
STATUTORY INSTRUMENTS

2012 No. 2318 (W. 252)

TOWN AND COUNTRY PLANNING, WALES

**The Town and Country Planning (General Permitted
Development) (Amendment) (Wales) (No. 2) Order 2012**

Made - - - - 6 September 2012
Laid before the National
Assembly for Wales - - 11 September 2012
Coming into force in accordance with article 1(1)

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 59, 60, 61 and 333(7) of the Town and Country Planning Act 1990⁽¹⁾ and now exercisable by them⁽²⁾, make the following Order:

Title, commencement, interpretation and application

1.—(1) The title of this Order is the Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No. 2) Order 2012 and it comes into force on 5 October 2012.

(2) “The 1995 Order” (“*Gorchymyn 1995*”) means the Town and Country Planning (General Permitted Development) Order 1995⁽³⁾.

(3) This Order applies in relation to Wales.

Amendment in relation to agricultural land

2.—(1) Part 6 of Schedule 2 (agricultural buildings and operations) to the 1995 Order is amended as follows.

(2) In Class A, at the end of paragraph (h) of paragraph A.1 (development not permitted) omit “or”.

(3) In Class A, at the end of paragraph (i) of paragraph A.1 (development not permitted) for “.” substitute “; or”.

(1) 1990 c. 8; to which there are amendments not relevant to this Order.

(2) The functions of the Secretary of State under sections 59, 60, 61 and 333(7) 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 section 162 of, and paragraph 30 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. Relevant amendments were made by S.I. 1997/366, S.I. 2009/2193 (W.185) and S.I. 2012/1346 (W.167).

- (4) 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 fuel not produced on land within the unit or waste not produced by that boiler or system; or
- (ii) is or would be within 400 metres of the curtilage of a protected building.”
- (5) In Class A, in paragraph (1)(a) of paragraph A.2 (conditions) after “sewage sludge” omit “;” and insert “, 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;”.
- (6) In Class B, at the end of paragraph (d) of paragraph B.1 (development not permitted) omit “or”.
- (7) In Class B, at the end of paragraph (e) of paragraph B.1 (development not permitted) for “.” substitute “; or”.
- (8) 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 fuel not produced on land within the unit or waste not produced by that boiler or system.”
- (9) In Class B, in paragraph B.5 (conditions) after “sewage sludge” omit “.” and insert “, 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.”
- (10) In Class D (interpretation of Part 6) after paragraph D.7 insert—
- “(D.8) For the purposes of Class A(a) “the purposes of agriculture” 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.
- (D.9) For the purposes of Class B(a) “the purposes of agriculture” includes 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) to the 1995 Order is amended as follows.

- (2) In paragraph A.1 (development not permitted) at the end of paragraph (b) omit “or”.
- (3) In paragraph A.1 (development not permitted) at the end of paragraph (c) for “.” substitute “; or”.
- (4) 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 fuel not produced on land which is occupied together with that building for the purposes of forestry or waste not produced by that boiler or system.”
- (5) After paragraph A.3 (interpretation of Class A) insert—
- “(A.4) For the purposes of Class A(a) “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 non-domestic microgeneration

4. After Part 42 of Schedule 2 (shops or catering, financial or professional services establishments) to the 1995 Order insert Part 43 as set out in the Schedule to this Order.

6 September 2012

John Griffiths
Minister for Environment and Sustainable
Development, one of the Welsh Ministers

SCHEDULE

Article 4

“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 20 centimetres 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 and would protrude more than 1 metre above the plane of the roof;
- (c) the solar PV or solar thermal equipment would be installed on a roof and within 1 metre of the external edge of the 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 or on land within a World Heritage Site, 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 building within the curtilage of a listed building; or
- (g) the solar PV or solar thermal equipment would be installed on a site designated as a scheduled monument.

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 solar thermal equipment no longer needed for or capable of 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, it 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 4 metres in height;
 - (ii) would, if installed on article 1(5) land or on land within a World Heritage Site, be installed so that it is visible from a highway which bounds the curtilage;
 - (iii) would be installed within 5 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 9 square metres or any dimension of its array (including any housing) would exceed 3 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 or capable of 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.

Development not permitted

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

- (a) in the case of the installation of a ground source heat pump, it would result in the presence within the curtilage of more than one ground source heat pump;
- (b) the total area covered by the excavation to accommodate the ground source heat pump (including any pipes) exceeds 0.5 hectares;
- (c) the ground source heat pump would be installed within the curtilage of a listed building; or

- (d) the ground source heat pump would be installed on a site designated as a scheduled monument.

Conditions

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

- (a) on the completion of the development the land must be restored, as soon as reasonably practicable, 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; and
- (b) the ground source heat pump when no longer needed for or capable of microgeneration must be removed and the land must be restored, as soon as reasonably practicable, 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.

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.

Development not permitted

D.1. Development is not permitted by Class D if the total area covered by the water source heat pump (including any pipes) exceeds 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 1 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 within the curtilage of a listed building;

- (e) the flue would be installed on a site designated as a scheduled monument; or
- (f) in the case of a building on article 1(5) land or on land within a World Heritage Site, 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 1 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 within the curtilage of a listed building;
- (e) the flue would be installed on a site designated as a scheduled monument; or
- (f) in the case of a building on article 1(5) land or on land within a World Heritage Site, 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⁽⁴⁾;
- “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.”

(4) 2004 c. 20.

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⁽⁵⁾ (“the 1995 Order”) in relation to Wales. Article 3 of and Schedule 2 to the 1995 Order confer permitted development rights in respect of certain development. Where such rights apply, no specific application for planning permission is required.

Articles 2 and 3 of this Order amend Parts 6 (agricultural buildings and operations) and 7 (forestry buildings and operations) of Schedule 2 to the 1995 Order. The amendments 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 fuel and waste as long as the fuel or waste is produced on the agricultural or forestry land or by the boiler or system.

Article 4 and the Schedule to this Order insert a new Part 43 of Schedule 2 to the 1995 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. Copies may be obtained from the Planning Division of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

(5) S.I. 1995/418. Relevant amendments were made by S.I. 1997/366, S.I. 2009/2193 (W.185) and S.I. 2012/1346 (W.167).