

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (USE CLASSES) (AMENDMENT)
(ENGLAND) (NO. 3) REGULATIONS 2020

2020 No. 895

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (S.I. 2020/757) (“the Amendment Regulations”) amend the Town and Country Planning (Use Classes) Order 1987 (S.I. 1987/764) (“the Use Classes Order”) on the 1st September 2020 as it applies to England by replacing certain existing use classes with new ones.
- 2.2 This instrument corrects a drafting error in regulation 13 and the inserted Schedule 2, Part B, of the Amendment Regulations.
- 2.3 The amendment will ensure the correct dimensions are applied in the definition of a shop within Class F.2.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This error was identified shortly after the Amendment Regulations were made and laid and the amendment was progressed at pace as soon as it became clear that an amending SI was required. In line with the Amendment Regulations, which made significant reforms to the use classes regime, this instrument is treated as subject to the negative resolution procedure; it is regretted that it has not been possible to lay this instrument at least 21 days before its coming into force. It is necessary for this instrument to come into force in advance of 1st September so that the application of the qualifying dimensions for a shop within Class F.2 are correct when the Amendment Regulations take effect. Delaying the coming into force of this instrument beyond 1 September would result in confusion and uncertainty about the dimensions. As the provision made by this instrument is correcting an error in the Amendment Regulations, the procedure for free issue will apply to this instrument.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Use Classes Order groups different uses of buildings and other land into use classes. A change of use within a single use class is not considered to be development and therefore in most circumstances does not require planning permission. The Amendment Regulations revise and replace certain use classes in relation to England (see new Schedule 2: namely, Class E (Commercial, Business and Service), Class F.1 (Learning and non-residential institutions) and Class F.2 (Local community)).

6.2 The purpose of Class F.2 as substituted by the Amendment Regulations is to ensure that buildings used by local communities, including below a certain size mostly selling essential goods where there is no other such facility within 1000m, may not undergo a change in use (other than to another local community use within Class F.2) unless planning permission is granted.

6.3 This instrument corrects a drafting error in regulation 13, and the inserted Schedule 2, Part B, of the Amendment Regulations substituting “280 square metres” in place of “280 metres square” in relation to the maximum dimensions that are to apply in the definition of a shop within Class F.2.

7. Policy background

What is being done and why?

7.1 This instrument corrects a drafting error. The Amendment Regulations provide that the dimensions for premises that are to be defined as a shop for the purposes of the ‘Local community’ (F.2) use classes are overstated as covering an area “not more than 280 metres square”. It was the intention that dimensions for such premises should have been “not more than 280 square metres”. This smaller dimension was stated in the accompanying Explanatory Memorandum.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no current plans to consolidate this legislation.

10. Consultation outcome

10.1 There is no statutory duty to consult. As this instrument amends a drafting error in the Amendment Regulations a formal consultation has not been carried out.

11. Guidance

- 11.1 Planning practice guidance will be updated to reflect these changes before they come into effect on 1 September 2020.

12. Impact

- 12.1 The impact on businesses, charities or voluntary bodies of this instrument is that, where such institutions have a shop whose area is between 280 square metres and 280 metres square and which otherwise meets the definition of a shop within Class F.2, they will be able to pursue a wider range of changes of use of those premises in accordance with the reforms in the wider Amendment Regulations – without needing to incur the time, expense and uncertainty involved with a planning application.
- 12.2 There is no, or no significant, impact on the public sector as a result of this instrument. The impact on the public sector of the Amendment Regulations as amended by this instrument should be a reduction in administrative cost and time of processing planning applications for change of use, where the development would previously have come forward through an application.
- 12.3 An Impact Assessment has not been prepared for this instrument because it merely corrects a drafting error in the Amendment Regulations. An interim assessment of impact was provided alongside the Amendment Regulations. A full Regulatory Impact Assessment for the Amendment Regulations will be produced in due course and submitted for independent verification against any Business Impact Target set under the requirements of the Small Business, Enterprise and Employment Act 2015.

13. Regulating small business

- 13.1 The Amendment Regulations as amended by this instrument apply to activities that are undertaken by small businesses.
- 13.2 The changes to the use classes in the Amendment Regulations are largely deregulatory in effect, helping to reduce bureaucracy and cost in the planning system.
- 13.3 The premises of small businesses may in some cases have been caught by the erroneous definition of shop within Class F.2 in the original Amendment Regulations. In cases where the premises have an area between 280 square metres and 280 metres squared, they will now not fall within Class F.2. Such small businesses will be able to pursue a wider range changes of use without needing to seek planning permission, in line with the wider Amendment Regulations. This instrument is therefore considered to be deregulatory in effect.

14. Monitoring & review

- 14.1 The measures in the amending Regulations will be monitored as part of the Government's package of planning reforms to support economic recovery, with changes made accordingly to ensure the intended outcomes.

15. Contact

- 15.1 Julie Shanahan at the Ministry of Housing, Communities and Local Government (Tel: 0303 444 3378 or e-mail: julie.shanahan@communities.gov.uk) can be contacted with any queries on this instrument.

- 15.2 Lucy Hargreaves, Deputy Director for Planning - Development Management, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.