
WELSH STATUTORY INSTRUMENTS

2022 No. 997 (W. 213)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (General Permitted Development etc.) (Amendment) (Wales) Order 2022

<i>Made</i>	- - - -	<i>26 September 2022</i>
<i>Laid before Senedd Cymru</i>		<i>28 September 2022</i>
<i>Coming into force</i>	- -	<i>20 October 2022</i>

The Welsh Ministers, in exercise of the powers conferred by sections 59, 60(1) and (3), 61(1), 74, 108(2A)(a), (3C), (5) and (6) and 333(7) of the Town and Country Planning Act 1990(1) and now exercisable by them(2) make the following Order.

Title and commencement

1. The title of this Order is the Town and Country Planning (General Permitted Development etc.) (Amendment) (Wales) Order 2022 and it comes into force on 20 October 2022.

Amendment of the Town and Country (General Permitted Development) Order 1995

2.—(1) The Town and Country Planning (General Permitted Development) Order 1995(3) is amended as follows.

(2) In article 4—

(a) in paragraph (1)—

(i) for “Secretary of State” substitute “Welsh Ministers”;

(ii) for “is satisfied” substitute “are satisfied”;

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- (1) 1990 c. 8. Section 59(4) was inserted by section 55 of, and paragraph 5 of Schedule 7 to, the Planning (Wales) Act 2015 (anaw 4). Sections 108 (2A)(a), (3C), (5) and (6) as amended by S.I. 2012/210 (W. 36). Other amendments are not relevant to this Order.
- (2) The functions of the Secretary of State under sections 59, 60(1) and (3), 61(1), 74, 108(2A)(a), (3C), (5) and (6) and 333(7) of the Town and Country Planning Act 1990 (c. 8) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): see the entry in Schedule 1 for the Town and Country Planning Act 1990 (c. 8) as substituted by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253). The functions were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the functions being relevant Assembly functions as defined in paragraph 30(2).
- (3) S.I. 1995/418, amended by S.I. 2006/386 (W. 136), S.I. 2013/1776 (W. 177), and S.I. 2020/1318 (W. 290); there are other relevant amending instruments but none are relevant to this Order.

- (iii) omit “he or”;
 - (b) omit paragraph (2);
 - (c) in paragraphs (3) and (3A), after “paragraph (1)” omit “or (2)”;
 - (d) omit paragraph (5);
 - (e) after paragraph (5) insert—
 - “(5A) The procedures which must be followed in making, varying or withdrawing any direction made under paragraph (1), are set out in Schedule 2A.”
 - (f) in paragraph (6)—
 - (i) for “articles 5 and 6” substitute “Schedule 2A”;
 - (ii) omit ““relevant location” means a highway, waterway or open space”.
- (3) Omit articles 5 and 6.
- (4) After Schedule 2, insert—

“SCHEDULE 2A

Article 4

Procedures for Article 4 directions

Procedure for article 4(1) directions without immediate effect

- 1.—(1) Unless paragraph 2 applies, notice of any direction made under article 4(1) of this Order must, as soon as practicable after the direction has been made, be given by the local planning authority—
- (a) by local advertisement;
 - (b) by site display for a period of not less than 6 weeks—
 - (i) at no fewer than 2 locations within the area to which the direction relates, or
 - (ii) if the direction is made under article 4(1)(b), on the site of the particular development to which the direction relates; and
 - (c) by serving the notice on the owner and occupier of every part of the land within the area or site to which the direction relates, but this is subject to sub-paragraph (2).
- (2) The local planning authority need not serve notice on an owner or occupier in accordance with sub-paragraph (1)(c), if they consider that—
- (a) individual service on that owner or occupier is impracticable because it is difficult to identify or locate that person, or
 - (b) the number of owners or occupiers within the area to which the direction relates makes individual service impracticable, but this is subject to sub-paragraph (3).
- (3) Sub-paragraph (2) does not apply where the owner or occupier is a statutory undertaker or the Crown.
- (4) The notice referred to in sub-paragraph (1) must—
- (a) include a description of the development and the area or site to which it relates,
 - (b) include a statement of the effect of the direction,
 - (c) specify that the direction is made under article 4(1),
 - (d) name a place where a copy of the direction, and a copy of a map defining the area or site to which it relates, may be seen during normal working hours,

