

1989 No. 147 (S.16)

TOWN AND COUNTRY PLANNING, SCOTLAND

**The Town and Country Planning (Use Classes)
(Scotland) Order 1989**

Made - - - - - 27th January 1989

Coming into force 27th March 1989

The Secretary of State, in exercise of the powers conferred on him by sections 19(2)(f) and 273(3) of the Town and Country Planning (Scotland) Act 1972(a) and of all other powers enabling him in that behalf hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Town and Country Planning (Use Classes) (Scotland) Order 1989 and shall come into force on 27th March 1989.

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 13 (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;
 - “hazardous substance” and “notifiable quantity” have the meanings assigned to those terms by the Notification of Installations Handling Hazardous Substances Regulations 1982(b);
 - “industrial process” means a process, other than a process carried out in or adjacent to, a mine or quarry, for or incidental to:—
 - (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.

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

(a) 1972 c.52; section 19(2)(f) was amended by paragraph 29 of Schedule 11 to the Housing and Planning Act 1986 (c.63).

(b) S.I. 1982/1357.

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 any two or more of classes 4 to 10 (business and industrial groups), 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 either within class 5 (general industrial) or within classes 6 to 10 (special industrial groups) 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; or
- (i) of a building or other land involving the manufacturing, processing, keeping or use of a hazardous substance which will cause there to be at any one time a notifiable quantity of that substance in, on, over or under that building or land or any site of which that building or land forms part.

Change of use of part of building or land

4. In the case of a building used for a purpose within class 14 (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.

Revocation

5. The Town and Country Planning (Use Classes) (Scotland) Order 1973(a) and the Town and Country Planning (Use Classes) (Scotland) Amendment Order 1983(b) are hereby revoked.

St. Andrew's House, Edinburgh
27th January 1989

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1973/1165.

(b) S.I. 1983/1619.

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 or of hot food for consumption off 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;

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) or within classes 6 to 10 (special industrial groups).

Class 6. Special industrial group A

Use for any work registrable under the Alkali etc. Works Regulation Act 1906(a), and which is not included in any of classes 7 to 10 (special industrial groups B to E).

Class 7. Special industrial group B

Use for—

- (a) melting, calcining, sintering or reducing ores, minerals, concentrates or mattes;
- (b) converting, refining, re-heating, annealing, hardening, melting, carburising, forging or casting metals or alloys other than pressure die-casting;
- (c) recovering of metal from scrap or drosses or ashes;
- (d) galvanizing;
- (e) pickling or treating metal in acid; or
- (f) chromium plating;

(a) 1906 c.14; as amended by the Health and Safety (Emissions into the Atmosphere) Regulations 1983 (S.I. 1983/943).

other than where the process is ancillary to the getting, dressing or treatment of minerals and is carried on in or adjacent to, a quarry or mine.

Class 8. Special industrial group C

Use for-

- (a) burning bricks or pipes;
- (b) burning lime or dolomite;
- (c) producing zinc oxide, cement or alumina;
- (d) foaming, crushing, screening or heating minerals or slag;
- (e) processing pulverized fuel ash by heat;
- (f) producing carbonate of lime or hydrated lime; or
- (g) producing inorganic pigments by calcining, roasting or grinding,

other than where the process is ancillary to the getting, dressing or treatment of minerals and is carried on in or adjacent to, a quarry or mine.

Class 9. Special industrial group D

Use for-

- (a) distilling, refining or blending oils other than petroleum or petroleum products;
- (b) producing or using cellulose or using other pressure sprayed metal finishes other than in-
 - (i) vehicle repair workshops in connection with minor repairs, or
 - (ii) the application of plastic powder by the use of fluidised bed and electrostatic spray techniques;
- (c) boiling linseed oil or running gum;
- (d) processes involving the use of hot pitch or bitumen, except the use of bitumen in the manufacture of-
 - (i) roofing felt at temperatures not exceeding 220C, or
 - (ii) coated roadstone;
- (e) stoving enamelled ware;
- (f) producing-
 - (i) aliphatic esters of the lower fatty acids,
 - (ii) butyric acid or salicylic acid,
 - (iii) caramel, hexamine, iodoform or naphthols,
 - (iv) sulphonated organic compounds, or
 - (v) resin products other than the manufacture of plastic goods;
- (g) producing rubber from scrap;
- (h) chemical processes in which chlorphenols or chlorcresols are used as intermediates;
- (i) manufacturing acetylene from calcium carbide; or
- (j) manufacturing, recovering or using
 - (i) pyridine or picolines,
 - (ii) any methyl or ethyl amine, or
 - (iii) acrylates.

