

Status: Point in time view as at 18/12/1997. This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Town and Country Planning (Use Classes) (Scotland) Order 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

1997 No. 3061 (S.195)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Use Classes) (Scotland) Order 1997

Made - - - - 18th December 1997

Coming into force - - 2nd February 1998

The Secretary of State, in exercise of the powers conferred on him by sections 26(2)(f) and 275(8) of the Town and Country Planning (Scotland) Act 1997(1) and of all other powers enabling him in that behalf, hereby makes the following Order:

PROSPECTIVE

Citation and commencement

1. This Order may be cited as the Town and Country Planning (Use Classes) (Scotland) Order 1997 and shall come into force on 2nd February 1998.

Commencement Information

II Art. 1 in force at 2.2.1998, see [art. 1](#)

Interpretation

2. In this Order, the following expressions have the meanings assigned to them:–

“care” means personal care including the provision of appropriate help with physical and social needs or support; and in class 8 (residential institutions) includes medical care and treatment;

“class” means a class specified in the Schedule to this Order;

“day centre” means non-residential premises which are used for social purposes, recreation, rehabilitation or occupational training and at which care is also provided;

“industrial process” means a process, other than a process carried out in or adjacent to, a mine or quarry, for or incidental to–

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- (a) the making of any article or part of any article including a ship or vessel or a film, video or sound recording;
 - (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or
 - (c) the getting, dressing or treatment of minerals,
- in the course of any use other than agriculture;
- “site” means the whole area of land within a single unit of occupation;
- “support” means counselling or other help provided as part of a planned programme of care.

Commencement Information

I2 Art. 2 in force at 2.2.1998, see [art. 1](#)

Use Classes

3.—(1) Subject to the provisions of this Order, where a building or other land is used for a purpose in any class specified in the Schedule to this Order, the use of that building or that other land for any other purpose in 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 included in and ordinarily incidental to any use in a class shall not be precluded from that use by virtue of being specified in another class.

(4) Where land on a single site or on adjacent sites used as parts of a single undertaking comprises uses within both class 4 (business) and class 5 (general industrial), those uses may be treated as if they were in a single class in considering the use of that land for the purposes of this Order, provided that the area used for a purpose falling within class 5 (general industrial) shall not be substantially increased as a result.

(5) Nothing in any class shall include any use—

- (a) as a theatre;
- (b) as an amusement arcade or centre or funfair;
- (c) for the sale of fuel for motor vehicles;
- (d) for the sale or display for sale of motor vehicles;
- (e) for a taxi business or for the hire of motor vehicles;
- (f) as a scrapyard or a yard for the breaking of motor vehicles;
- (g) for the storage or distribution of minerals;
- (h) as a public house;
- (i) for any work registrable under the Alkali etc. Works Regulation Act 1906(2); or
- (j) for the sale of hot food for consumption off the premises.

Commencement Information

I3 Art. 3 in force at 2.2.1998, see [art. 1](#)

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Change of use of part of building or land

4. In the case of a building used for a purpose within class 9 (houses) the use as a separate house of any part of the building or of any land occupied with and used for the same purposes as the building shall not, by virtue of this Order, be taken as not amounting to development.

Commencement Information

I4 Art. 4 in force at 2.2.1998, see [art. 1](#)

Revocation

5. The Town and Country Planning (Use Classes) (Scotland) Order 1989⁽³⁾ and the Town and Country Planning (Use Classes) (Scotland) Amendment Order 1993⁽⁴⁾ are hereby revoked.

Commencement Information

I5 Art. 5 in force at 2.2.1998, see [art. 1](#)

St Andrew's House,
Edinburgh
18th December 1997

Calum MacDonald
Parliamentary Under Secretary of State,
Scottish Office

⁽³⁾ S.I. 1989/147.

⁽⁴⁾ S.I. 1993/1038.

