means the Town and Country Planning (Use Classes) Order 1987(b),

“the GPDO” means the Town and Country Planning (General Permitted Development) (England) Order 2015(c),

“the material period” means the period beginning with 1st September 2020 and ending with 31st July 2021, and

“a relevant planning application” means an application for—

(a) planning permission or permission in principle, or

(b) approval of a matter reserved under an outline planning permission within the meaning of section 92 of the 1990 Act.

Revocation, transitional, savings and consequential provision

2. In relation to England—

(a) Parts A and D of the Schedule to the Use Classes Order are revoked, and

(b) Part B of that Schedule is modified by regulation 10(3),

(a) 1990 c.8. Section 333(2A) of the Town and Country Planning Act 1990 was inserted by the Planning and Compulsory Purchase Act 2004 (c.5), section 118(1), and paragraphs 1 and 14 of Schedule 6 to that Act. There are other amendments to the 1990 Act not relevant to this Order.

(b) S.I. 1987/764; relevant amending instruments are S.I. 1991/1567, 1992/657, 1993/610, 1994/724, 1995/297, 2005/84, 2006/220, 2006/1282, 2010/653, 2011/988, 2015/597.

(c) S.I. 2015/596. There are amendments not relevant to this instrument.

save to the extent required to give effect to regulations 3 and 4.

3.—(1) Paragraphs (2) and (3) apply during the material period.

(2) Any references in the GPDO to the uses or use classes specified in the Schedule to the Use Classes Order are to be read as if those references were to the uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020.

(3) On or after 1st September 2020, and for the purposes of—

- (a) making an application in relation to development permitted by any Class in Schedule 2 to the GPDO which is expressed to be subject to prior approval, or determining whether such approval is required, or
- (b) making, modifying or cancelling a direction under article 4(1) of the GPDO,

any references to uses or use classes specified in the Schedule to the Use Classes Order are to be read as if those references were to the uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020.

(4) If prior to commencement of the material period, the Secretary of State or the local authority made a direction under article 4(1) of the GPDO which referred to uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020, those references are to continue to be read as references to those uses or use classes.

4. If prior to the commencement of the material period, a relevant planning application was submitted, or was deemed to be submitted, to the local planning authority which referred to uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020, that application must be determined by reference to those uses or use classes.

5. In—

- (a) the Town and Country Planning (Development Management Procedure) (England) Order 2015(a), in article 2 (Interpretation), in the definition of “minor commercial application”,
- (b) the London Gateway Port Harbour Empowerment Order 2008(b), in paragraph 2(2) of Schedule 6 to that Order (For the protection of Thurrock Borough Council and others), and
- (c) the Town and Country Planning (Mayor of London) Order 2008(c), in the Schedule to that Order (PSI applications and categories of development), in Parts 2 and 3,

any references to the uses or use classes specified in the Schedule to the Use Classes Order are to be read as if those references were to the uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020.

6. In the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(d), in regulation 6, for sub-paragraph (a) substitute—

- “(a) that the application relates solely to the use of a building or other land for a purpose of any class specified—
 - (i) on or before 31st August 2020, in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or
 - (ii) on or after 1st September 2020, in Schedule 1 or 2 of that Order;”.

7. For the purposes of the Use Classes Order, if a building or other land is situated in England, and is being used for the purpose of one of the following classes which were specified in Part A or B of the Schedule to that Order on 31st August 2020, as—

(a) S.I. 2015/595. There are amendments not relevant to this instrument.
(b) S.I. 2008/1261. There are amendments not relevant to this instrument.
(c) S.I. 2008/580. There are amendments not relevant to this instrument.
(d) S.I. 2012/2920. There are amendments not relevant to this instrument.

- (a) Class A1 (Shops),
- (b) Class A2 (Financial and professional services),
- (c) Class A3 (Restaurants and cafes), or
- (d) Class B1 (Business),

that building or other land is to be treated, on or after 1st September 2020, as if it is being used for a purpose specified within Class E (Commercial, business and service) in Schedule 2 to that Order.

Amendments to the Use Classes Order

8. The Use Classes Order is amended in accordance with regulations 9 to 13.

9. In article 2 (Interpretation) omit the definition for “Schedule”.

10.—(1) In article 3 (Use Classes)—

(2) In paragraph (1)—

- (a) after “where a building or other land” insert “is situated in Wales and”,
- (b) for “the Schedule” substitute “Schedule 1”, and
- (c) for “shall not” substitute “is not to”.

(3) After paragraph (1) insert—

“(1A) Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in—

- (a) Part B or C of Schedule 1, or
- (b) Schedule 2,

the use of that building or that other land, or if specified, the use of part of that building or the other land (“part use”), for any other purpose of the same class is not to be taken to involve development of the land.

(1B) Part B of Schedule 1 applies to a building or other land that is situated in England subject to the modifications set out in paragraph (1C).

(1C) Part B of Schedule 1 applies to a building or other land that is situated in England as if—

- (a) Class B1 (Business) were omitted, and
- (b) for Class B2 (General industrial) there were substituted—

“Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within the uses described in Schedule 2, Class E, sub-paragraph (g).”

(4) In paragraph (2) after “paragraph (1)” insert “and (1A)”.

