

2004 No. 458

PLANNING

Planning (Use Classes) Order (Northern Ireland) 2004

Made - - - - - *2nd November 2004*

Coming into operation *29th November 2004*

The Department of the Environment, in exercise of the powers conferred on it by Article 11(2)(e) of the Planning (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Planning (Use Classes) Order (Northern Ireland) 2004 and shall come into operation on 29th November 2004.

Interpretation

2.—(1) In this Order –

“after school facility” means a facility to accommodate schoolchildren of 4 years of age and older in the absence of their parents at work;

“betting office” means any premises in respect of which there is in force a bookmaking office licence granted under Part II of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985(b);

“bingo hall” means any premises in respect of which there is in force a bingo club licence granted under Part III of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

“call centre” means a large office in which a company’s employees provide information to its customers, or sell or advertise its goods or services by telephone;

“care” means personal care as defined in the Registered Homes (Northern Ireland) Order 1992(c) and in Class C3 (a) also includes the personal care of children and medical care and treatment;

“community centre” means premises used by residents of a particular neighbourhood for social and recreational purposes;

“day centre” means premises which are visited during the day for social or recreational purposes or for the purposes of rehabilitation or occupational training at which care is also provided;

(a) S.I. 1991/1220 (N.I. 11)
(b) S.I. 1985/1204 (N.I. 11)
(c) S.I. 1992/3204 (N.I. 20)

“house in multiple occupation” has the meaning assigned to that term by Article 75 of the Housing (Northern Ireland) Order 1992(a) as amended by Article 143 (1) of the Housing (Northern Ireland) Order 2003(b);

“industrial process” means a process for or incidental to any of the following purposes:

- (a) the making of any article or part of any article (including an aircraft, ship or vessel, or a film, video or sound recording);
- (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning or adapting for sale of any article;
- (c) the breaking up or demolition of any article (where this is not a process related to the use in Article 3(4)(o)); or
- (d) the getting, dressing or treatment of minerals;

in the course of any trade or business other than agriculture and other than a use carried out in or adjacent to a mine or quarry;

“site” means the whole area of land within a single unit of occupation.

(2) A reference in this Order to a Class followed by a letter and a number is a reference to the Class followed by that letter and a number in the Schedule.

Use classes

3.—(1) Subject to the provisions of this Order, where a building or other land is used for a purpose of any Class specified in the Schedule, the use of that building or that other land for any other purpose of the same Class shall not be taken to involve development of the land.

(2) References in paragraph (1) to a building include references to land occupied with the building and used for the same purposes.

(3) A use which is included in and ordinarily incidental to any use in a Class specified in the Schedule is not excluded from the use to which it is incidental merely because it is specified in the Schedule as a separate use.

(4) No class specified in the Schedule includes use –

- (a) as an amusement arcade or centre, or a funfair;
- (b) as a betting office;
- (c) for the purposes of a funeral undertaker;
- (d) as a hostel where a significant element of care is provided;
- (e) as a hotel;
- (f) as a house in multiple occupation;
- (g) for the sale of fuel for motor vehicles;
- (h) for the sale or display for sale of motor vehicles;
- (i) for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises;
- (j) as a scrapyards, or a yard for the storage or distribution of minerals or the breaking of motor vehicles;
- (k) as a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations including those involving motorised vehicles or firearms;
- (l) for a taxi business or business for the hire of motor vehicles;
- (m) for or in connection with public worship or religious instruction;
- (n) for any work required to be registered under Article 20 of the Industrial Pollution Control (Northern Ireland) Order 1997(c) and regulation 30 of the Pollution Prevention and Control Regulations (Northern Ireland) 2003(d);

(a) S.I. 1992/1725 (N.I. 15)

(b) S.I. 2003/412 (N.I. 2)

(c) S.I. 1997/2777 (N.I. 18)

(d) S.R. 2003 No. 46

- (o) as a waste management facility for the recovery, treatment, recycling, storage, transfer or disposal of waste (as defined in Council Directive 75/442/EEC^(a) on waste as amended by Council Directives 91/156/EEC and 91/692/EEC and Commission Decision 96/350/EC).

Revocations

4. The –

- (a) Planning (Use Classes) Order (Northern Ireland) 1989^(b);
- (b) Planning (Use Classes) (Amendment) Order (Northern Ireland) 1993^(c);
- (c) Planning (Use Classes) (Amendment No. 2) Order (Northern Ireland) 1993^(d); and
- (d) the Planning (Use Classes) (Amendment) Order (Northern Ireland) 1996^(e) are hereby revoked.

Sealed with the Official Seal of the Department of the Environment on 2nd November 2004.

(L.S.)

Marianne Fleming

A senior officer of the Department of the Environment

^(a) Council Directive 75/442/EEC, O.J. No. L194,25.7.75, p. 39-41. Council Directive 75/442/EEC was amended by Council Directive 91/156/EEC, O.J. No. L078, 26.3.91, p. 32-37. Council Directive 91/692/EEC, O.J. L377, 31.12.91, p. 48-54 and by Commission Decision 96/350/EC, O.J. L135, 6.06.96, p. 32-34

^(b) S.R.1989 No. 290

^(c) S.R.1993 No. 277

^(d) S.R.1993 No. 462

^(e) S.R.1996 No. 248

SCHEDULE

PART A

SHOPPING AND FINANCIAL & PROFESSIONAL SERVICES

Class A1: Shops

Use for all or any of the following purposes –

- (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 hairdressing;
- (e) for the display of goods for retail sale;
- (f) for the hiring out of domestic or personal goods or articles; or
- (g) for the reception of goods including clothes or fabrics to be washed, cleaned or repaired either on or off the premises

where the sale, display or service is to visiting members of the public.

