
STATUTORY INSTRUMENTS

2012 No. 748

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2012

Made - - - - - *5th March 2012*
Laid before Parliament *13th March 2012*
Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990(1), makes the following Order:

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2012 and shall come into force on 6th April 2012.

(2) “Schedule 2” means Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995(2).

(3) This Order applies in relation to England only.

Amendment in relation to agricultural land

2.—(1) Part 6 of Schedule 2 (agricultural buildings and operations) is amended as follows.

(2) In Class A, after paragraph (i) of paragraph A.1 (development not permitted) insert—

“(j) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building.”

(1) 1990 c. 8; to which there are amendments not relevant to this Order. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order; S.I. 1999/672; see the entry in article 2 of and Schedule 1 to the Town and Country Planning Act 1990 (c. 8). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(2) S.I. 1995/418. Relevant amendments were made by S.I. 1997/366, 2008/675 and 2011/2056.

(3) In Class A, in paragraph (1)(a) of paragraph A.2 (conditions) after “for the storage of slurry or sewerage sludge” insert “, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine.”

(4) In Class B, after paragraph (e) of paragraph B.1 (development not permitted) insert—

“(f) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit.”

(5) In Class B, in paragraph B.5 (conditions) after “for the storage of slurry or sewerage sludge” insert “, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine.”

(6) In Class D (interpretation of Part 6) after paragraph D.7 insert—

“D.8 In Class A(a), “reasonably necessary for the purposes of agriculture” includes, in relation to the erection, extension or alteration of a building, for housing a biomass boiler or an anaerobic digestion system; for storage of fuel for or waste from that boiler or system; or for housing a hydro-turbine.

D.9 In Class B(a), “reasonably necessary for the purposes of agriculture” includes, in relation to the extension or alteration of an agricultural building, for housing a biomass boiler or an anaerobic digestion system; for storage of fuel for or waste from that boiler or system; or for housing a hydro-turbine.”

Amendment in relation to forestry land

3.—(1) Part 7 of Schedule 2 (forestry buildings and operations) is amended as follows.

(2) In paragraph A.1 (development not permitted) after paragraph (c) insert—

“(d) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land which is occupied together with that building for the purposes of forestry.”

(3) In paragraph A.3 (interpretation of Class A) after “for the purposes of Class A—” insert—

“Development that is reasonably necessary for the purposes of forestry includes works for the erection, extension or alteration of a building for housing a biomass boiler or an anaerobic digestion system; for storage of fuel for or waste from that boiler or system; or for housing a hydro-turbine.”

Amendment in relation to domestic microgeneration

4. In Part 40 of Schedule 2 (installation of domestic microgeneration equipment) in paragraph J (interpretation of Part 40) in the definition of “MSC Planning Standards” delete the words “product or installation”.

Amendment in relation to non-domestic microgeneration

5. After Part 42 of Schedule 2 (shops or catering, financial or professional services establishments) add Part 43 as set out in the Schedule to this Order.

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

5th March 2012

Greg Clark
Minister of State
Department for Communities and Local
Government

SCHEDULE

Article 5

“PART 43

INSTALLATION OF NON-DOMESTIC MICROGENERATION EQUIPMENT

Class A

Permitted development

A. The installation, alteration or replacement of solar PV or solar thermal equipment on a building other than a dwellinghouse or a block of flats.

Development not permitted

A.1. Development is not permitted by Class A if—

- (a) the solar PV or solar thermal equipment would be installed on a wall or pitched roof and would protrude more than 200 millimetres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope;
- (b) the solar PV or solar thermal equipment would be installed on a flat roof, where the highest part of the solar PV or solar thermal equipment would be higher than 1 metre above the highest part of the roof (excluding any chimney);
- (c) the solar PV or solar thermal equipment would be installed on a roof and within 1 metre of the external edge of that roof;
- (d) the solar PV or solar thermal equipment would be installed on a wall and within 1 metre of a junction of that wall with another wall or with the roof of the building;
- (e) in the case of a building on article 1(5) land, the solar PV or solar thermal equipment would be installed on a wall or roof slope which fronts a highway;
- (f) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument; or
- (g) the solar PV or solar thermal equipment would be installed on a listed building or on a building within the curtilage of a listed building.

Conditions

A.2. Development is permitted by Class A subject to the following conditions—

- (a) solar PV or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the external appearance of the building;
- (b) solar PV or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (c) solar PV or thermal equipment no longer needed for microgeneration must be removed as soon as reasonably practicable.

Class B

Permitted development

B. The installation, alteration or replacement of stand alone solar within the curtilage of a building other than a dwellinghouse or a block of flats.

Development not permitted

B.1. Development is not permitted by Class B if—

- (a) in the case of the installation of stand alone solar, the development would result in the presence within the curtilage of more than one stand alone solar;
- (b) any part of the stand alone solar—
 - (i) would exceed four metres in height;
 - (ii) would, if installed on any article 1(5) land, be installed so that it is nearer to any highway which bounds the curtilage than the part of the building which is nearest to that highway;
 - (iii) would be installed within five metres of the boundary of the curtilage;
 - (iv) would be installed within the curtilage of a listed building; or
 - (v) would be installed on a site designated as a scheduled monument; or
- (c) the surface area of the solar panels forming part of the stand alone solar would exceed nine square metres or any dimension of its array (including any housing) would exceed three metres.

