

Statutory Document No. 20XX/XXXX

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Town and Country Planning Act 1999

TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER 2019

Approved by Tynwald:

Coming into Operation:

The Department of Environment, Food and Agriculture makes the following Order under section 6(3)(e) of the Town and Country Planning Act 1999.

1 Title

This Order is the Town and Country Planning (Use Classes) Order 2019.

2 Commencement

If approved by Tynwald, this Order comes into operation on.¹

3 Interpretation

In this Order —

“**the Act**” means the Town and Country Planning Act 1999;

“**dwellinghouse**” means a building occupied for residential purposes other than a building containing one or more flats, or a flat contained within such a building;

“**flat**” means a self-contained flat as defined in Article 3 of the Housing (Definition of Flat or House in Multiple Occupation) Order 2013²;

“**industrial process**” has the meaning given in article 4;

“**hostel**” means an establishment which provides inexpensive lodging for a specific group of people, such as students, workers, or travellers and where amenities, such as kitchens and bathrooms, are shared;

¹ Tynwald approval required under section 44(1) of the Town and Country Planning Act 1999.

² SD 0377/13.

“**multiple occupation**” has the same meaning as defined in Article 6 of the Housing (Definition of Flat or House in Multiple Occupation) Order 2013;

“**residential school**” means a school where pupils live and study during the school year;

“**retail warehousing**” means a building used to sell large amounts of goods at prices discounted further than in conventional supermarkets and with little or no customer service; and

“**special industrial building**” means an industrial building used for the carrying on of processes (including storage) which may be particularly offensive by reason of noise, smell, vibration, smoke, soot, ash, dust, grit, or fumes, or dangerous by reason of the storage or use of dangerous or inflammable material, or inimical to public health by reason of vermin or other causes.

4 Meaning of industrial process

- (1) Subject to paragraph (3), “**industrial process**” means the carrying on of any process, for or incidental to any of the following purposes, namely —
 - (a) the making of any article or of part of any article; or
 - (b) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition of any article; or
 - (c) the getting, dressing or treatment of minerals; being a process carried on in the course of trade or business other than agriculture
- (2) Industrial process does not include activities carried out in a building in or adjacent to or belonging to a quarry or mine, and activities carried out within a shop.
- (3) For the purposes of this article, the expression “article” means an article of any description, including a ship or vessel.

5 Use classes

- (1) Use of buildings or other land for a purpose of any of the use classes specified in the Schedule is specified for the purposes of section 6(3)(e) of the Act (change of use within a class does not involve development).
- (2) No use class specified in the Schedule includes use —
 - (a) as a retail warehouse;
 - (b) for the sale of fuel for motor vehicles;
 - (c) for the sale, display or washing of motor vehicles;
 - (d) as a pay day loan shop;
 - (e) as a betting office/shop;

- (f) as an amusement arcade or centre, or a funfair;
- (g) as a night club or casino;
- (h) for the provision of a boarding kennel for pets (including daycare);
- (i) for a taxi business or business for the hire of motor vehicles;
- (j) as a laundrette or dry cleaners;
- (k) for the direction of funerals;
- (l) as a scrapyard, or a yard for the storage or distribution of minerals of the breaking of motor vehicles;
- (m) as a special industrial building;
- (n) as a residential school;
- (o) as a hostel;
- (p) as a secure residential institution (such as prisons, young offenders' institutions, detention centres, secure training centres, custody centres, short term holding centres, secure hospitals, or military barracks); or
- (q) as agricultural land or buildings.

6 Transitional provisions

- (1) Any planning application received by the Department before this Order comes into operation is to be determined as if this Order had not been made.
- (2) Any planning approval granted before this Order comes into operation is to be considered to fall within any of the use classes set out within this Order unless contrary to any planning condition imposed in that planning approval.

7 Revocation

Article 5 of, and Schedule 4 to, the Town and Country Planning (Permitted Development) Order 2012³ are revoked.

MADE

GEOFFREY BOOT

Minister for Environment, Food and Agriculture

³ SD 0254/2012.

SCHEDULE

[Article 5]

USE CLASSES**PART 1 – SHOPS AND SOME SERVICES****1 Class 1.1 - Shops**

Use for all or any of the following purposes (where the sale, display or service is to visiting members of the public) –

- (a) for the retail sale of goods other than hot food;
- (b) as a post office;
- (c) for the sale of tickets or as a travel agency;
- (d) for the sale of sandwiches or other cold food for consumption off the premises;
- (e) for hairdressing or the provision of beauty treatments;
- (f) for the grooming of pets where no element of kennelling is provided;
- (g) for a florist;
- (h) for the display of goods for sale;
- (i) for the hiring out of domestic or personal goods or articles; or
- (j) for the reception of goods to be washed, cleaned or repaired.