(5) In paragraph (3) for “the Schedule” in both places it occurs, substitute “Schedule 1 or 2”.

(6) For paragraph (4), substitute—

“(4) Where land on a single site or on adjacent sites used as parts of a single undertaking is used for purposes consisting of or including purposes falling within—

- (a) in relation to Wales, Classes B1 and B2 in Schedule 1, or
- (b) in relation to England, the use described in Schedule 2, Class E, sub-paragraph (g) and Class B2 in Schedule 1 as modified by paragraph (1C)(b),

those classes may be treated as a single class in considering the use of that land for the purposes of this Order, so long as the area used for a purpose falling within Class B2, or Class B2 as modified, is not substantially increased as a result.”

(7) In paragraph (6)—

- (a) for “the Schedule” substitute “Schedule 1 or 2”, and
- (b) after sub-paragraph (o) insert—

- “(p) as a public house, wine bar, or drinking establishment,
- (q) as a drinking establishment with expanded food provision,
- (r) as a hot food takeaway for the sale of hot food where consumption of that food is mostly undertaken off the premises,
- (s) as a venue for live music performance,
- (t) a cinema,
- (u) a concert hall,
- (v) a bingo hall,
- (x) a dance hall.”.

(8) In paragraph (6A) in the definition for “pay day loan shop”, in sub-paragraph (b), for “the Schedule” substitute “Schedule 1 or Class E (Commercial, Business and Service) of Schedule 2”.

11. In article 4 for “the Schedule” substitute “Schedule 1”.

12. In the Schedule, for the heading, substitute “Schedule 1”.

13. After Schedule 1 insert—

“SCHEDULE 2

Article 3

PART A

Commercial, Business and Service

Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes—

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
 - (i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
 - (i) an office to carry out any operational or administrative functions,

- (ii) the research and development of products or processes, or
 - (iii) any industrial process,
- being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

PART B

Local Community and Learning

Class F.1 Learning and non-residential institutions

Any use not including residential use—

- (a) for the provision of education,
- (b) for the display of works of art (otherwise than for sale or hire),
- (c) as a museum,
- (d) as a public library or public reading room,
- (e) as a public hall or exhibition hall,
- (f) for, or in connection with, public worship or religious instruction,
- (g) as a law court.

Class F.2 Local community

Use as—

- (a) a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where—
 - (i) the shop's premises cover an area not more than 280 metres square, and
 - (ii) there is no other such facility within 1000 metre radius of the shop's location,
- (b) a hall or meeting place for the principal use of the local community,
- (c) an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms,
- (d) an indoor or outdoor swimming pool or skating rink.”.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Christopher Pincher
Minister of State

20th July 2020

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Use Classes) Order 1987 (“the Use Classes Order”). The Use Classes Order specifies classes for the purposes of section 55(2)(f) of the Town and Country Planning Act 1990, which provides that a change of use of a building or

other land does not involve development for the purposes of the Act if the new use and the former use are both within the same specified class.

Regulation 2 of this instrument revokes Parts A and D of the Schedule to the Use Classes Order in relation to England and subject to the transitional and savings provisions set out in regulations 3 and 4. Regulation 13 of this instrument amends the Use Classes Order in relation to England to insert a new Schedule 2 providing for new classes, Class E (Commercial, business and service), Class F.1 (Learning and non-residential institutions) and F.2 (Local community). Class E subsumes previous use classes which were specified in the Schedule to the Use Classes Order as Class A1(Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes) and Class B1(Business) (see regulation 7 of this instrument). Class F.1 and F.2 subsume some of the previous use classes which were specified in the Schedule to the Use Classes Order as Class D1 (Non-residential institutions) and Class D2 (Assembly and leisure).

Regulations 9 to 13 of this instrument make consequential changes to the Use Classes Order as a result of the insertion of new Schedule 2.

Regulation 10(3) inserts new paragraphs (1A), (1B) and (1C) into the Use Classes Order which provide amongst other things for Part B of Schedule 1 to apply in relation to England subject to modification.

Regulation 10(7)(b) inserts further uses into article 3(6) of the Use Classes Order which cannot be included within a specified class of that Order.

Regulation 3(2) of this instrument provides for references in the Town and Country Planning (General Permitted Development) (England) (Order) 2015 (“the GPDO”) to be construed as references to the use classes which were specified in the Use Classes Order on 31st August 2020 (i.e. “the previous use classes”) for the duration of “the material period”, which is defined in regulation 1. Regulation 3(3) provides for references to uses or use classes in prior approval applications, or article 4 directions, etc, made under the GPDO to be construed as references to the previous use classes; and regulation 3(4) provides for references to uses or use classes in article 4 directions which have already been made to continue to be construed as the previous use classes. Regulation 4 provides for relevant planning applications (see definition in regulation 1) which are submitted prior to 1st September 2020 to be determined by reference to the previous use classes. Regulations 5 and 6 make consequential amendments to secondary legislation which contains references to uses or use classes.

An assessment of impact is being published alongside this instrument at www.legislation.gov.uk. An Explanatory Memorandum is also published alongside this instrument at that address. A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is being produced by the Ministry of Housing, Communities and Local Government and will also be published at www.legislation.gov.uk and copies may be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street London, SW1P 4DF.