
WELSH STATUTORY INSTRUMENTS

2004 No. 3156 (W.273)

**TOWN AND COUNTRY PLANNING, WALES
TRIBUNALS AND INQUIRIES, WALES**

The Town and Country Planning (Electronic
Communications) (Wales) (No. 1) Order 2004

Made - - - - 30 November 2004

Coming into force - - 1 January 2005

WHEREAS the National Assembly for Wales, having considered that its authorisation by this Order of the use of electronic communications for any purpose is such that the extent, if any, to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases

NOW THEREFORE, the National Assembly for Wales, in exercise of the powers conferred by sections 8, 9 and 10 of the Electronic Communications Act 2000(1), and with the consent of the Secretary of State(2), hereby makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Electronic Communications) (Wales) (No. 1) Order 2004 and comes into force on 1 January 2005.

(2) This Order applies to land in Wales.

Interpretation

2. In this Order—

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(3);

(1) 2000 c. 7. For the purposes of this Order, the National Assembly has, by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) (W.5), the power to make this Order in respect of its functions in, or under, the Town and Country Planning Act 1990 (c. 8), the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and the Environment Act 1995 (c. 25).

(2) See section 10(5) of the Electronic Communications Act 2000.

(3) 1990 c. 9, as amended by the Planning and Compensation Act 1991 (c. 34), the Local Government (Wales) Act 1994 (c. 19) and by other enactments in respect of matters not relevant to this Order.

“the Planning Act” means the Town and Country Planning Act 1990(4); and references to the “Secretary of State” are to be read, in relation to land in Wales, as references to the National Assembly for Wales.

Use of electronic communications for appealing against enforcement notices

3. In section 174(3) of the Planning Act(5) (appeal against enforcement notice), repeal “either” and, at the end, add—

“; or

(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.”.

Use of electronic communications for service of notices

4.—(1) Section 329 of the Planning Act(6) (service of notices) is amended as follows.

(2) In subsection (1), after paragraph (c), insert—

“(cc) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in subsection (3A), to that person at that address (subject to subsection (3B)); or”.

(3) After subsection (3), insert—

“(3A) The condition mentioned in subsection (1)(cc) is that the notice or other document shall be—

- (a) capable of being accessed by the person mentioned in that provision;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference,

and for this purpose “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served or given by means of a notice or document in printed form.

(3B) Subsection (1)(cc) shall not apply to—

- (a) service of a planning contravention notice;
- (b) service of a copy of an enforcement notice by a local planning authority;
- (c) giving of notice under section 173A of the exercise of powers conferred by subsection (1) of that section;
- (d) service under section 181(4) of notice of a local planning authority’s intention to take steps required by an enforcement notice;
- (e) service of an enforcement notice issued by the Secretary of State;
- (f) service of a stop notice, or of notice of withdrawal of a stop notice, by a local planning authority;
- (g) service of a stop notice by the Secretary of State;

(4) 1990 c. 8, as amended by the Planning and Compensation Act 1991 (c. 34), the Tribunals and Inquiries Act 1992 (c. 53), the Environment Act 1995 (c. 25) and by other enactments in respect of matters not relevant to this Order.

(5) Section 174 was amended, and in part repealed, by the Planning and Compensation Act 1991 (c. 34), sections 6(1), 32 and 84, Schedule 7 paragraphs 8 and 22, and Schedule 19, Part 1.

(6) Section 329 was amended by the Planning and Compensation Act 1991, section 32 and Schedule 7, paragraphs 8 and 51.

- (h) service of a breach of condition notice or of notice of withdrawal of a breach of condition notice;
- (i) giving of notice of the making of a tree preservation order, or service of a copy of such an order, in accordance with regulations under section 199;
- (j) service of a notice under section 215 requiring steps to be taken to remedy the condition of any land;
- (k) service of a notice under section 330 requiring information as to interests in land.”.(7)

Postal addresses to be provided in response to certain notices requiring information

5. In the following provisions of the Planning Act—

- (a) paragraphs (c) and (e) of subsection (3) of section 171C(8) (power to require information about activities on land); and
- (b) paragraphs (b) and (e) of subsection (2) of section 330 (power to require information as to interests in land),

after “name and”, insert “postal”.

Insertion of definitions and interpretation provisions

6.—(1) Section 336 of the Planning Act (interpretation) is amended as follows.

(2) In subsection (1), insert the following definitions at the appropriate places—

““address”, in relation to electronic communications, means any number or address used for the purposes of such communications;”

““electronic communication” has the same meaning as in the Electronic Communications Act 2000;”.

