
STATUTORY INSTRUMENTS

2006 No. 2190

The Transport Security (Electronic Communications) Order 2006

Use of electronic communications for service of notices under Part 3 of the 1990 Act

4.—(1) Section 45 of the 1990 Act (service of documents) is amended as follows.

(2) In subsection (2), after paragraph (d) insert—

“or

(e) where—

- (i) an address for service using electronic communications has been given by that person and not withdrawn in accordance with subsection (2E), and
- (ii) that person has agreed to accept service by electronic communications of documents in a certain form and has not withdrawn that agreement in accordance with that subsection,

by using electronic communications to send the document in that form to that person at that address.”

(3) After subsection (2) insert—

“(2A) A document given to or served on a person in accordance with subsection (2)(e) must be in a form sufficiently permanent to be used for subsequent reference.

(2B) Where a document is given to or served on a person in accordance with subsection (2)(e), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the time at which the electronic communication is transmitted except where transmission is made outside that person’s normal business hours, in which case it is to be taken to have been given or served on the next working day, and in this subsection, “working day” means any day other than—

- (a) a Saturday or a Sunday;
- (b) Christmas Day or Good Friday; or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom.

(2C) A document authorised or required to be given to or served on a person by the Secretary of State or an authorised person is also to be treated as given or served where—

- (a) that person and the Secretary of State or (as the case may be) the authorised person have agreed to his having access to documents of a particular description and in a certain form on a web site (instead of their being given to or served on him in any other way specified in subsection (2));
- (b) that person has not withdrawn his agreement in accordance with subsection (2F);
- (c) the document in question is a document to which the agreement applies;
- (d) the Secretary of State or the authorised person has given that person a notice, in a manner agreed between them for the purpose—

- (i) stating that the document has been published on a web site maintained by or on behalf of the Secretary of State;
 - (ii) setting out the address of that web site; and
 - (iii) setting out the place on that web site where the document may be accessed and how it may be accessed by that person; and
- (e) the published document is in a form sufficiently permanent to be used for subsequent reference.

(2D) Where a document is given to or served on a person in accordance with subsection (2C), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the same time as the notice required to be given under subsection (2C)(d) is given.

(2E) A person who has supplied another person with an address for service using electronic communications and has agreed to accept service of documents in a certain form in accordance with subsection (2)(e) may give notice withdrawing that address or that agreement or both.

(2F) A person who has an agreement with the Secretary of State or an authorised person under subsection (2C)(a) may give notice withdrawing that agreement.

(2G) A withdrawal under subsection (2E) or (2F) shall take effect on the later of—

- (a) the date specified by the person in the notice; and
- (b) the date which is fourteen days after the date on which the notice is given.

(2H) A notice under subsection (2E) or (2F) must be given to the person to whom the address was supplied or with whom the agreement was made.

(2I) Oral notice is not sufficient for the purposes of subsection (2E) or (2F).”.

(4) For subsection (3) substitute—

“(3) Any document authorised to be given to or served on a body corporate may be given to or served on the secretary, clerk or similar officer of that body.”.