

EXPLANATORY MEMORANDUM TO

The Planning (General Permitted Development) (Amendment) Order (Northern Ireland) 2023

SR 2023 No. 95

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 32 and 247(6) of the Planning Act (Northern Ireland) 2011 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Order will amend Part 2 (installation of domestic microgeneration equipment) of the Schedule to the current Planning (General Permitted Development) Order (Northern Ireland) 2015 (the GDPO) by substituting Class F (ground or water source heat pumps) and Class G (air source heat pumps). The Rule is due to come into operation on 04 July 2023.
- 2.2. Class F of Part 2 of the Schedule to the GDPO currently provides permitted development rights for the provision of a ground or water source heat pump within the curtilage of a dwelling house subject to a number of conditions and limitations.
- 2.3. The Order substitutes Class F by removing a number of the current conditions and limitations. The following limitations will remain in place and development will not be permitted if:
 - any part of the heat pump or its housing would be within 3 metres of the boundary of the curtilage of the dwellinghouse and it would exceed 4 metres in height;
 - it would involve the provision of any heat pump within an area of special scientific interest or a site of archaeological interest.
- 2.4. Class G of Part 2 of the Schedule to the GDPO currently provides permitted development rights for the installation, alteration or replacement of an ASHP within the curtilage of a dwelling house subject to a number of conditions and limitations.
- 2.5. This amending Order substitutes Class G by providing that ASHP must comply with Microgeneration Certification Scheme (MCS) Planning Standards or equivalent standards; any part of the ASHP would be at least 1 metre from the boundary of the curtilage of another dwellinghouse; and increases the height restriction from 2 metres to 3 metres.
- 2.6. The other restrictions and conditions including those in relation to World Heritage Sites, conservation areas and listed buildings will remain unchanged. These include in the case of a dwellinghouse within a World Heritage Site or conservation area that no part of the ASHP must face onto and be visible from a road and in the case of listed buildings that listed

building consent for the development must have previously been granted. In addition, development is not permitted if any part of the ASHP would be on land forward of a wall which faces onto a road and forms either the principal or side elevation of the dwellinghouse.

- 2.7. The amendments are aimed at protecting the environment by encouraging the use of low carbon heat technologies and ensuring the permitted development rights are up to date and fit for purpose.

3. Background

- 3.1. The Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) sets out types of development which can be undertaken without requiring a planning application. These are referred to as permitted development rights and often relate to minor building works that have minimal impact to amenity and the environment.
- 3.2. The Schedule to the GPDO contains a number of Parts, each of which sets out various classes of development which may be undertaken without the need for a full planning application.
- 3.3. The Department undertakes a rolling programme of reviewing permitted development rights in the planning system to ensure they are up to date and fit for purpose.

4. Consultation

- 4.1. The Executive published an Energy Strategy on 16 December 2021, and its accompanying Action Plan was published on 20 January 2022. This Action Plan contained a commitment for the Department for Infrastructure to review permitted development legislation for low carbon heat installations to ensure it is up to date and fit for purpose.
- 4.2. As a result of this review the Department issued an eight week public consultation on the review of permitted development rights which included proposals for changes to the nature and scale of permitted development rights for the installation, alteration or replacement of heat pumps to align with modern standards and requirements. The consultation ran from 27 October 2022 to 23 December 2022.
- 4.3. The majority of respondents to the consultation were in favour of the proposals.

5. Equality Impact

- 5.1. The Statutory Rule does not impact on equality of opportunity in any of the groups specified in section 75 of the Northern Ireland Act 1988. A Section 75 screening was carried out as part of the public consultation process. Responses to the consultation did not raise any issues in relation to the Section 75 categories.

6. Regulatory Impact

- 6.1. Preliminary Regulatory Impact Assessments were carried out along with the consultation in 2022 and have been updated in line with these proposals. The majority of amendments to the GPDO will result in potential savings to prospective applicants if their development is

considered to be permitted development. Prospective applicants will still have to make sure their development complies with any environmental and other consents that may be needed, including building regulations etc, but they will not incur the application fees for planning permission and the administrative costs incurred in submitting an application.

7. Financial Implications

7.1. This Order will continue to give potential savings to prospective applicants if their development is considered to be permitted development.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. This is not a parity or replicatory measure.

11. Additional Information

11.1. Not applicable