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PROSPECTIVE

SCHEDULE

Article 3

Commencement Information

16 Sch. in force at 2.2.1998, see [art. 1](#)

Class 1. Shops

Use—

- (a) for the retail sale of goods other than hot food;
- (b) as a post office;
- (c) for the sale of tickets;
- (d) as a travel agency;
- (e) for the sale of cold food for consumption off the premises;
- (f) for hairdressing;
- (g) for the direction of funerals;
- (h) for the display of goods for sale;
- (i) for the hiring out of domestic or personal goods or articles;
- (j) as a launderette or dry cleaners; or
- (k) for the reception of goods to be washed, cleaned or repaired;

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

Class 2. Financial, professional and other services

Use for the provision of—

- (a) financial services;
- (b) professional services; or
- (c) any other services (including use as a betting office);

which it is appropriate to provide in a shopping area and where the services are provided principally to visiting members of the public.

Class 3. Food and drink

Use for the sale of food or drink for consumption on the premises.

Class 4. Business

Use—

- (a) as an office, other than a use within class 2 (financial, professional and other services);
- (b) for research and development of products or processes; or
- (c) for any industrial process;

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being a use which can be carried on 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.

Class 5. General industrial

Use for the carrying on of an industrial process other than one falling within class 4 (business).

Class 6. Storage or distribution

Use for storage or as a distribution centre.

Class 7. Hotels and hostels

Use as a hotel, boarding house, guest house, or hostel where no significant element of care is provided, other than premises licensed for the sale of alcoholic liquor to persons other than residents or to persons other than persons consuming meals on the premises and other than a use within class 9 (houses).

Class 8. Residential institutions

Use—

- (a) for the provision of residential accommodation and care to people in need of care other than a use within class 9 (houses);
- (b) as a hospital or nursing home; or
- (c) as a residential school, college or training centre.

Class 9. Houses

Use—

- (a) as a house, other than a flat, whether or not as a sole or main residence, by—
 - (i) a single person or by people living together as a family, or
 - (ii) not more than 5 residents living together including a household where care is provided for residents;
- (b) as a bed and breakfast establishment or guesthouse, where at any one time not more than 2 bedrooms are, or in the case of premises having less than 4 bedrooms 1 bedroom is, used for that purpose.

Class 10. Non-residential institutions

Use, not including residential use—

- (a) as a crèche, day nursery or day centre;
- (b) for the provision of education;
- (c) for the display of works of art (otherwise than for sale or hire);
- (d) as a museum;
- (e) as a public library or public reading room;
- (f) as a public hall or exhibition hall; or
- (g) for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body.

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Class 11. Assembly and leisure

Use as a—

- (a) cinema;
- (b) concert hall;
- (c) bingo hall or casino;
- (d) dance hall or discotheque; or
- (e) swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreation, not involving motorised vehicles or firearms.

PROSPECTIVE

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces, with certain amendments, the Town and Country Planning (Use Classes) (Scotland) Order 1989 as amended by the Town and Country Planning (Use Classes) (Scotland) Amendment Order 1993. The 1989 Order is revoked.

This Order specifies classes of use of buildings or other land for the purposes of section 26(2) (f) of the Town and Country Planning (Scotland) Act 1997. Section 26(2) specifies operations or uses which are not to be taken for the purposes of the Act as involving development, and which therefore do not require planning permission. Paragraph (f) 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.

Various changes are made in this Order to the classes of use specified in the Schedule to the 1989 Order.

Classes 1, 2 and 4 (shops; financial, professional and other services; and business) remain the same.

Class 3 (food and drink) has been amended to exclude use for the sale of hot food for consumption off the premises. This has been added to article 3(5) as a *sui generis* use.

Class 5 (general industrial) now covers the previous classes 7 to 10 (special industrial groups B to E) which have been deleted.

Class 6 (storage or distribution) reflects the old class 11.

Classes 7, 8, 10 and 11 (hotels and hostels; residential institutions; non-residential institutions; and assembly and leisure) reflect the previous classes 12, 13, 15 and 16.

Class 9 (houses) largely reflects the former class 14 but has been extended to include limited use as a bed and breakfast or guest house.

Some minor consequential amendments have also been made.

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