(3) After subsection (4), insert—

“(4A) Where—

- (a) an electronic communication is used for the purpose of serving or giving a notice or other document on or to any person for the purposes of this Act, and
- (b) the communication is received by that person outside that person’s business hours, it shall be taken to have been received on the next working day, and in this subsection, “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.”.

Use of electronic communications for appeals against listed building enforcement notices

7. In section 39 of the Listed Buildings Act(9) (appeal against listed building enforcement notices), in subsection (2), repeal “either” and, at the end, add—

“; or

(7) Section 172 was substituted by the Planning and Compensation Act 1991, section 5. Section 183 was substituted in part by the Planning and Compensation Act 1991, section 9(1). Section 187A was inserted by section 2 of that Act. Section 207 was substituted in part by section 23(1) of that Act. Section 330 was amended by the Environment Act 1995, section 78 and Schedule 10, paragraph 32(1).

(8) Section 171C was inserted by the Planning and Compensation Act 1991 (c. 34), section 1.

(9) Section 39 was amended, and in part repealed, by the Planning and Compensation Act 1991, sections 25 and 84(6) and Schedule 3.

- (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.”.

Use of electronic communications for service of notices under the Listed Buildings Act

8.—(1) Section 89 of the Listed Buildings Act(**10**) (application of certain general provisions of principal Act) is amended as follows.

(2) In subsection (1), for “Subject to subsection (2),”, substitute “Subject to subsections (1A) and (2),”.

(3) After subsection (1), insert—

“(1A) Subsection (1)(cc) of section 329 of that Act shall not apply to—

- (a) service of a building preservation notice;
- (b) service of a copy of a listed building enforcement notice by a planning authority;
- (c) giving of notice under section 38 of this Act of the exercise of powers conferred by subsection (5) of that section; or
- (d) service of a listed building enforcement notice issued by the Secretary of State.”.(**11**)

Insertion of definitions and interpretation into the Listed Buildings Act

9.—(1) Section 91 of the Listed Buildings Act(**12**) (interpretation) is amended as follows.

(2) In subsection (1), insert the following definitions at the appropriate places—

““address”, in relation to electronic communications, means any number or address used for the purpose of such communications;”

““electronic communication” has the same meaning as in the Electronic Communications Act 2000;”.

(3) After subsection (5), insert—

“(5A) Where—

- (a) an electronic communication is used for the purpose of serving or giving a notice or other document on or to any person for the purposes of this Act, and
- (b) the communication is received by that person outside that person’s business hours, it shall be taken to have been received on the next working day; and in this subsection “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.”.

Amendment of the Environment Act 1995 in relation to applications to the mineral planning authority

10.—(1) The Environment Act 1995(**13**) is amended as follows.

(**10**) Subsection (1) of section 89 was amended by the Planning and Compensation Act 1991, section 30(2). Subsection (3) was added by section 29(2) of that Act.

(**11**) Building preservation notices are served under section 3, which was amended by the Local Government (Wales) Act 1994 (c. 19), section 20(4)(b) and Part II of Schedule 6. Listed building enforcement notices are issued under section 38, which was amended, and in part repealed, by the Planning and Compensation Act 1991, sections 25 and 84(6), Schedule 3 and Part I of Schedule 19. Section 46 was amended by the Planning and Compensation Act 1991, section 25 and Part II of Schedule 3 and by the Local Government (Wales) Act 1994, section 20(4)(b) and Part II of Schedule 6.

(**12**) Section 91 is amended in respects not relevant to this Order.

(**13**) 1995 c. 25. Section 96 and Schedules 13 and 14 (mineral planning permissions) and the Town and Country Planning Act 1990 have effect as if those provisions of the Environment Act 1995 were included in Part III of the latter Act: see section 96(2) of

