

**2019 No. 907**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (Permitted Development,  
Advertisement and Compensation Amendments) (England)  
Regulations 2019**

<i>Made</i> - - - -	<i>1st May 2019</i>
<i>Laid before Parliament</i>	<i>3rd May 2019</i>
<i>Coming into force</i> - -	<i>25th May 2019</i>

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61, 108(2A), 108(3C), 108(5), 108(6), 220 and 333(1) and (7) of the Town and Country Planning Act 1990(a), makes the following Regulations:

**PART 1**

**Introduction**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019.

(2) These Regulations come into force on 25th May 2019.

**PART 2**

**Amendments to the Town and Country Planning (General Permitted Development)  
(England) Order 2015**

**Amendments to the Town and Country Planning (General Permitted Development)  
(England) Order 2015**

2. The Town and Country Planning (General Permitted Development) (England) Order 2015(b) is amended as follows.

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- (a) 1990 c.8. Amendments have been made to section 59 which are not relevant to this Order. Section 60 was amended by section 4(1) of the Growth and Infrastructure Act 2013 (c.27) and section 152 of the Housing and Planning Act 2016 (c.22). Section 220 was amended by section 42(4) of the Planning and Compulsory Purchase Act 2004 (c.5). Amendments have been made to section 333 which are not relevant to this Order.
- (b) S.I. 2015/596, which has been amended by S.I. 2016/332, S.I. 2016/1040, S.I. 2017/391, S.I. 2017/619, S.I. 2018/119 and S.I. 2018/343.

### **Amendment to article 2**

3. In article 2(1) (interpretation), for the definition of “transport undertakers” substitute—
- ““transport undertakers” includes, in addition to the meaning of transport undertaker in section 329 of the Highways Act 1980 (further provision as to interpretation), any person authorised to carry on—
- (a) a road transport undertaking; or
  - (b) a tramway undertaking.”

### **Amendments to Part 1, Class A**

4. In Class A of Part 1 of Schedule 2—
- (a) in paragraph A.1(g) omit the words “until 30th May 2019,”;
  - (b) in paragraph A.4 omit sub-paragraphs (13), (14) and (15).

### **Amendments to Part 2, Class E**

5. In Class E of Part 2 of Schedule 2—
- (a) for paragraph E.1(a) substitute—
    - “(a) in relation to an upstand and outlet—
    - (i) within the curtilage of a dwellinghouse or a block of flats, exceed 1.6 metres in height from the level of the surface used for the parking of vehicles; or
    - (ii) in any other case, exceed 2.3 metres in height from the level of the surface used for the parking of vehicles;”;
  - (b) after paragraph E.2. (conditions) insert—

#### **“E.3. Interpretation of Class E**

For the purposes of Class E—

“block of flats” means a building which consists of at least two flats.”.

### **Amendments to Part 3, Class J**

6. In Part 3 of Schedule 2, after Class J, insert—
- “Class JA – retail, takeaway, betting office, pay day loan shop, and launderette uses to offices*

#### **Permitted development**

- JA. Development consisting of a change of use of a building from—
- (a) a use falling within Class A1 (shops), Class A2 (financial and professional services), or Class A5 (hot food takeaways) of the Schedule to the Use Classes Order, or
  - (b) a use as a betting office, pay day loan shop or launderette,
- to a use falling within Class B1(a) (offices) of that Schedule.

#### **Development not permitted**

- JA.1. Development is not permitted by Class JA if—
- (a) the building was not used for one of the uses referred to in Class JA(a) or (b)—
    - (i) on 29th October 2018, or

- (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- (b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;
- (c) the development (together with any previous development under Class JA) would result in more than 500 square metres of floor space in the building having changed use under Class JA; or
- (d) the building is—
  - (i) on article 2(3) land;
  - (ii) in a site of special scientific interest;
  - (iii) in a safety hazard area;
  - (iv) in a military explosives storage area;
  - (v) a listed building, or within the curtilage of a listed building; or
  - (vi) a scheduled monument or contains a scheduled monument.

### **Conditions**

JA.2(1) Where the development proposed is development under Class JA, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

- (a) transport and highways impacts of the development;
- (b) whether it is undesirable for the building to change use to a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order because of the impact of the change of use—
  - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops), Class A2 (financial and professional services) or Class A5 (hot food takeaway) of that Schedule or, as the case may be, as a launderette, but only where there is a reasonable prospect of the building being used to provide such services; or
  - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area; and
- (c) impacts of noise from commercial and retail premises on the intended occupiers of the development; and

the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

(2) Development under Class JA is permitted subject to the condition that—

- (a) development must be completed within a period of 3 years starting with the prior approval date; and
- (b) a building which has changed use under Class JA is to be used as an office within the meaning of Class B1(a) (offices) of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such an office.”.