Class A2: Financial, professional and other services

Use for the provision of services which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public including –

- (a) financial services; or
- (b) professional services.

PART B

INDUSTRIAL AND BUSINESS USES

Class B1: Business

Use –

- (a) as an office other than a use within Class A2 (*Financial, professional and other services*);
- (b) as a call centre; or
- (c) for research and development which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2: Light Industrial

Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B3: General Industrial

Use for the carrying on of any industrial process other than one falling within Class B2.

Class B4: Storage or distribution

Use for storage or as a distribution centre.

PART C

RESIDENTIAL USES

Class C1: Dwellinghouses

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

- (a) by a single person or by people living together as a family; or
- (b) by not more than 6 residents living together as a single household where care is provided for residents.

Class C2: Guest houses

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

Class C3: Residential institutions

Use –

- (a) for the provision of residential accommodation and care to people in need of care (other than a use within *Class C1 (Dwellinghouses)*);
- (b) as a hospital or nursing home; or
- (c) as a residential school, college or training centre.

PART D

COMMUNITY, RECREATION AND CULTURE

Class D1: Community and Cultural Uses

Any use (not including a residential use) –

- (a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner;
- (b) as a crèche, day nursery, after school facility or day centre;
- (c) as a community centre;
- (d) for the provision of education;
- (e) for the display of works of art (otherwise than for sale or hire);
- (f) as a museum;
- (g) as a public library or reading room; or
- (h) as a public hall or exhibition hall.

Class D2: Assembly and leisure

Use as a –

- (a) bingo hall;
- (b) cinema;
- (c) concert hall;
- (d) dance hall;
- (e) theatre.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order revokes and replaces the Planning (Use Classes) Order (Northern Ireland) 1989, the Planning (Use Classes) (Amendment) Order (Northern Ireland) 1993, the Planning (Use Classes) (Amendment No.2) Order (Northern Ireland) 1993, and the Planning (Use Classes) (Amendment) Order (Northern Ireland) 1996.

It specifies classes of use of buildings or other land for the purposes of Article 11(2) of the Planning (Northern Ireland) Order 1991. Article 11(2) specifies operations or uses which are not to be taken for the purposes of that Order as involving development and which therefore do not require planning permission. Sub-paragraph (e) of that Article provides that a change of use is not to be regarded as involving development where the former use and the new use are both within the same class specified in an order made under that paragraph.

The principal changes made by this Order to the 1989 Order are –

1. Article 2.–(1) provides both new and revised definitions in addition to those already included in the 1989 Order. The new definitions include ‘after school facility’, ‘community centre’ and ‘house in multiple occupation’ and the revised definitions include ‘care’ and ‘industrial process’.

2. Article 3.–(4) extends the number of uses that do not fall within any of the classes in the Schedule to the Order, commonly known as the “sui generis uses”. In addition to those detailed in the 1989 Order this Article includes use as a hostel where a significant element of after care is provided, houses in multiple occupation and sports facilities. A revision to the types of waste facilities for which planning permission will be required is also provided.

3. The Schedule detailing the separate use classes has been organised in four parts each of which covers specific categories. Part A – Shopping and Financial & Professional Services, Part B – Industrial and Business Uses, Part C – Residential Uses and Part D – Community, Recreation and Culture. Some additions and revisions have also been made within individual classes to include call centres, to place research and development facilities in the same class as offices and to exclude dwellinghouses occupied by more than 6 residents living together as a single household where an element of care is not provided.

4. For clarity, a table is appended which provides details of the use classes included in the Schedule to the 1989 Order and the equivalent use classes included in the Schedule to this Order.

APPENDIX

<i>Planning (Use Classes) Order (Northern Ireland) 1989</i>	<i>Planning (Use Classes) Order (Northern Ireland) 2004</i>
Class 1: Shops	Part A, Class A1: Shops
Class 2: Financial, professional and other services	Part A, Class A2: Financial, professional and other services
Class 3: Business	Part B, Class B1: Business
Class 4: Light Industrial	Part B, Class B2: Light Industrial
Class 5: General Industrial	Part B, Class B3: General Industrial
Classes 6, 7, 8, 9 and 10: Special Industrial These classes were subsequently revoked by amending legislation in 1993(a) and 1996(b)	None
Class 11: Storage or distribution	Part B, Class B4: Storage or distribution
Class 12: Guest houses and hostels	Part C, Class C2: Guest houses
Class 13: Residential institutions	Part C, Class C3: Residential institutions
Class 14: Dwellinghouses	Part C, Class C1: Dwellinghouses
Class 15: Non-residential institutions	Part D, Class D1: Community and Cultural Uses
Class 16: Assembly and leisure	Part D, Class D2: Assembly and leisure

(a) S.R.1993 No. 462
(b) S.R.1996 No. 248

© Crown Copyright 2004

Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N1739. C3. 11/04. Gp. 130. 14567.

£3.00

ISBN 0-337-95723-1



9 780337 957239