- (e) specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the local planning authority, and
 - (f) specify the date on which it is proposed that the direction will take effect, which must be at least 28 days but no longer than 2 years after the date specified under paragraph (e).
- (5) Where a notice given by site display is, without any fault or intention of the local planning authority, removed, obscured, or defaced before the end of the period specified under sub-paragraph (4)(e), the authority is treated as having complied with that sub-paragraph if they have taken reasonable steps for the protection of the notice, including, if need be, its replacement.
- (6) The local planning authority must send a copy of the direction and the notice under sub-paragraph (1), and a copy of a map defining the area or site to which it relates, to the Welsh Ministers on the same day that notice of the direction is first published or displayed in accordance with sub-paragraph (1).
- (7) The direction takes effect on the date specified in accordance with sub-paragraph 4(f) but only if it is confirmed by the local planning authority in accordance with sub-paragraphs (8) and (9).
- (8) In deciding whether to confirm a direction made under article 4(1) the local planning authority must take into account any representations received during the period specified under sub-paragraph 4(e).
- (9) The local planning authority must not confirm a direction until after the later of—
- (a) a period of at least 28 days beginning with the latest day any notice relating to the direction was served or published, or
 - (b) such longer period as may be specified by the Welsh Ministers following the notification of the direction by the local planning authority to the Welsh Ministers.
- (10) The local planning authority must, as soon as practicable after a direction has been confirmed—
- (a) give notice of confirmation and the date on which the direction takes effect, in accordance with sub paragraph (11), and
 - (b) send a copy of the direction as confirmed to the Welsh Ministers.
- (11) Notice under sub-paragraph 10(a) must be given in the manner described in sub-paragraphs (1) and (4)(a) to (c); and sub-paragraphs (2) and (3) apply for this purpose as they apply for the purpose of sub-paragraph (1)(c).
- (12) A local planning authority may, by making a subsequent direction, withdraw any direction made by them under article 4(1).
- (13) The Welsh Ministers may make a direction withdrawing or varying any direction under article 4(1) made by a local planning authority or by the Welsh Ministers, at any time before or after its confirmation.
- (14) Sub-paragraphs (1) to (11) apply in relation to any direction made under sub-paragraph (12) by a local planning authority unless the direction it is withdrawing is a direction to which paragraph 2 applied.
- (15) Paragraphs 2(2) and (4) to (7) apply in relation to any direction made by a local planning authority under sub-paragraph (12) withdrawing a direction to which paragraph 2 applied.
- (16) The Welsh Ministers must notify the local planning authority as soon as practicable after making a direction under article 4(1) or sub-paragraph (13).
- (17) Sub-paragraphs (1) to (3) and (4)(a) to (c) apply to any direction made under sub-paragraph (13) by the Welsh Ministers.
- (18) A direction made under sub-paragraph (13) by the Welsh Ministers takes effect —

- (a) on the date on which the notice is served under sub-paragraph (1)(c) on the occupier, or if there is no occupier, on the owner; or
- (b) if sub-paragraph (2) applies, on the date on which the notice was first advertised or displayed in accordance with sub-paragraph (1).

Procedure for article 4(1) directions with immediate effect

2.—(1) This paragraph applies where—

- (a) a direction relating only to development permitted by any of—
 - (i) Part 1 (development within the curtilage of a dwellinghouse);
 - (ii) Part 2 (minor operations);
 - (iii) Part 3 (changes of use), excluding development permitted by paragraphs (b)(i) and (c)(i) of Class I;
 - (iv) Part 4 (temporary buildings and uses);
 - (v) Part 31 (demolition of buildings);
 of Schedule 2 has been made by the local planning authority or the Welsh Ministers under article 4(1) and the planning authority consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area; or
- (b) a direction within the whole or part of any conservation area has been made by the local planning authority or the Welsh Ministers under article 4(1) which the planning authority considers should have immediate effect and the development to which the direction relates is described in sub-paragraph (3).