### **Amendments to Part 3, Class M**

7. In Class M of Part 3 of Schedule 2—

- (a) in the heading after “retail”, insert “, takeaways”;
- (b) for paragraph M(a)(i) substitute—

“(i) a use falling within Class A1 (shops), Class A2 (financial and professional services) or Class A5 (hot food takeaways) of the Schedule to the Use Classes Order;”;

(c) for paragraph M.2(1)(d)(i) substitute—

“(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops), Class A2 (financial and professional services) or Class A5 (hot food takeaways) of that Schedule or, as the case may be, a building used as a launderette, but only where there is a reasonable prospect of the building being used to provide such services, or”.

### **Amendment to Part 3, Class Q**

8. In Class Q of Part 3 of Schedule 2 after paragraph Q.1(b), insert—

“(ba) the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;”.

### **Amendment to Part 3, Paragraph W**

9. In paragraph W of Part 3 of Schedule 2, for paragraph W(10)(b), substitute—

“(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and”.

### **Amendments to Part 4, Class C**

10. In Class C of Part 4 of Schedule 2—

(a) in paragraph C.2(d) after “a particular site;” omit “and”;

(b) after paragraph C.2(d) insert—

“(da) for the purposes of the Use Classes Order as it applies to Class T of Part 3 of Schedule 2 to this Order, during the period of use as a state-funded school the building and any land within its curtilage retains the use class it had before changing to the use as a state-funded school;

(db) for the purposes of Class S of Part 3 of Schedule 2 to this Order, during the period of use as a state-funded school the building and any land within its curtilage retains the use as an agricultural building before changing to the use as a state-funded school; and”.

### **Amendments to Part 4, Class D**

11. In Class D of Part 4 of Schedule 2—

(a) in paragraph D(b) for “or Class B1 (business)” substitute—

“, Class B1 (business), Class D1(a) (the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner), Class D1(d) (the display of works of art (otherwise than for sale or hire)), Class D1(e) (museum), Class D1(f) (public library or public reading room), or Class D1(g) (public hall or exhibition hall)”;

(b) in paragraph D for “2 years” substitute “3 years”;

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(a) <https://www.gov.uk/government/publications/national-planning-policy-framework--2> a copy of which may be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

- (c) in paragraphs D.2(b) and D.2(c) for “2 year” substitute “3 year”.

#### **Amendment to Part 4, Class E**

**12.** In Class E of Part 4 of Schedule 2 for paragraph E.3(10)(b), substitute—

“(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.”.

#### **Amendments to Part 7**

**13.** In Class F of Part 7 of Schedule 2—

- (a) in paragraph F.1(d) omit “or”;  
(b) in paragraph F.1(e) for “.” substitute “; or”;  
(c) after paragraph F.1(e) insert—

“(f) the building is in use as an office as permitted by Class JA (retail, takeaway, betting office, pay day loan shop, and launderette uses to offices) of Part 3 of this Schedule.”

**14.** In Class G of Part 7 of Schedule 2—

- (a) in paragraph G.1(a) omit “or”;  
(b) in paragraph G.1(b) for “.” substitute “; or”;  
(c) after paragraph G.1(b) insert—

“(c) the building is in use as an office as permitted by Class JA (retail, takeaway, betting office, pay day loan shop, and launderette uses to offices) of Part 3 of this Schedule.”.

#### **Amendment to Part 14**

**15.** In Class J of Part 14 of Schedule 2 for paragraph J.4(8)(b), substitute—

“(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019(b), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.”.

#### **Amendments to Part 16**

**16.** In Class A of Part 16 of Schedule 2—

- (a) in paragraph A.1(7), omit the whole of paragraph (c);  
(b) after paragraph A.1(9), insert—

*“Development not permitted: public call box*

(10) Development consisting of the installation, alteration or replacement of a public call box is not permitted by Class A.”;

- (c) in paragraph A.2(3)(c), for sub-paragraph (iii) substitute—

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(a) <https://www.gov.uk/government/publications/national-planning-policy-framework--2> a copy of which may be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

(b) <https://www.gov.uk/government/publications/national-planning-policy-framework--2> a copy of which may be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

“(iii) the construction, installation, alteration or replacement of radio equipment housing, where the volume of any single development exceeds 2.5 cubic metres,”;

(d) in paragraph A.4 (interpretation of Class A)—

(i) after the definition of “electronic communications code operator” insert—

““electronic communications service” means a service falling within the definition of that term in section 32(2) of the Communications Act 2003(a);”;

(ii) after the definition of “owner” insert —

““public call box” means any kiosk, booth, acoustic hood, shelter or similar structure which is erected or installed for the purpose of housing or supporting electronic communications apparatus and at which an electronic communications service is provided (or is to be provided) by an electronic communications code operator;”.