- (2) In Schedule 13 (review of old mineral planning permissions)—
- (a) in paragraph 1 (interpretation), at the end, add—
- “(8) Where an electronic communication is used to make an application to a mineral planning authority under any of paragraphs 6, 7 or 9 below, the applicant shall be taken to have agreed—
- (a) to the use of electronic communications for all purposes relating to his application which are capable of being effected using such communications, unless he gives notice in writing to the mineral planning authority in accordance with sub-paragraph (9) below; and
- (b) that his address for the purposes of such communications is the address incorporated into, or otherwise logically associated with, his application (or such other address as he may notify in writing to the mineral planning authority).
- (9) An applicant may give notice that he is no longer to be taken to have agreed to the use of electronic communications for the purposes mentioned in paragraph (a) of sub-paragraph (8).
- (10) Any such notice shall take effect from the date specified in it being not less than seven days from the date on which it is given.”;
- (b) in paragraph 9 (applications for approval of conditions and appeals in cases where the conditions approved are not those proposed) in sub-paragraph (2)(d), for “an address”, substitute “a postal address”.
- (3) In Schedule 14 (periodic review of mineral planning permissions)—
- (a) in paragraph 2 (interpretation), at the end, add—
- “(5) Where an electronic communication is used to make an application to a mineral planning authority under paragraph 5 or 6 below, the applicant shall be taken to have agreed—
- (a) to the use of electronic communications for all purposes relating to his application which are capable of being effected using such communications, unless he gives notice in writing to the mineral planning authority in accordance with sub-paragraph (6) below; and
- (b) that his address for the purposes of such communications is the address incorporated into, or otherwise logically associated with, his application (or such other address as he may notify in writing to the mineral planning authority).
- (6) An applicant may give notice that he is no longer to be taken to have agreed to the use of electronic communications for the purposes mentioned in paragraph (a) of sub-paragraph (5).
- (7) Any such notice shall take effect from the date specified in it being not less than seven days from the date on which it is given.”;
- (b) in paragraph 6 (application to determine conditions to which mineral permissions are to be subject), in sub-paragraph (2)(d), for “an address”, substitute “a postal address”.

Amendment of the Town and Country Planning (General Development Procedure) Order 1995

11. The Town and Country Planning (General Development Procedure) Order 1995(14) is amended in accordance with Schedule 1 to this Order.

Amendment of regulations and an order relating to planning applications

12.—(1) The Town and Country Planning (Applications) Regulations 1988(15) are amended in accordance with Schedule 2 to this Order.

(2) The Town and Country Planning (General Permitted Development) Order 1995(16) is amended in accordance with Schedule 3 to this Order.

Amendment of regulations relating to listed buildings and conservation areas

13. The Planning (Listed Buildings and Conservation Areas) Regulations 1990(17) are amended in accordance with Schedule 4 to this Order.

Modification of transfer of functions orders

14. Reference in the National Assembly for Wales (Transfer of Functions) Order 1999(18) and the National Assembly for Wales (Transfer of Functions) Order 2000(19) to an enactment amended by this Order is to be taken as a reference to that enactment as so amended.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(20).

30 November 2004

John Marek
The Deputy Presiding Officer of the National
Assembly

(14) S.I. 1995/419; amended by the Town and Country Planning (General Development Procedure) Order 1996 (S.I. 1996/1817), the Town and Country Planning (General Development Procedure) Order 1997 (S.I. 1997/85) and, as respects Wales, by the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2002 (S.I. 2002/1878) and the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2004 (S.I. 2004/1434) (W.147). There are other amendments not relevant to this Order.

(15) S.I. 1988/1812. By virtue of the Planning (Consequential Provisions) Act 1990, these regulations now have effect as if made under sections 62 and 333 of the Planning Act.

(16) S.I. 1995/418, to which there are amendments not relevant to this Order.

(17) S.I. 1990/1519.

(18) S.I. 1999/672.

(19) S.I. 2000/253 (W.5).

(20) 1998 c. 38.

SCHEDULE 1

Article 11

Amendment of the Town and Country Planning (General Development Procedure) Order 1995

1. In paragraph (2) of article 1 (citation, commencement and interpretation)—
 - (a) after the definition of “dwellinghouse”, insert the following definition—

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(21);”;
 - (b) for the definition of the expression “by local advertisement”, substitute—

““by local advertisement” means—

 - (a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated; and
 - (b) where the local planning authority maintain a website for the purpose of advertisement of applications, by publication of the notice on the website;”.
2. At the end of article 1, add—
 - “(3) In this Order and in relation to the use of electronic communications or electronic storage for any purpose of this Order which is capable of being effected electronically—
 - (a) the expression “address” includes any number or address used for the purpose of such communications or storage, except that where this Order imposes any obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address;
 - (b) references to documents, maps, plans, drawings, certificates or other documents or to copies of such things, include references to such documents or copies of them in electronic form.
 - (4) Paragraphs (5) to (8) apply where an electronic communication is used by a person for the following purposes—
 - (a) fulfilling any requirement in this Order to give or send any application, notice or other document to any other person; or
 - (b) lodging an application, certificate or other document under article 20(3) with an authority mentioned in that article;and, in those paragraphs, “the recipient” means the person mentioned in sub-paragraph (a) of this paragraph, or the authority mentioned in sub-paragraph (b), as the case may be.
 - (5) The requirement shall not be taken to be fulfilled, or (as the case may be) the application or other document shall not be taken to have been lodged, unless the document transmitted by the electronic communication is—
 - (a) capable of being accessed by the recipient,
 - (b) legible in all material respects, and
 - (c) sufficiently permanent to be used for subsequent reference.
 - (6) In paragraph (5), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.
 - (7) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day;

(21) 2000 c. 7.