2 Class 1.2 – Financial and professional services

Use for the provision of all or any of the following services (where the services are provided principally to visiting members of the public) –

- (a) financial services (including the services of a bank, building society or insurance broker);
- (b) professional services (including estate agency, dentist, opticians and legal or architectural services); or
- (c) any other service which it is appropriate to provide in a shopping area, (including a booking office for a driving school or a job centre).

3 Class 1.3 – Food and drink

Use for the sale of food or drink for consumption on the premises (including restaurants, cafés, public houses, wine bars or other such establishments).

4 Class 1.4 – Hot Food Takeaway

For the sale of hot food intended for consumption off the premises.

PART 2 – OTHER OFFICE AND INDUSTRIAL USES**5 Class 2.1 – Office**

Use as an office other than a use within Class 1.2.

6 Class 2.2 – Light industry and Research & Development

Use for all or any of the following purposes –

- (a) for any industrial process; or
- (b) for research and development of products or processes,

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.

7 Class 2.3 - General industrial

Use of the carrying on of an industrial process other than one falling within class 2.2.

8 Class 2.4 – Storage or distribution

Use for storage or as a distribution centre.

PART 3 – TOURIST AND RESIDENTIAL USES**9 Class 3.1 – Hotels and guest houses**

Use as a hotel or guest house where, in each case, no significant element of care is provided.

In this class, “**care**” means personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder.

10 Class 3.2 – Hospitals, nursing homes and residential institutions

Use –

- (a) a hospital or nursing home; or
- (b) for the provision of residential accommodation and care to people in need of care.

In this class, “**care**” has the same meaning as in class 3.1.

11 Class 3.3 – Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by –

- (a) a single person or by people living together as a family (including an employer and domestic employees such as au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary or personal assistant), a carer and the person receiving the care and foster parent and foster child; or
- (b) not more than 6 residents living together as a single household (including a household where care is provided for residents).

In this class, “care” has the same meaning as in class 3.1.

12 Class 3.4 – Flats

Use as a flat (whether or not as a sole or main residence) by –

- (a) a single person or by people living together as a family (including an employer and domestic employees), a carer and the person receiving the care and foster parent and foster child; or
- (b) not more than 6 residents living together as a single household (including a household where care is provided for residents).

For the purposes of sub-paragraph (b) of this class, “care” has the same meaning as in class 3.1.

13 Class 3.5 – Houses in multiple occupation

Use of a dwellinghouse or a flat as a house in multiple occupation.

14 Class 3.6 – Self-contained self-catering tourist unit

Use of a flat or dwellinghouse as a self-contained self-catering tourist unit.

PART 4 – OTHER USES**15 Class 4.1 – Clinics or health centres**

Use for clinics or health centres (excluding uses which fall into class 1.2).

16 Class 4.2 – Childcare or education

Use for –

- (a) the provision of nurseries, play groups, holiday schemes, other out of school provision or creches (excluding child-minding carried out in a dwellinghouse or flat); or
- (b) schools and non-residential education and training centres.

17 Class 4.3 – Other community facilities

Use for –

- (a) halls, places of worship or church halls;
- (b) art galleries (other than for sale or hire);
- (c) museums; or
- (d) libraries.

18 Class 4.4 – Assembly and leisure

Use for –

- (a) cinemas, music and concert halls;
- (b) bingo and dance halls (but not night clubs); or
- (c) swimming baths, skating rinks, gymnasiums, dance studio (including where education is provided).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order 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.

The Use Classes are set out in the Schedule are split into the following four broad classes:

- Part 1 – Shops and some services;
- Part 2 – Other office and industrial uses;
- Part 3 – Tourist and residential uses; and
- Part 4 – Other uses.

Article 5 sets out a list of uses which are excluded from the use classes set out within the Order (i.e. things which are *Sui Generis*). The definitions of “Special Industrial Building” (Article 3), “Industrial Process” (Article 4), and “General Industrial” (Schedule 1, Part 2) are as per the Isle of Man Strategic Plan 2016⁴.

Article 6 sets out transitional provisions relating to planning applications submitted, and planning approval granted, before this Order comes into operation.

Article 7 revokes Article 6 of, and Schedule 4 to, the Town and Country Planning (Permitted Development) Order 2012.

⁴ SD 2016/0060.