

**EXPLANATORY MEMORANDUM TO
THE PLANNING (USE CLASSES) ORDER (NORTHERN IRELAND)
2015**

S.R. 2015 No. 40

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly
- 1.2 The Statutory Rule is made under section 23 of the Planning Act (Northern Ireland) 2011 (the 2011 Act) and is subject to negative resolution procedure before the Assembly.

2. Purpose

- 2.1 The Order transfers to the new councils the same range of provisions relating to development that does not require planning permission that is currently available to the Department under the Planning (Use Classes) Order 2004.

3. Background

- 3.1 Section 23(3) of the 2011 Act provides that the Department may specify classes of use of buildings, or other land, that are not to be taken for the purposes of the 2011 Act as involving development and which therefore do not require planning permission. Sub-paragraph (e) of that section 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.
- 3.2 The Order is technical in nature and simply consolidates the current Planning (Use Classes) Order (Northern Ireland) 2004, as amended, to make it compliant with the 2011 Act when the majority of planning decisions are transferred to district councils in April 2015.

4. Consultation

- 4.1 The Department consulted on its “Planning Reform & Transfer to Local Government Proposals for Subordinate Legislation Phase 1” between 28 May 2014 and 20 August 2014. In the consultation document the Department indicated that it will also take forward a range of technical Statutory Rules which are needed to take account of the new two-tier planning model. These SRs will all be subject to the full scrutiny of the Assembly as part of the legislative process but as they do not involve new policies or significant changes to existing policies they are not

being made subject to public consultation. The Planning (Use Classes) Order (Northern Ireland) 2015 was one of those Statutory Rules.

5. Equality Impact Assessment

5.1 In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals and has concluded that they do not have implications for equality of opportunity. The measures will not affect any group disproportionately.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment carried out in respect of the changes to planning applications indicated that the proposals would not impose any significant costs to business or the voluntary sector.

7. Financial Implications

7.1 The financial implications of the move to the new two-tier planning system have been addressed in the financial package being transferred to the new councils.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the proposed Order is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no EU implications.

10. Parity or Replicatory Measure

10.1 Equivalent Orders have been made in England and Wales and have been in operation since 1987. In Scotland, an equivalent Order came into operation in 1998.

11. Additional Information

11.1 Not applicable.

REGULATORY IMPACT ASSESSMENT Use Classes

1. Title of Proposal

The Planning (Use Classes) Order (Northern Ireland) 2015

2. Purpose and intended effect of measure

i) The objective:

The main objective of this Order is to specify the use of buildings which are not to be taken for the purposes of section 23(3) of the Planning Act (Northern Ireland) 2011 as involving development and therefore do not require planning permission. Paragraph (e) of section 23(3) 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 section.

The proposed Order will only affect Northern Ireland.

ii) The background:

The Order mirrors the current Planning (Use Classes) Order (Northern Ireland) 2004 in all respects subject to the updating of certain references to housing and environmental legislation made after the coming into operation of the 2004 Order and the change in the planning authority specified in the Order from the Department to the district council as a result of the transfer of most planning functions to councils in April 2015.

iii) Risk Assessment and Rationale for Government Intervention:

Failure to provide for certain uses not to be taken for the purposes of the 2011 Act as involving development would significantly increase the burden on district councils of having to determine large numbers of planning applications for relatively minor activities.

3. Options Appraisal

Option 1 – Do Nothing

This is not a realistic option as a requirement to apply for planning permission for every minor change of use of land or buildings would be unduly burdensome on councils and would inevitably lead to a slowing down of the planning process. It would also significantly increase the cost to the public who find themselves in a position of having to alter the use of a building or land in a relatively minor way. The Department has a duty to consider how such changes of use should be regulated and make appropriate provision for this. The effect of doing nothing would mean that applications for planning permission would be required for all such minor changes of use.

Option 2 - Introduce new Regulations

The second and preferred option is to make a new Planning (Use Classes) Order as proposed. This will provide for certain changes of use of buildings or land to occur without the need to submit a planning application. The advantages of this approach are that the Planning (Use Classes) Order can be made and become operative to coincide with the transfer of planning functions to councils in April 2015.

4. Benefits

There are unlikely to be any compliance costs over and above those which already apply in respect of the Planning (Use Classes) Order (Northern Ireland) 2004.

Option 1: Do Nothing

There are no economic benefits associated with this option.

Option 2: Introduce new Legislation

This is the most economically beneficial option as it provides for certain changes of use to occur without the need for the public to incur the costs of submitting a planning application.

5. Costs

Option 1: Do nothing

A council would incur costs associated with determining applications for planning permission for changes of use. It would very likely be unduly burdensome on councils and would lead to a slowing down of the planning process. It would also significantly increase the costs to the public who find themselves in a position of having to alter the current use of a building or land in a relatively minor way.

Option 2: Introduce Legislation

The Department will incur the normal administrative costs associated with making and printing a Statutory Rule.

6. Business Sectors Affected

The use classes provided by the Order will reduce the costs to business likely to require a change of use of a building or land.

7. Consideration of Impacts

Equality Impact Assessment

An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

Health Impact

The Order will have no public health implications.

Small Firms Impact Test

The proposed Regulations are unlikely to apply to small firms.

Human Rights Assessment

The Department considers that the proposed Regulations are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment

There will be no significant differential impact of the Order between urban and rural areas.

8. Monitoring and Review

The introduction of the new two tiered planning regime will be monitored to determine whether the aims of introducing the new Order are met. The Order largely mirrors that which applies currently in Northern Ireland and is in line with those that operate in England, Scotland and Wales.

9. Consultation

The legislative amendments will not be consulted on as they are largely technical in nature.

10. Summary and Recommendations

Option 2 is the recommended option as it will provide an opportunity to remove from the need for submitting an application for planning permission for a large number of relatively minor changes of use of a building or land which are of little or no material significance in planning terms.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.



Date: 9th February 2015

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