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and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(8) A requirement in this Order that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (5); and “written” and cognate expressions are to be construed accordingly.”.

3. In article 4 (applications for approval of reserved matters), in paragraph (c) after “required,”, insert “or where the application is made using electronic communications,”.

4. In article 6 (notice of applications for planning permission),—

(a) after paragraph (3), insert—

“(3A) Where a local planning authority maintain a website for the purpose of advertisement of applications for planning permission, the notice required by paragraph (2) (c) shall (in addition to any other matters required to be contained in it) state the address of the website where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice, and the place on the website where such documents may be accessed, and how they may be accessed.”;

(b) in paragraph (6), in the definition of “requisite notice” at the end, add—
“, but shall not include notice served using electronic communications.”.

5. In article 23 (appeals), at the end, add—

“(5) The Secretary of State may provide, or arrange for the provision of, a website for use for such purposes as he thinks fit which—

- (a) relate to appeals under section 78 of the Act and this article, and
- (b) are capable of being effected electronically.

(6) Where a person gives notice of appeal to the Secretary of State using electronic communications, the person shall be taken to have agreed—

- (a) to the use of such communications for all purposes relating to his appeal which are capable of being carried out electronically,
- (b) that his address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, his notice of appeal, and
- (c) that his deemed agreement under this paragraph shall subsist until he gives notice in accordance with article 27A that he wishes to revoke the agreement.”.

6. In article 25 (register of applications)—

(a) in paragraphs (3), (4) and (5), after “photographic”, in each place where it occurs, insert “or in electronic form”;

(b) at the end, insert—

“(12) Where the register kept by a local planning register authority under this article is kept using electronic storage, the authority may make the register available for inspection by the public on a website maintained by the authority for that purpose.”.

7. After article 27 (directions), insert—

“Withdrawal of consent to use of electronic communications

27A. Where a person is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being carried out electronically, he shall give notice in writing—

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- (a) withdrawing any address notified to the Secretary of State or to a local planning authority for that purpose, or
- (b) revoking any agreement entered into or deemed to have been entered into with the Secretary of State or with a local planning authority for that purpose,

and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than seven days after the date on which the notice is given.”.

8. In Part 1 of Schedule 2 to the Order—

- (a) in the form of notice under article 6 of application for planning permission; and
- (b) in the first form of notice under articles 6 and 9(1) of appeal,

in the italicised words in brackets following the heading, after “newspaper” in each place, insert—
“*and, where relevant, on a website*”.

9. In Schedule 3 to the Order, in both forms of notice under article 8, in the italicised words in brackets following the heading, after “newspaper” in each place, insert—
“*and, where relevant, on a website*”.

SCHEDULE 2

Article 12(1)

Amendment of the Town and Country Planning (Applications) Regulations 1988

- 1.** In regulation 2 (interpretation), insert the following definitions at the appropriate places—
““address”, in relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically, means any number or address used for the purpose of such communications;”
““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(22);”.
- 2.** In regulation 3 (applications for planning permission), for paragraph (a), substitute—
“(a) be made—
 - (i) on a form provided by the local planning authority; or
 - (ii) where the local planning authority has consented to applications being so made, on a form published electronically by the Secretary of State and provided by him to the applicant using electronic communications for that purpose.”.
- 3.** After regulation 4 (directions by the local planning authority), add—

“Use of electronic communications

- 5.—(1)** Where an application is made using electronic communications to transmit a form to the local planning authority—
 - (a) paragraph (1)(c) of regulation 3 shall not apply;
 - (b) references in these Regulations to forms, plans and drawings include references to such things in electronic form; and
 - (c) the applicant shall be taken to have agreed—

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- (i) to the use of such communications by the local planning authority for the purpose of giving directions to him under regulation 4;
- (ii) that his address for that purpose is the address incorporated into, or otherwise logically associated with, his application; and
- (iii) that his deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement (and such revocation shall be final and shall take effect on a date specified by the applicant but not less than seven days after the date on which the notice is given).”.