(2) Paragraphs 1(1) to (3), (4)(a) to (e), (5), and (8) and (9) apply in relation to a direction to which this paragraph applies; and the planning authority must notify the Welsh Ministers of the direction on the same day that notice is given under paragraph 1(1).

(3) The development referred to in sub-paragraph (1)(b) is development described in—

- (a) Class A of Part 1 of Schedule 2, consisting of the enlargement, improvement or other alteration of a dwellinghouse, where any part of the enlargement, improvement or alteration would front a relevant location;
- (b) Class C of Part 1 of that Schedule, where the alteration would be to a roof slope which fronts a relevant location;
- (c) Class D of Part 1 of that Schedule, where the external door in question fronts a relevant location;
- (d) Class E of Part 1 of that Schedule, where the building or enclosure, raised platform, swimming or other pool to be provided would front a relevant location, or where the part of the building or enclosure maintained, improved or altered would front a relevant location;
- (e) Class F of Part 1 of that Schedule, where the hard surface would front a relevant location;
- (f) Class H of Part 1 of that Schedule, where the part of the building or other structure on which the antenna is to be installed, altered or replaced fronts a relevant location;
- (g) Part 1 of that Schedule, consisting of the installation, alteration or removal of a chimney on a dwellinghouse or on a building within the curtilage of a dwellinghouse;
- (h) Class A of Part 2 of that Schedule, where the gate, fence, wall or other means of enclosure would be within the curtilage of a dwellinghouse and would front a relevant location;
- (i) Class C of Part 2 of that Schedule, consisting of the painting of the exterior of any part, which fronts a relevant location, of—

- (i) a dwellinghouse; or
 - (ii) any building or enclosure within the curtilage of a dwellinghouse;
 - (j) Class B of Part 31 of that Schedule, where the gate, fence, wall or other means of enclosure is within the curtilage of a dwellinghouse and fronts a relevant location.
- (4) The direction takes effect —
- (a) on the date on which the notice is served under paragraph 1(1)(c) on the occupier of that part of the land or, if there is no occupier, on the owner; or
 - (b) if paragraph 1(2) applies, on the date on which the notice is first published or displayed in accordance with paragraph 1(1).
- (5) A direction to which this paragraph applies expires at the end of 6 months beginning with the day on which it takes effect, unless it is confirmed by the local planning authority in accordance with paragraphs 1(8) and (9), before the end of that period.
- (6) The local planning authority must, as soon as practicable after a direction has been confirmed—
- (a) give notice of their confirmation; and
 - (b) send a copy of the direction as confirmed to the Welsh Ministers.
- (7) Notice under sub-paragraph (6)(a) must be given in the manner described in paragraphs 1(1) and 4(a) to (c); and paragraphs 1(2) and (3) apply for this purpose as they apply for the purpose of paragraph 1(1)(c).
- (8) In this paragraph, “relevant location” means a highway, waterway or open space.”
- (5) In Part 3 of Schedule 2 (changes of use), after Class H insert—

“Class I

I. Permitted development

Development consisting of a change of use of a building—

- (a) from a use falling within Class C3 (dwellinghouses, used as sole or main residences) of the Schedule to the Use Classes Order —
 - (i) to a use falling within Class C5 (dwellinghouses, used otherwise than as sole or main residences) of that Schedule;
 - (ii) to a use falling within Class C6 (short-term lets) of that Schedule;
 - (iii) to a mixed use combining use as a dwellinghouse within Class C3 (dwellinghouses, used as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
 - (iv) to a mixed use combining use as a dwellinghouse within Class C5 (dwellinghouses, used otherwise than as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
- (b) from a use falling within Class C5 (dwellinghouses, used otherwise than as sole or main residences) of the Schedule to the Use Classes Order —
 - (i) to a use falling within Class C3 (dwellinghouses, used as sole or main residences) of that Schedule;
 - (ii) to a use falling within Class C6 (short-term lets) of that Schedule;

