



Isle of Man
Government

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**TOWN AND COUNTRY PLANNING
(USE CLASSES) ORDER 2019
&
(CHANGE OF USE) (DEVELOPMENT)
ORDER 2019**

Cabinet Office &
Department of Environment, Food and Agriculture

**PUBLIC CONSULTATION –
DRAFT TOWN AND COUNTRY PLANNING (USE
CLASSES) ORDER 2019**

&

**DRAFT TOWN AND COUNTRY PLANNING (CHANGE OF
USE) (DEVELOPMENT) ORDER 2019**

The production of Development Orders which grant planning approvals (sometimes known as 'permitted development') are within the remit of Cabinet Office (CO). The definition of use classes is within the remit of the Department of Environment, Food and Agriculture (DEFA). However, the two are closely interlinked. The CO and DEFA have therefore produced the following as a joint project, and as part of the wider Reform of the Planning System.

Use Classes Explanation

The Town and Country Planning (Use Classes) Order 2019 specifies classes of use of buildings (or other land) for the purposes of Section 6(3)(e) of the Town and Country Planning Act (1999). A change of use is not regarded as involving development if the former use and the new use are both within the same class. It will revoke Article 6 of, and Schedule 4 to, the Town and Country Planning (Permitted Development) Order 2012.

The definitions have been updated, with the definition of Special and General Industrial being as per the Isle of Man Strategic Plan (2016)¹.

Article 5 sets out a list of exclusions from the use classes (things which are *Sui Generis*) in the interests of clarity. This excludes some service/retail uses which are more likely to need to use large vinyls in the shop windows which may be less visually appealing than a normal shop window. The definition of special industrial building is as per the Strategic Plan (2016).

Article 6 sets out transitional provisions.

The Use Classes set out in schedule 1 are split into four broad classes with subheadings to enhance usability.

Part 1 - Shops and Some Services.

- Class 1.1 (formally Class 1) has a number of uses added (including provision of beauty treatments, grooming of pets and florists) see comments on Article 4(2).
- Class 1.2 (formally Class 2) has been made broader through adding the words "any other service which it is appropriate to provide in a shopping area", furthermore dentist, opticians and legal & architectural services are no longer excluded. Betting

¹ Statutory Document No. 2016/0060

Office is removed and made *Sui Generis*, as are pay day loan shops - see comments on Article 4(2).

- Class 1.3 (formally Class 3) has wording which had been clarified in relation to hot food takeaway (which is still excluded).
- Class 1.4 (new) makes hot food takeaway made a use class rather than *Sui Generis* to enable easier referencing in permitted development orders, policies and conditions attached to planning approvals.

Part 2 - Office and Industrial Uses.

- Class 2.1 (formally Class 4) has unchanged wording and is all office that is not in Class 2. However, as Class 2 now includes the more general wording of 'all services appropriate to be provided in a town centre' rather than only specific list, it reduces the potential for something becoming Class 4 by default when it is arguably better located in a town centre.
- Class 2.2 (formally Class 5) has unchanged wording.
- Class 2.3 (new) is a new use class (formally *Sui Generis*), the definition of which aligns to the Strategic Plan (2016) para 9.2.3. By having this as a use class it gives the option to reference it in permitted development orders.
- Class 2.4 (formally Class 6) has unchanged wording.

Part 3 - Tourist and Residential Uses.

- Class 3.1 (formally Class 7) has unchanged wording.
- Class 3.2 (formally Class 8) has unchanged wording.
- Class 3.3 (new) relates to dwellinghouses (excluding flats). This is necessary to allow for clearer permitted development orders for changes from/to such use. Class 3.3(a)(ii) allows for households of up to 6 people. This replaces the previous permitted development (Class 1) for change of use from/to a dwellinghouse to/from a residential care home (as defined under the Nursing and Residential Homes Act 1988 or premises provided by/on behalf of the Department of Social Care under the Children and Young Person Act 2001) subject to conditions of not having more than 5 bedrooms, being in an area zoned for industrial/retail/business use or where there would be more than 5 persons receiving care.
- Class 3.4 (new) relates to flats. This is necessary to allow for clearer permitted development orders for changes from/to such use. The definition of flats is provided in separate legislation (see definitions).
- Class 3.5 (new) relates to houses or flats in multiple occupation. This is necessary to allow for clearer permitted development orders for changes from/to such use. The definition houses in multiple occupation of is provided in separate legislation (see definitions).
- Class 3.6 (new) relates to Self-Contained Self Catering Tourist Unit. By having this as a use class it gives the option to reference it in permitted development orders.

Part 4 - Other Uses (new).

- Class 4.1 relates to clinics or health centres (although noting that dentists and opticians are covered in Class 2.2)
- Class 4.2 relates to childcare and education. The types of childcare are as per the scope of the Regulation of Care Act 2013, other than child-minding within a dwellinghouse or flat.
- Class 4.3 relates to other Community Facilities
- Class 4.4. Assembly and Leisure

It is considered that Classes 4.1 to 4.3 have potentially different impacts, particularly in terms of traffic, parking and local amenity which may be different, and so need to be separated. Outdoor sport and recreation uses are excluded from these classes.

Change of Use Explanation

The Town and Country Planning (Change of Use) (Development) Order 2019 specifies changes of use from one use class to a different use class which may be undertaken without the need for a planning application. It will revoke Article 4(3) of and Schedule 3 to the Town and Country Planning (Permitted Development) Order 2012.

