

Statutory Document No. 2019/0392

*Town and Country Planning Act 1999*

## TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER 2019

*Approved by Tynwald:* 19 November 2019  
*Coming into Operation:* 1 January 2020

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 January 2020.<sup>1</sup>

### 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 2013<sup>2</sup>;

“**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;

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

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

<sup>2</sup> SD 0377/13.

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

“**retail warehouse**” 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** ” means 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 (2), “**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;
  - (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) Subject to the provisions of this order, the Use Classes specified in the Schedule are specified as classes for the purpose of section 6(3)(e) of the Town and Country Planning Act 1999 (if a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or other land for any other purpose of the same class shall not be taken to involve development).
- (2) No use class specified in the Schedule includes use for the purpose of –
  - (a) a retail warehouse;
  - (b) the sale of fuel for motor vehicles;
  - (c) the sale, display or washing of motor vehicles;
  - (d) offering, disbursing or receiving repayment of a payday loan;
  - (e) a betting office or shop;
  - (f) an amusement arcade or centre, or a funfair;

- (g) a night club or casino;
- (h) a boarding kennel for pets (including daycare);
- (i) a taxi business or business for the hire of motor vehicles;
- (j) a laundrette or dry cleaners;
- (k) the direction of funerals;
- (l) a scrapyard, or a yard for the storage or distribution of materials of the breaking of motor vehicles;
- (m) special industrial uses;
- (n) a residential school;
- (o) a hostel;
- (p) for waste uses, including the use as a transfer station, for the processing, recycling or disposal of waste or for the recovery of heat or energy from waste;
- (q) providing secure residential accommodation (such as prisons, a young offenders' institution, a detention centre, a secure training centre, a custody centre, a short term holding centre, a secure hospital, or a military barracks); or
- (r) agriculture.

## 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.  
This is subject to paragraph (3).
- (3) Paragraph (2) ceases to apply upon the breach of any condition subject to which the planning approval was granted.

## 7 Revocation

Article 6 of, and Schedule 4 to, the Town and Country Planning (Permitted Development) Order 2012<sup>3</sup> are revoked.

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<sup>3</sup> SD 0254/2012.

**MADE 22 OCTOBER 2019**

**GEOFFREY BOOT**

*Minister for Environment, Food and Agriculture*



**SCHEDULE**

[Article 5]

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

Use, where the sale, display or service is to visiting members of the public, for the purpose of –

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

**2 Class 1.2 – Financial and professional services**

Use, where the services are provided principally to visiting members of the public, for the purpose of providing –

- (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 purpose of selling 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**

Use for the purpose of selling hot food intended for consumption off the premises.

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

Use for the purpose of an office other than a purpose falling 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 purpose 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 for the purpose of carrying out an industrial process other than a purpose falling within class 2.2.

**8 Class 2.4 – Storage or distribution**

Use for the purpose of storage or distribution.

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

Use for the purpose of 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 for the purpose of –

- (a) a hospital or nursing home; or

- (b) 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 for the purpose of 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 for the purpose of 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 for the purpose of 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 as the purpose of a clinic or a health centre (excluding purposes which fall into class 1.2).

**16 Class 4.2 – Childcare or education**

Use for the purpose of providing—

- (a) nurseries, play groups, holiday schemes, other out of school provision or crèches (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 the purpose of —

- (a) the assembly of persons for a social or community event, or for religious worship;
- (b) the display of works of art (other than for sale or hire);
- (c) a museum; or
- (d) a library.

**18 Class 4.4 – Assembly and leisure**

Use for the purpose of —

- (a) a cinema, a music hall or a concert hall;
- (b) a bingo or a dance hall (but not a night club); or
- (c) a swimming baths, a skating rink, gymnasium or a dance studio (which may include the provision of instruction).



*EXPLANATORY NOTE*

*(This note is not part of the Order)*

This Order groups together similar purposes, for which buildings (or other land) may be used, into classes 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 and 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.

There are some uses which do not fall within any particular use class, meaning that the change from or to such a use always constitutes development. Such uses sometimes referred to as being Sui Generis. These uses are set out in Article 5. The definitions of “Special Industrial” (Article 3), “Industrial Process” (Article 4), and “General Industrial” (Schedule 1, Part 2) are as per the Isle of Man Strategic Plan 2016<sup>4</sup>.

Article 6 sets out transitional provisions relating to planning applications made, 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.

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<sup>4</sup> SD 2016/0060.