- (iii) to a mixed use combining use as a dwellinghouse within Class C5 (dwellinghouses, used otherwise than as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
 - (iv) to a mixed use combining use as a dwellinghouse within Class C3 (dwellinghouses, used as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
- (c) from a use falling within Class C6 (short-term lets) of the Schedule to the Use Classes Order—
 - (i) to a use falling within Class C3 (dwellinghouses, used as sole or main residences) of that Schedule;
 - (ii) to a use falling within Class C5 (dwellinghouses, used otherwise than as sole or main residences) of that Schedule;
 - (iii) to a mixed use combining use as a dwellinghouse within Class C3 (dwellinghouses, used as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
 - (iv) to a mixed use combining use as a dwellinghouse within Class C5 (dwellinghouses, used otherwise than as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
- (d) from a mixed use combining uses falling within Class C3 (dwellinghouses, used as sole or main residences) and Class C6 (short-term lets) of the Schedule to the Use Classes Order—
 - (i) to a use falling within Class C3 (dwellinghouses, used as sole or main residences) of that Schedule;
 - (ii) to a use falling within Class C5 (dwellinghouses, used otherwise than as sole or main residences) of that Schedule;
 - (iii) to a use falling within Class C6 (short-term lets) of that Schedule;
 - (iv) to a mixed use combining use as a dwellinghouse within Class C5 (dwellinghouses, used otherwise than as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule;
- (e) from a mixed use combining uses falling within Class C5 (dwellinghouses, used otherwise than as sole or main residences) and Class C6 (short-term lets) of the Schedule to the Use Classes Order—
 - (i) to a use falling within Class C3 (dwellinghouses, used as sole or main residences) of that Schedule;
 - (ii) to a use falling within Class C5 (dwellinghouses, used otherwise than as sole or main residences) of that Schedule;
 - (iii) to a use falling within Class C6 (short-term lets) of that Schedule;
 - (iv) to a mixed use combining use as a dwellinghouse within Class C3 (dwellinghouses, used as sole or main residences) with a use falling within Class C6 (short-term lets) of that Schedule.

I.1 Development not permitted

Development is not permitted by Class I if it would result in the use as two or more separate dwellinghouses falling within Class C3 (dwellinghouses, used as sole or main residences), Class C5 (dwellinghouses, used otherwise than as sole or main residences) or Class C6 (short-term lets) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse.

Class J

J. Permitted development

Development consisting of a change of use of a building—

- (a) from a use as a betting office—
 - (i) to a use for any purpose falling within Class A1 (shops) of the Schedule to the Use Classes Order;
 - (ii) to a mixed use for any purpose falling within Class A1 (shops) of the Schedule to the Use Classes Order and as a single flat;
 - (iii) to a use for any purpose within Class A2 (financial and professional services) of the Schedule to the Use Classes Order;
 - (iv) to a mixed use for any purpose falling within Class A2 (financial and professional services) of the Schedule to the Use Classes Order and as a single flat;
 - (v) to mixed use as a betting office and as a single flat;
- (b) from a mixed use as a betting office and as a single flat—
 - (i) to a use for any purpose falling within Class A1 (shops) of the Schedule to the Use Classes Order;
 - (ii) to a mixed use for any purpose falling within Class A1 (shops) of the Schedule to the Use Classes Order and as a single flat;
 - (iii) to a use for any purpose within Class A2 (financial and professional services) of the Schedule to the Use Classes Order;
 - (iv) to a mixed use for any purpose falling within Class A2 (financial and professional services) of the Schedule to the Use Classes Order and as a single flat;
 - (v) to a use as a betting office.

J1. Conditions

Development permitted by Class J is subject to the following conditions—

- (a) some or all of the parts of the building used for any purposes within Class A1, Class A2 or as a betting office, as the case may be, of the Schedule to the Use Classes Order must be situated on a floor below the part of the building used as a single flat;
- (b) where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as the single flat;
- (c) the single flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)—
 - (i) by a single person or by people living together as a family;
 - (ii) by not more than six residents living together as a single household (including a household where care is provided for residents).