It is considered that Article 4 need not specify that changes of use which require operational development are excluded because – by definition the development set out in schedule 1 is only for changes of use, and also sometimes operational development will be required but is permitted under a separate permitted development order.

Article 6 sets out transitional provisions.

The development approved by the order ('permitted development') is set out in Schedule 1 and divided into three parts.

Part 1 – Changes of Use Specified Land Only.

- This only applies to land within the areas shown in Schedule 2² – these are areas predominantly within the Town Centres or Mixed Use allocations set out in the relevant Local Plans or, in the case of Douglas and Onchan, the draft Area Plan for the East. Areas which are excluded from the order would require a planning application, and this would be as per the existing situation.
- Classes 1 and 2 (new) are intended to provide flexibility within town centres, and to differentiate between ground/basement uses and 1st floor.
- It is important to note that some changes are allowed from one use to another, but not back again (for example pay day loan shop to Class 1.1 (Shop) but not vice versa).
- It is noted that some local or area plans may have policies which restrict the number of non-retail uses which can occupy certain town centre frontages (for example the Ramsey Local Plan (1998) along Parliament Street especially has a policy (R/TC/P1 page 48 Ramsey Plan) which restricts the number of offices that can occupy the street (30%). However, it is the purpose of the order to increase the amount of flexibility within town centres in the interests of their viability and vitality, noting changes to shopping habits and the function/appeal of town centres. Such policies remain a material consideration where planning applications are submitted.
- Because cafes and public houses are in the same use class, a condition is imposed in relation to hours of opening to restrict the change of use from a shop to a public house (noting the separate licensing takes account of planning restrictions). Pavement seating is controlled by Local Authorities under separate legislation (Highways Act 1986, as amended), and removes the need for planning approval for this.
- The Strategic Plan has policies which support the creation of flats, subject to consideration of outlook, amenity space (including bin storage) and parking (although noting that in some locations, such as town centres, this may be relaxed).

² Schedule 2 defines existing retail and commercial areas for the purposes of this order.

Although standards for flats are set out in separate legislation (Department of Environment, Food and Agriculture (DEFA) Housing (Miscellaneous Provisions) Act 2011), this order contains the condition for dedicated access and a view from at least one primary window, access and bin and cycle storage. Furthermore, the Strategic Plan (2016) has policies for affordable housing which relate to developments of 8 or more residential units, hence a condition which restricts the creation of 8 or more flats without a planning application.

Part 2 – Residential and Tourism.

- This applies to the whole island, including the land within the areas shown in Schedule 2).
- The former Class 1 (change from use as a dwellinghouse from/to a residential care home has been made redundant by the new wording of the use classes, and so is not included within this order).
- Class 3 reflects development that was previously allowed under what was Class 2 and 3 (and also references Houses or Flats in Multiple Occupation). It also allows for the new Use Class of self-contained self-catering unit to be changed to a dwellinghouse
- Classes 4, 5, 6 reflect the previous classes of the same numbers.

Part 3 – Industrial and Miscellaneous.

- This applies to the whole island, including the land within the areas shown in Schedule 2).
- Class 7 (new) allows for changes within business uses. It is noted that the Strategic Plan (2016) requires different parking standards for different industrial uses (general is 1 space per 50 metres gross floor space, light is 1 space per 30 metres nett floor space and storage and distribution is 1 space per 100 metres floor space). Furthermore, it is possible that storage and distribution uses may have different requirements in terms of access than other use. However, it is considered unnecessarily restrictive to prevent sites with a lawful use for general industrial to not be used for light industrial uses, given the definition of light industrial.
- Class 8 (previously class 7) has unchanged wording.

Planning Review Public Consultation

A public consultation on the Action Plan to Improve the Planning system was held from October 2017 to January 2018.

This indicated that Government is committed to, “Increasing the amount of development or change of use that can be undertaken without the need to submit a planning application, through introduction of a new Permitted Development Order” and included a number of questions about permitted development within town centres.

Q51 asked, “Should Government increase Permitted Development rights to allow greater flexibility for changes of use within town centres?”

There was a high level of support for increasing permitted development rights for changes of use in town centres with 115 people 67% of respondents agreeing, and only 25 respondents 15% saying no. 18% chose not to vote. Comments were that it would improve flexibility and that it would have economic benefits with no environmental impact. Popular views included that residential use should be encouraged, but only on upper floors. Other comments were that there are enough coffee shops and that retail presence should not be undermined. Caution was expressed in terms of protecting areas/buildings that are of community asset to prevent them being lost to a higher value use.

Q52 asked, "What types of use would you like to see in town centres?" (it suggested Health and Beauty, Leisure, Office, Residential, Retail and 'Other').

There was a high level of support (over 60%) for all of the types suggested. In addition, respondents would like to see the introduction of arts and culture, space for small businesses, workshops and craft shops which may help encourage tourism, open spaces, community areas, places for people to wander – walkways, tourist accommodation, pop up shops, artist studios, cash machines and music venues.

Q53 asked, "What types of use would you not like to see in town centres?"

There were few categories of use that people did not want to see in town centres, but these were industrial uses, large scale goods (washing machines – cars), betting shops, tattooists, nightclubs, anything polluting and empty buildings.

For more information see: <https://consult.gov.im/environment-food-and-agriculture/improve-the-planning-system/>



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