Conditions

B.2. Development is permitted by Class B subject to the following conditions—

- (a) stand alone solar must, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
- (b) stand alone solar which is no longer needed for microgeneration must be removed as soon as reasonably practicable.

Class C

Permitted development

C. The installation, alteration or replacement of a ground source heat pump within the curtilage of a building other than a dwellinghouse or a block of flats.

Conditions

C.1. Development is permitted by Class C subject to the following conditions—

- (a) the total area of excavation must not exceed 0.5 hectares;
- (b) the development must not result in the presence within the curtilage of more than one ground source heat pump; and
- (c) a pump which is no longer needed for microgeneration must be removed as soon as reasonably practicable and the land shall, as far as reasonably practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

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

Class D

Permitted development

D. The installation, alteration or replacement of a water source heat pump within the curtilage of a building other than a dwellinghouse or a block of flats.

Conditions

D.1. Development is permitted by Class D subject to the condition that the total surface area covered by the water source heat pump (including any pipes) must not exceed 0.5 hectares.

Class E

Permitted development

E. The installation, alteration or replacement of a flue, forming part of a biomass heating system, on a building other than—

- (a) a dwellinghouse or a block of flats; or
- (b) a building situated within the curtilage of a dwellinghouse or a block of flats.

Development not permitted

E.1. Development is not permitted by Class E if—

- (a) the capacity of the system that the flue would serve exceeds 45 kilowatts thermal;
- (b) the height of the flue would exceed either—
 - (i) the highest part of the roof by one metre or more, or
 - (ii) the height of an existing flue which is being replaced,whichever is the highest;
- (c) the installation of the flue would result in the installation on the same building of more than one flue forming part of either a biomass heating system or a combined heat and power system;
- (d) the flue would be installed on a listed building, within the curtilage of a listed building or on a site designated as a scheduled monument; or
- (e) in the case of a building on article 1(5) land, the flue would be installed on a wall or roof slope which fronts a highway.

Class F

Permitted development

F. The installation, alteration or replacement of a flue, forming part of a combined heat and power system, on a building other than—

- (a) a dwellinghouse or a block of flats; or
- (b) a building situated within the curtilage of a dwellinghouse or a block of flats.

Development not permitted

F.1. Development is not permitted by Class F if—

- (a) the capacity of the system that the flue would serve exceeds 45 kilowatts thermal;
- (b) the height of the flue would exceed either—
 - (i) the highest part of the roof by one metre or more, or
 - (ii) the height of an existing flue which is being replaced,whichever is the highest;
- (c) the installation of the flue would result in the installation on the same building of more than one flue forming part of either a biomass heating system or a combined heat and power system;
- (d) the flue would be installed on a listed building, within the curtilage of a listed building, or on a site designated as a scheduled monument; or
- (e) in the case of a building on article 1(5) land, the flue would be installed on a wall or roof slope which fronts a highway.

Interpretation of Part 43

G. For the purposes of Part 43—

“block of flats” means a building which consists wholly of flats;

“microgeneration” has the same meaning as in section 82(6) of the Energy Act 2004⁽³⁾;

“solar PV” means solar photovoltaics;

“stand alone solar” means solar PV or solar thermal equipment which is not installed on a building; and

“water source heat pump” means a heat pump where the collecting medium is water.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) in relation to permitted development rights, in England, for the installation of certain microgeneration equipment. Where permitted development rights apply, no specific application for planning permission is required.

Articles 2 and 3 amend Parts 6 and 7 (agricultural and forestry buildings and operations) of Schedule 2 to clarify that permitted development rights apply to buildings on agricultural or forestry land to house microgeneration equipment, and in particular to house hydro turbines, to house biomass boilers and anaerobic digestion systems, and to store associated waste and fuel, as long as the fuel or waste is produced on the agriculture or forestry land or by the boiler or system.

Article 4 amends Part 40 of Schedule 2 to clarify the meaning of “MSC Planning Standards” in relation to the installation of domestic microgeneration equipment.

(3) 2004 c. 20.

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Article 5 and the Schedule to this Order insert a new Part 43 of Schedule 2 to the Order. The new Part 43 confers permitted development rights for the installation of specified types of microgeneration equipment on or within the curtilage of buildings other than dwellinghouses or blocks of flats subject to certain criteria. It introduces six new classes of permitted development rights to install certain types of microgeneration equipment, specifically solar panels (Class A), stand alone solars (Class B), ground source heat pumps (Class C), water source heat pumps (Class D), biomass heating system flues (Class E), and combined heat and power system flues (Class F).

An impact assessment has been prepared in relation to this Order. The assessment has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Bressenden Place, London, SW1E 5DU (Telephone 0303 44 41729).