

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE LAND PLANNING AND DEVELOPMENT (VISITOR ACCOMMODATION)
(AMENDMENT ETC.) ORDINANCE, 2021**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Land Planning and Development (Visitor Accommodation) (Amendment etc.) Ordinance, 2021", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

The Ordinance provides for a temporary relaxation of planning use controls for visitor accommodation in view of the ongoing issues faced by the visitor economy as a result of the coronavirus pandemic.

The Ordinance amends the Land Planning and Development (Exemptions) Ordinance, 2007 to add a new exemption from the need for planning permission for a change of use of visitor accommodation to certain residential uses but only if that change of use is one which occurs in the period from 25th March 2020 to 31st December, 2021 ("temporary exemption"). The temporary exemption is subject to specified conditions including that the land reverts back to its previous lawful use, immediately before the 25th March, 2020 on or before the 31st January, 2022. Provision is also made for an exemption from the requirement for planning permission for a change of use of the same premises back to the previous lawful visitor accommodation in compliance with the provisos to the temporary exemption.

The Ordinance provides for a modification to section 48(4) of the Land Planning and Development (Guernsey) Law, 2005 so that in calculating the period within which a compliance notice may be issued no account is taken of the period during which the temporary exemption allows visitor accommodation to be used for non-visitor accommodation uses i.e. from the coming into force of the Ordinance until the 31st January, 2022. This is in case a change of use is made in reliance on the temporary exemption but one of the conditions is not met so that a breach of planning control occurs.

The opportunity has also been taken to amend the Land Planning and Development (Use Classes) Ordinance, 2017 to require an owner or occupier of non-serviced visitor accommodation to notify the Development & Planning Authority of the commencement of use of the premises as a winter let to persons other than visitors, as currently allowed under that Ordinance, when this first occurs in each winter let period (i.e. from 1st November to the 31st March).

The Land Planning and Development (Visitor Accommodation) (Amendment etc.) Ordinance, 2021

THE STATES, in pursuance of their Resolution of the ** February, 2021^a, and in exercise of the powers conferred on them by sections 13(4) and (6), 28, 48(5), 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Exemptions Ordinance.

1. (1) The Exemptions Ordinance is amended as follows.
- (2) In the Schedule (exempt development), after Class 9 insert –

"CLASS 9A

TEMPORARY VISITOR ACCOMMODATION CHANGE OF USE

Temporary change of use from a visitor economy use to certain residential uses.

1. (1) Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or a protected monument, from an existing use falling within use class 7 (use as serviced visitor accommodation) or use class 8 (use as non-serviced visitor

^a Article V of Billet d'État No. V of 2021.

^b Order in Council No. XVI of 2005; amended by Order in Council No. XIII of 2010; Ordinance Nos. XXI, XXII, XXV, XXVII and XXVIII of 2007; No. XVIII of 2011; Nos. IX and XI of 2016 and No. III of 2019.

accommodation) to a use within use class 1 (dwelling house), use class 2 (flat) or use class 5 (use of part of dwelling for business purposes) provided that –

- (a) the change of use is one which occurs in the period starting on 25th March, 2020 and ending on the 31st December, 2021,
- (b) the land reverts to its previous lawful use, immediately before the 25th March, 2020, on or before the 31st January, 2022,
- (c) the owner or occupier of the land notifies the Authority in writing of the date the change of use occurred and of the matters in subparagraph (2)–
 - (i) where the change of use has occurred before 1st April, 2021, by the 21st April, 2021, or
 - (ii) where the change of use occurs after the 1st April, 2021, within 21 days of the date of the change of use.

(2) The notification referred to in subparagraph (1)(c) must include -

- (a) the name and address of the land,

- (b) brief particulars of the use within use class 1, use class 2 or use class 5 to which the use of the land has changed, and
- (c) the expected duration of the use to which the use of the land has changed.

Exemption for changes of use from certain residential uses to a visitor economy use.

2. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or a protected monument, from a use within use class 1 (dwelling house), use class 2 (flat) or use class 5 (use of part of dwelling for business purposes) to a use falling within use class 7 (use as serviced visitor accommodation) or use class 8 (use as non-serviced visitor accommodation) where the change of use is to revert to the previous lawful use immediately before 25th March, 2020 in compliance with the proviso in item (b) of paragraph 1(1).".

Amendment of the Use Classes Ordinance.

- 2. (1) The Use Classes Ordinance is amended as follows.
- (2) After section 4 insert –

"Notification of use of non-serviced visitor accommodation as a winter let.

4A. (1) The owner or occupier of any non-serviced visitor accommodation which is being used for the provision of sleeping accommodation or lodging to persons other than visitors in the circumstances set out in paragraph (b) of the definition of "**non-serviced visitor accommodation**" in section 5(1) must notify the Authority in writing of –

(a) the name and address of the accommodation,
and

(b) the fact of and date of commencement of such
use,

within 21 days of such use first occurring in each winter let period starting
from the winter let period commencing on 1st November, 2021.

(2) In subsection (1), "**winter let period**" means the period
beginning on the 1st November and ending on the 31st March in any 12 month
period."

**Further modification of section 48(4) of the Law in relation to certain changes of use
from a visitor economy use to certain residential uses.**

3. (1) Where a change of use from an existing use falling within use
class 7 (use as serviced visitor accommodation) or use class 8 (use as non-serviced
visitor accommodation) to a use within use class 1 (dwelling house), use class 2 (flat)
or use class 5 (use of part of dwelling for business purposes) occurred in reliance on
the exemption in paragraph 1 of Class 9A to the Schedule to the Exemptions
Ordinance, section 48(4) of the Law is modified as set out in subsection (2).

(2) The modification is that in calculating the periods within which
a compliance notice may be issued no account is to be taken of any time from the 1st
April, 2021 until the 31st January, 2022.

Interpretation.

4. In this Ordinance, unless the context requires otherwise –

"the Exemptions Ordinance" means the Land Planning and Development (Exemptions) Ordinance, 2007^c,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005, and

"the Use Classes Ordinance" means the Land Planning and Development (Use Classes) Ordinance, 2017^d.

Citation.

5. This Ordinance may be cited as the Land Planning and Development (Visitor Accommodation) (Amendment etc.) Ordinance, 2021.

Commencement.

6. This Ordinance shall come into force on the 1st April, 2021.

^c Ordinance No. XXIII of 2007; amended by No. IX of 2016; No. IV of 2017 and No. XVIII of 2018.

^d Ordinance No. IV of 2017.