### PART 3

#### Amendments to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

**17.**—(1) The Town and Country Planning (Control of Advertisements) (England) Regulations 2007(b) are amended as follows.

(2) In Part 1 of Schedule 3 omit the whole of Class 16.

(3) In Part 2 of Schedule 3 omit the definitions of “electronic communications apparatus”; “electronic communications service”, “electronic communications code operator” and “telephone kiosk”.

### PART 4

#### Amendment to the Town and Country Planning (Compensation) (England) Regulations 2015

**18.**—(1) The Town and Country Planning (Compensation) (England) Regulations 2015(c) are amended as follows.

(2) In regulation 2(c), after “J,” insert “JA,”.

### PART 5

#### Transitional and saving provisions

**19.**—(1) Where a prior approval event occurs, the planning permission granted by Class A of Part 16 of Schedule 2 to the Order continues to have effect in relation to a public call box as if the amendments made to that Order by Part 2 of these Regulations had not been made.

(2) A surface of a public call box which was used for displaying an advertisement on or before 24th May 2019 may continue to be used for that purpose.

(3) In this regulation—

“the Order” means the Town and Country Planning (General Permitted Development) (England) Order 2015(d);

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(a) 2003 c.21. Section 32 was amended by S.I. 2011/1210 Schedule 1 paragraph 9(b).

(b) S.I. 2007/783 to which there are amendments not relevant to this Order.

(c) S.I.2015/598 which has been amended by S.I. 2016/331, S.I. 2017/392, S.I.2017/402, and S.I. 2017/620.

(d) S.I.2015/596.

“electronic communications apparatus” means apparatus falling within the definition of that term in paragraph 5 of the electronic communications code set out in Schedule 3A to the Communications Act 2003(a);

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106(3)(a) of the Communications Act 2003(b);

“electronic communications service” means a service falling within the definition of that term in section 32(2) of the Communications Act 2003(c);

“prior approval application” has the same meaning as in section 69A(2) of the Town and Country Planning Act 1990(d);

“prior approval event” means—

- (a) the giving of prior approval, in writing, in relation to the matters in paragraph A.3(4) of Class A of Part 16 of Schedule 2 to the Order—
  - (i) before 25th May 2019;
  - (ii) on or after 25th May 2019 where the prior approval application was submitted to the local planning authority before 25th May 2019;
  - (iii) on or after 25th May 2019 in relation to an appeal which was lodged under section 78 of the Town and Country Planning Act 1990 within 6 months of the date of notice of refusal of a prior approval application submitted before 25th May 2019;
- (b) a determination, in writing, that prior approval is not required to be given—
  - (i) before 25th May 2019;
  - (ii) on or after 25th May 2019 where the prior approval application in accordance with paragraph A.3(5) of Class A of Part 16 of Schedule 2 to the Order, was submitted to the local planning authority before 25th May 2019; or
- (c) the expiry of a period of 56 days beginning with the date on which the local planning authority received the application in accordance with paragraph A.3(5) of Class A of Part 16 of Schedule 2 to the Order without the local planning authority notifying the applicant, in writing, of their determination as to whether such approval is required—
  - (i) before 25th May 2019;
  - (ii) on or after 25th May 2019 where the prior approval application was submitted before 25th May 2019;

“public call box” means any kiosk, booth, acoustic hood, shelter or similar structure which is erected or installed for the purpose of housing or supporting electronic communications apparatus and at which an electronic communications service is provided (or is to be provided) by an electronic communications code operator.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

*Kit Malthouse*  
Minister of State

1st May 2019

Ministry for Housing, Communities and Local Government

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(a) 2003 c. 21. Schedule 3A was inserted by section 4 of, and Schedule 1 to, the Digital Economy Act 2017 c. 30.  
(b) 2003. c.21. Section 106 was amended by section 4 of the Digital Economy Act 2017 c. 30.  
(c) 2003. c.21. Section 32 was amended by Paragraph 9(b) of Schedule 1 to S.I. 2011/1210.  
(d) Section 69A(2) was inserted by section 17 of the Neighbourhood Planning Act 2017 c. 20.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Part 2 of these Regulations amend the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”) (S.I. 2015/596).

Regulation 3 amends the definition of “transport undertakers”, in article 2(1) of the Order for the purposes of interpreting Class C of Part 9 of Schedule 2 to the Order.

Regulation 4 makes permanent the existing temporary right to enlarge a dwellinghouse by up to 8 metres in the case of a detached dwellinghouse or by 6 metres in the case of any other dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 to the Order. It removes the time limiting date of 30th May 2019, as well as conditions which required development to be completed by that date.

Regulation 5 increases the height limit of electrical upstands and outlets for recharging electric vehicles to 2.3 metres, as permitted by Class E of Part 2 of Schedule 2 to the Order. It also clarifies that the previous height limit of 1.6 metres still applies to upstands and outlets within the curtilage of a dwellinghouse or block of flats.