Class 10. Special industrial group E

Use for-

- (a) boiling blood, chitterlings, nettlings or soap;
- (b) boiling, burning, grinding or steaming bones;
- (c) boiling or cleaning tripe;
- (d) breeding maggots from putrescible animal matter;
- (e) cleaning, adapting or treating animal hair;
- (f) curing fish;
- (g) dealing in rags or bones, including receiving, storing, sorting or manipulating rags in, or likely to become in, an offensive condition, or any bones, rabbit skins, fat or putrescible animal products of a similar nature;
- (h) dressing or scraping fish skins;
- (i) drying skins;
- (j) making manure from bones, fish, offal, blood, spent hops, beans or other putrescible animal or vegetable matter;
- (k) cleaning or scraping guts;

- (l) manufacturing animal charcoal, blood albumen, candles, catgut, glue, fish oil, size or feeding stuff for animals or for poultry from meat, fish, blood, bone, feathers, fat or animal offal either in an offensive condition or subjected to any process causing noxious or injurious effluvia;
- (m) melting, refining or extracting fat or tallow; or
- (n) preparing skins for working.

Class 11. Storage or distribution

Use for storage or as a distribution centre.

Class 12. 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.

Class 13. Residential institutions

Use—

- (a) for the provision of residential accommodation and care to people in need of care other than a use within class 14 (houses);
- (b) as a hospital or nursing home; or
- (c) as a residential school, college or training centre.

Class 14. Houses

Use as a house, other than a flat, whether or not as a sole or main residence, by—

- (a) a single person or by people living together as a family, or
- (b) not more than 5 residents living together including a household where care is provided for residents.

Class 15. 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.

Class 16. 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.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Town and Country Planning (Use Classes) (Scotland) Order 1973 as amended by the Town and Country Planning (Use Classes) (Scotland) (Amendment) Order 1983.

This Order specifies classes of use of buildings or other land for the purposes of section 19(2)(f) of the Town and Country Planning (Scotland) Act 1972. Section 19(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 1973 Order.

Class I of the 1973 Order specified use as a shop (which expression was defined in article 2(2) of that Order) subject to specific exclusions. The specific exclusions of tripe, pets and cats-meat shops are not in the new shops class 1. Use for the sale of hot food is now in the new class 3 (food and drink). The former exclusion of use for the sale of motor vehicles is now excluded by article 3(5)(d). A launderette which was excluded from the definition of shops in the 1973 Order is now included in class 1 together with dry cleaners.

Class 2 is a new class of use for financial, professional and other services. This combines some of the office uses formerly in class II, and some uses formerly within the definition of "shop" as being uses of buildings for a purpose appropriate to a shopping area. A betting office which was excluded from the definition of office and shop in the 1973 Order is now included in class 2. The test of appropriateness to a shopping area governs the whole of class 2.

Class 3 (food and drink) is a new class. It combines use for the sale of hot food, which was formerly excluded from class I, with use as a restaurant or for the sale of drink. Public houses are excluded from this class by article 3(5)(h).

Class 4 (business) combines some of the office uses formerly within class II with uses for light industrial purposes formerly within class III, into a business class. It also includes use for the research and development of products or processes. A test of whether a use could be carried out in any residential area without detriment to the amenity of that area now governs all the purposes in this class.

Class 5 (general industrial) reflects the old class IV.

Classes 6 to 10 reflect old classes V to IX (Special Industrial Groups A to E). Although there has been some reorganisation, the content of these classes is the same.

Class 11 (storage and distribution) is a new class which covers storage and distribution depots.

Class 12 (hotels and hostels) largely reflects the former class X but makes it clear that this class does not cover any residential establishment where a significant element of care (defined in article 2) is provided.

Class 13 (residential institutions) reflects the old classes XI and XIII.

Class 14 (houses) is a new class which comprises use as a house by an individual, by people living together as a family or by not more than five residents living together. In the case of people living together as a household rather than as a family, the use will continue to be within the class notwithstanding that an element of care (as defined in article 2) is provided for residents. The intention of this class is to include, for example, use as a house by individuals living together in the community who have formerly been in an institution of some kind. Flats are excluded from this class.

Class 15 (non-residential institutions) includes the uses formerly in classes XII, XIV and XV. Health centres, clinics and dispensaries are no longer included and these will be either within class 2 (financial, professional and other services) or where ancillary to a hospital, within class 13 (residential institutions). There is an additional use of a day centre.

Class 16 (assembly and leisure) includes uses formerly in classes XVI and XVII. It has been extended to include use for all indoor or outdoor sports with the exception of motor sports and sports involving firearms. Theatres which were formerly in class XVI are no longer included in any of the classes (see article 3(5)(a)).

Uses specifically excluded from the classes are listed in article 3(5) of the Order.

Paragraph 29 of Schedule 11 to the Housing and Planning Act 1986 amended section 19(2)(f) of the 1972 Act by providing that a change of use of part of any building or land is not a material change of use where the former use and the latter use of the part are within the same class, subject to the provisions of an order made under that paragraph. Article 4 of the Order provides that use as a separate house of any part of a building or of land used for the purposes of class 14 (houses) is not by virtue of this Order to be taken as not amounting to development.