SCHEDULE 3

Article 12(2)

Amendment of the Town and Country Planning (General Permitted Development) Order 1995

1. In article 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “dwellinghouse”, insert the following definition—

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(23);”.

2. At the end of article 1, add—

“(7) Paragraphs (8) to (12) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in this Order or in any Schedule to this Order to give or send any statement, notice or other document to any other person (“the recipient”).

(8) The requirement shall be taken to be fulfilled where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(9) In paragraph (8), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(10) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(11) A requirement in this Order or in any Schedule to this Order that any document should be in writing is fulfilled where that document meets the criteria in paragraph (8), and “written” and cognate expressions are to be construed accordingly.

(12) References in this Order or in any Schedule to this Order to plans, drawings, notices or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.”.

3. In article 3 (permitted development), at the end, add—

“(13) Where a person uses electronic communications for making any application required to be made under any of Parts 6, 7, 22, 23, 24, 30 or 31 of Schedule 2, that person shall be taken to have agreed—

(23) 2000 c. 7.

- (a) to the use of electronic communications for all purposes relating to his application which are capable of being effected using such communications;
- (b) that his address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, his application; and
- (c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement (and such revocation shall be final and shall take effect on a date specified by him but not less than seven days after the date on which the notice is given).”.

SCHEDULE 4

Article 13

Amendment of the Planning (Listed Buildings and Conservation Areas) Regulations 1990

1. Renumber regulation 2 (interpretation) as regulation 2(1) and, at the end of that paragraph, add—

“and “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(24).

(2) In these Regulations, in relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to any other person, the obligation shall not be fulfilled unless the person on whom it is imposed provides a postal address;
- (b) references to forms, plans, notices and other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any form, plan, notice or other document to any other person (“the recipient”).

(4) The requirement shall be taken to be fulfilled where the form, plan, notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” means that the information contained in the statement, notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose and the purposes of paragraph (3) of regulation 8A, “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4), and “written” and cognate expressions are to be construed accordingly.”.

(24) 2000 c. 7.

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2. After regulation 8 (appeals), insert—

“Use of electronic communications

8A.—(1) Paragraphs (2) and (3) of this regulation apply where an electronic communication is used for the purpose of making an application—

- (a) under regulation 3, for listed building consent or conservation area consent, or
- (b) under regulation 4, for the variation or discharge of conditions attached to a listed building consent or conservation area consent.

(2) Paragraph (1) of regulation 3 or (as the case may be) of regulation 4 shall apply as if for the words “two further copies of the form,” there were substituted the words “any related”.

(3) The reference in paragraph (4) of regulation 3 to the date when the form and certificate were lodged with the local planning authority shall be construed as a reference to the date when the form and certificate are transmitted to the authority by means of the electronic communication; but where the communication is received outside the authority’s business hours, it shall be taken to have been received on the authority’s next working day.

(4) Where a local planning authority maintain a website for the purpose of advertisement of applications, regulation 5 applies with the modifications in paragraph (5) of this regulation.

(5) In regulation 5—

(a) for sub-paragraph (a) of paragraph (1), substitute—

“(a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and—

- (i) naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
- (ii) stating the address of a website where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public during the period of 21 days beginning with the date of publication of the notice, and the place on the website where such documents may be accessed, and how they may be accessed; and”;

(b) in paragraph (2), omit “both of” in both places in which it occurs, and in sub-paragraph (a) after “sub-paragraph (a)” insert “(i) or (ii)”.

(6) Paragraph (7) of this regulation applies where a person uses electronic communications for any of the following purposes—

- (a) making an application under regulation 3, for listed building consent or conservation area consent;
- (b) making an application under regulation 4, for the variation or discharge of conditions attached to a listed building consent or conservation area consent;
- (c) giving notice of appeal to the Secretary of State under regulation 8;
- (d) making a claim under regulation 9 for compensation, or serving a listed building purchase notice under that regulation.

(7) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim or giving or serving the notice shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to his application, appeal, claim or notice (as the case may be) which are capable of being effected using such communications;
- (b) that his address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, his application, claim or notice;
- (c) that his deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement (and such revocation shall take effect on a date specified by him but not less than seven days after the date on which the notice is given).”.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 8 of the Electronic Communications Act 2000 (“the 2000 Act”) empowers the appropriate Minister (as defined in section 9 of that Act), by Order, to modify any enactment or subordinate legislation for the purpose of authorising or facilitating the use of electronic communications.