Regulation 6 inserts a new Class JA into Part 3 Schedule 2 to the Order to introduce a new permitted development right allowing the change of use of a building falling within Class A1 (shops), Class A2 (financial and professional services), or Class A5 (hot food takeaways) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (S.I. 1987/764) (“the Use Classes Order”); or a betting shop, pay day loan shop or launderette, to a use falling within Class B1(a) (offices) of that Schedule. The new permitted development right contains limitations and conditions on how it will operate. The date, 29th of October 2018, as referred to in the new right reflects the publication date of the consultation where this right was proposed, *Planning Reform: supporting the high street and increasing the delivery of new homes*. A copy of the consultation can be found here: <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>

Regulation 7 extends Class M of Part 3 of Schedule 2 (retail and specified sui generis uses to dwellinghouses) to permit buildings with a use falling within Class A5 (hot food takeaways) of the Use Classes Order to also change use to a dwellinghouse.

Regulation 8 clarifies that the floor space of any dwellinghouse created by Class Q of Part 3 of Schedule 2 to the Order cannot exceed 465 square metres.

Regulations 9, 12 and 15 amend references to the National Planning Policy Framework 2012 to the most recent version of the National Planning Policy Framework which was published by the Ministry for Housing, Communities and Local Government in February 2019. The footnotes to these references have also been updated to reflect where this document can be obtained electronically online.

Regulation 10 clarifies that buildings which are in use as a temporary state-funded school as permitted by Class C of Part 4 of Schedule 2 to the Order, will retain the use or use class they had before becoming a temporary state-funded school for the purposes of Classes S and T of Part 3 of Schedule 2 to the Order. This will enable agricultural buildings which are in use as a temporary state-funded school, as permitted by Class C of Part 4 of Schedule 2 to the Order, to change use to a state-funded school permanently, as permitted by Class S of Part 3 of Schedule 2 to the Order. This will also enable buildings that fall within Class B1 (business), Class C1 (hotels), Class C2 (residential institutions), Class C2A (secure residential institutions) and Class D2 (assembly and leisure) of the Use Classes Order which are in use as temporary state-funded schools, to change use to a state-funded school permanently, as permitted by Class T of Part 3 of Schedule 2 to the Order.

Regulation 11 extends Class D of Part 4 of Schedule 2 (shops, financial, cafes, takeaway etc to temporary flexible use) to the Order, to include certain Class D1 (non-residential institutions) uses of the Use Classes Order as a permitted temporary flexible use. These named Class D1 (non-



residential institutions) uses are Class D1(a) the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner, Class D1(d) the display of works of art (otherwise than for sale or hire), Class D1(e) museum, Class D1(f) public library or public reading room, and Class D1(g) public hall or exhibition hall. Regulation 11 also extends the period of time that a building can be in a temporary flexible use from 2 years to 3 years.

Regulations 13 and 14 clarify that a building that is in use as an office as permitted by Class JA of Part 3 of Schedule 2 to the Order (as introduced above), cannot benefit from the permitted development rights in Classes F and G of Part 4 of Schedule 2 to the Order which are available to office buildings generally.

Regulation 16 amends Class 16 of Part 1 of Schedule 3 by removing permission for the installation, alteration or replacement of a public call box by, or on behalf of an electronic communications code operator.

Regulation 17 of Part 3 of these Regulations amends the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783) by removing deemed consent to display an advertisement on the glazed surface of a telephone kiosk.

Part 4 of these Regulations amends the Town and Country Planning (Compensation) (England) Regulations 2015 (“the Compensation Regulations”) (S.I.2015/598).

Regulation 18 amends the Compensation Regulations to add the new class JA of Part 3 of Schedule 2 to the Order into the list of permitted development rights for which compensation on withdrawal of the right is limited in various ways provided in the Compensation Regulations. The effect of this regulation is that if a local planning authority withdraws the new permitted development right by issuing a direction under article 4 of the Order, compensation is only payable in respect of planning applications made within 12 months beginning on the date that the direction took effect. The Compensation Regulations also allow local planning authorities to avoid compensation liability on withdrawal of the new permitted development rights by publicising their intention to make an article 4 direction at least one year, and not more than two years, ahead of the article 4 direction taking effect.

Regulation 19 of Part 5 of these Regulations make transitional and savings provisions.

A copy of the National Planning Policy Framework may be viewed online at <https://www.gov.uk/government/publications/national-planning-policy-framework--2> or a copy may be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

An assessment of impact has been completed. Copies may be inspected at the Planning Directorate, the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

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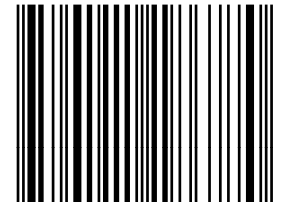


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