

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS)
(ENGLAND) (AMENDMENT) REGULATIONS 2021

2021 No. 617

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.

2. Purpose of the instrument

- 2.1 These Regulations amend the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (“the Principal Regulations”) (S.I. 2007/783). These Regulations set out the procedures for controlling the display of advertisements in England.
- 2.2 The changes made by these Regulations amend the controls related to the display of flags.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

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 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 negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The primary powers to control advertisements in England and Wales are set out in Chapter 3 of Part 8 of the Town and Country Planning Act 1990. The Principal Regulations provide the relevant procedures for controlling the display of advertisements in England in the interests of amenity or public safety.
- 6.2 The Principal Regulations set out a framework whereby:

- certain advertisements set out in Schedule 1 are exempt from the control providing certain standard conditions are met;
- certain other advertisements set out in Schedule 3 have deemed consent providing certain standard conditions are met; and
- all other advertisements are required to have express consent through an application to the local planning authority.

6.3 Schedules 1 and 3 make provision for the display of certain types of flags enabling them to be either exempt from control of advertisements or have deemed advertisement consent.

7. Policy background

What is being done and why?

- 7.1 These Regulations make a number of minor amendments to the provisions related to the display of flags. First, the regulations clarify that ‘double flagging’, where two flags are flown from the same flagpole, is allowed under the Schedule 1 exemption or Schedule 3 deemed consent. Currently, only one flag per flagstaff is permitted. This change will enable a flag under Schedule 1 to be flown together with another Schedule 1 or Schedule 3 flag on the same flagpole without the need for express consent.
- 7.2 This change will in particular support the flying of the Union Flag which is one of the most recognisable symbols of the UK. It will allow the Union Flag to be flown in conjunction with, for instance, a national flag on a national saints’ day or the Pride flag where there is only one flagpole available, without the need for express consent, providing the Union Flag is flown in a superior position.
- 7.3 Second, the regulations remove the reference to the European Union from the list of international flags which are exempt under Schedule 1 following the UK’s departure from the European Union on 31st January 2020.
- 7.4 Finally, the regulations add flags with the logo of the National Health Service to flags which have deemed consent under Schedule 3. This will enable flags celebrating the NHS to be flown in a wider range of circumstances without the need for express consent.

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 these Regulations.

10. Consultation outcome

- 10.1 As these Regulations only make minor changes to the controls relating to the display of flags, the Department has not undertaken a formal public consultation. However, the provisions have been subject to engagement with the Flag Institute and the Department for Health and Social Care.

11. Guidance

- 11.1 The Department's plain English guide to the flying of flags will be updated to reflect these changes before they come into effect on 24 June 2021.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is expected to be positive for those bodies flying flags as it gives them more clarity and flexibility about what flags can be flown without the need for express consent.
- 12.2 The impact on the public sector is expected to be positive for those bodies flying flags as it gives them more clarity and flexibility about what flags can be flown without the need for express consent.
- 12.3 An Impact Assessment has not been prepared for this instrument as there are not expected to be any financial costs.

13. Regulating small business

- 13.1 This policy benefits all types of business, including small and micro businesses.
- 13.2 These changes are deregulatory in nature and offer greater freedom to small businesses to fly approved flags without needing to apply for planning permission through the full planning process.

14. Monitoring & review

- 14.1 The Regulations will be kept under review should it become apparent that there is demand to further amend planning controls for flag flying.

15. Contact

- 15.1 Theresa Donohue at the Ministry of Housing, Communities and Local Government
Tel: 03034441719 or e-mail: Theresa.donohue@communities.gov.uk who can answer any queries regarding the 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.