For the purposes of section 8 of the 2000 Act, the National Assembly for Wales (“the National Assembly”) may, by virtue of section 10(2) of the 2000 Act, exercise the Order-making power insofar as the exercise of that power is for one of the purposes contained in section 10(3) of the 2000 Act.

Functions to which section 10(3) of the 2000 Act applies and which are relevant to this Order are contained in and under the —

- (a) Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (“the Listed Buildings Act”) and the Environment Act 1995 (c. 25), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); and
- (b) Town and Country Planning Act 1990 (c. 8) (“the Planning Act”), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (as varied by the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) (W.5)).

Section 10(5) of the 2000 Act requires the National Assembly to secure the consent of the Secretary of State when it exercises this Order-making power. The consent of the Secretary of State for Wales has been secured.

This Order modifies legislation relating to planning.

Articles 3 to 6 of this Order modify certain provisions of the Planning Act.

Article 3 authorises the use of electronic communications for the specific purpose of sending notices of appeal against planning enforcement notices to the National Assembly.

Article 4 amends section 329 of the Planning Act to authorise the use of electronic communications for the general purpose of sending or giving notices or other documents under the Planning Act, where certain conditions are fulfilled and subject to exceptions in cases where criminal sanctions attach to a failure to comply with certain types of notice. Section 329 applies for the purposes of

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other planning enactments and any modifications made to that section by this Order have effect, with further modifications as noted below, also for the Listed Buildings Act (see section 89(1) of that Act), the Planning (Hazardous Substances) Act 1990 (c. 10) (see section 37 of that Act) and Schedules 13 and 14 to the Environment Act 1995 (c. 25) (see section 96(2) of that Act).

Article 6 inserts definitions relating to electronic communication into section 336 (interpretation) of the Planning Act. Consequential upon the insertion of a new definition of “address”, article 5 makes minor amendments to sections 171C and 330 of the Planning Act, to ensure that requirements in those sections to give an address can be fulfilled only by giving a postal, and not an electronic, address. Article 6 also makes provision as to when electronic communications are deemed to have been received.

Articles 7 to 9 of this Order modify certain provisions of the Listed Buildings Act.

Article 7 makes parallel provision, in relation to section 39 of that Act, to that made by article 3 in relation to section 174 of the Planning Act.

Article 8 makes amendments to section 89 of the Listed Buildings Act, consequential upon the amendments to section 329 of the Planning Act. In particular, it dis-applies the use of electronic communications for service of certain notices where criminal sanctions attach to a failure to comply with those notices.

Article 9 makes amendments to section 91 (the interpretation section) of the Listed Buildings Act which are parallel to those made by article 6 in relation to the equivalent section in the Planning Act.

Article 10 of this Order makes amendments to Schedules 13 and 14 to the Environment Act 1995, in relation to the use of electronic communications for the purpose of making certain applications under those Schedules to a mineral planning authority.

Articles 11 to 13 of this Order give effect to the Schedules to this Order.

Schedule 1 makes provision amending the Town and Country Planning (General Development Procedure) Order 1995, so as to facilitate the use of electronic communications for making certain applications and appeals under the Planning Act, to authorise the use of a website by the National Assembly in relation to appeals under section 78 of that Act and to facilitate the use of websites and electronic storage by local planning authorities.

Schedule 2 amends the Town and Country Planning (Applications) Regulations 1988 (S.I. 1988/1812), so as to authorise the electronic publication of forms of application for planning permission by the National Assembly and the use of electronic communications to transmit forms to the local planning authority, subject to specified conditions.

Schedule 3 amends the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418), so as to authorise the use of electronic communications for the purpose of certain applications under that Order, subject to specified conditions.

Schedule 4 amends the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519), made under the Listed Buildings Act, so as to authorise the use of electronic communications for making certain applications, or giving notice of appeal to the National Assembly, under the Regulations (again subject to specified conditions) and to facilitate the use of websites by local planning authorities for certain purposes of those Regulations.

Similar amendments to those being made by this Order are being made, by order, by the—

- (a) National Assembly, to procedural regulations made by it in relation to planning appeals in Wales; and
- (b) Lord Chancellor, to procedural rules made by him in relation to planning appeals in Wales.

The amendments made by this Order were made in relation to England in the Town and Country Planning (Electronic Communications) Order 2003 (S.I. 2003/956).

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