J2. Interpretation of Class J

For the purposes of Class J—

“care” means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.”

Amendment of the Town and Country Planning (Compensation) (Wales) (No. 2) Regulations 2014

3.—(1) The Town and Country Planning (Compensation) (Wales) (No. 2) Regulations 2014⁽⁴⁾ are amended as follows.

(2) In regulation 2 (prescribed development – planning permission granted by development order), after paragraph (a) insert—

“(aa) development permitted by Class I of Part 3 of Schedule 2 (certain changes of use).”

(3) In paragraph (a) of regulation 3 (prescribed manner for withdrawing planning permission granted by development order), for “articles 4, 5 and (as appropriate) 6” substitute “article 4”.

(4) In paragraph (2)(a) of regulation 4 (notice of the withdrawal - prescribed manner of publication and period for development orders) for “articles 5 and (as appropriate) 6 of” substitute “paragraphs 1(1) to (5) of Schedule 2A to”.

26 September 2022

Julie James
Minister for Climate Change, one of the Welsh
Ministers

(4) [S.I. 2014/2693 \(W. 268\)](#).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) (“the 1995 Order”). Article 3 of, and Schedule 2 to the 1995 Order confer permitted development rights in respect of certain development. Where such rights are conferred, no application for planning permission is required.

Article 4 of the 1995 Order permits local planning authorities and the Welsh Ministers to direct that any or particular development permitted under article 3 of the 1995 Order is not to apply in relation to a specified area. Article 2(2) of this Order amends article 4 of the 1995 Order.

Articles 2(2)(b) and (d) omit articles 4(2) and (5).

Article 2(2)(e) inserts paragraph (5A) which introduces a new Schedule 2A. Schedule 2A sets out new procedures which must be followed in making, varying or withdrawing any direction that is made under article 4(1). In addition, Schedule 2A introduces two types of direction: a direction with immediate effect and a direction without immediate effect.

Article 2(3) omits articles 5 and 6 of the 1995 Order.

Article 2(5) amends Part 3 (changes of use) of Schedule 2 to the 1995 Order by inserting two new classes, Class I and Class J.

Class I introduces a number of new permitted development rights for unlimited changes of use, including mixed uses, between use Class C3 (Dwellinghouses, used as sole or main residences); use Class C5 (Dwellinghouses, used otherwise than as sole or main residences) and use Class C6 (Short-term lets). The permitted development is subject to limitations.

Class J introduces a number of new permitted development rights from use as a betting office to use within Class A1 (shops); or Class A2 (financial and professional services); or mixed use of either Class A1 or Class A2, plus a single flat. Class J also permits a change of use from a mixed use as a betting office and a single flat to use within Class A1 or Class A2, or a mixed use of either Class A1 or Class A2, plus a single flat, and to use as a betting office. The permitted development is subject to limitations.

Article 3(2) amends the Town and Country Planning (Compensation) (Wales) (No. 2) Regulations 2014 (S.I. 2014/2693 (W. 268)) (“the 2014 Regulations”) by adding a new class of development into the list of permitted development rights for which compensation on withdrawal of the right is limited in various ways provided in the 2014 Regulations. The new rights in Class I permit various changes of use, as inserted into Part 3 of Schedule 2 to the 1995 Order by article 2(5) of this Order.

The practical effect of the 2014 Regulations is that when permitted development rights identified in regulation 2 are withdrawn by issuing a direction under article 4 of the 1995 Order, compensation is only payable in respect of applications made within 12 months beginning on the date the direction took effect.

The matters prescribed in regulations 3 and 4 of the 2014 Regulations relate to planning permission granted by development order and provide a mechanism for the permitted development rights identified in regulation 2 to be withdrawn without compensation being payable, provided the prescribed procedures are followed as to the manner of withdrawal, the manner of publishing the withdrawal and the maximum period of notice that may be given in respect of withdrawal. Regulation 5 makes similar provision regarding withdrawal of permitted development rights granted by a local development order.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Articles 3(3) and (4) make minor consequential amendments to the 2014 Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared in relation to this Order. A copy may be obtained from the Planning Division of the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales .