

2008 No. 2334

BUILDING AND BUILDINGS, ENGLAND AND WALES

The Building (Electronic Communications) Order 2008

<i>Made</i>	- - - -	<i>28th August 2008</i>
<i>Laid before Parliament</i>		<i>4th September 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 8 of the Electronic Communications Act 2000(a).

The Secretary of State considers that the authorisation of the use of electronic communications by this Order 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.

Citation and commencement

1. This Order may be cited as the Building (Electronic Communications) Order 2008 and shall come into force on 1st October 2008.

Amendment of the Building Act 1984

2. After section 94 of the Building Act 1984(b) insert—

“Electronic service of documents

94A.—(1) This section applies where—

- (a) section 94 authorises the giving or serving of a document by its delivery to a particular person (“the recipient”), and
- (b) the document is of a kind mentioned in subsection (7).

(2) Transmission of the document to the recipient by means of an electronic communication has effect for the purposes of section 94 as delivery of the document to the recipient if, and only if, the conditions in subsection (3) are met.

(3) The conditions are—

- (a) that the recipient has stated a willingness to receive the document by means of an electronic communication,
- (b) that the statement has not been withdrawn, and

(a) 2000 c.7. The definition of “electronic communication” in section 15(1) of that Act was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 c.21.
(b) 1984 c.55.

- (c) that the document was transmitted to an electronic address specified by the recipient.
- (4) A statement may be limited to documents of a specified description.
- (5) A statement may require a document to be in a specified electronic form.
- (6) A statement may be modified or withdrawn—
 - (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
 - (b) in any other case, by giving a notice to the person to whom the statement was made.
- (7) The documents are—
 - (a) a notice under section 16(6), 47, 50(7) or (8), 51A, 51C, 52, 54 or paragraph 1(1) or 2(5) or (6) of Schedule 4;
 - (b) a document containing plans or evidence which accompanies a notice under section 47(1), 51A(2) or 54(1);
 - (c) a certificate under section 50(1), 51(1) or paragraph 2(1) or 3(1) of Schedule 4;
 - (d) a combined notice and certificate under section 50(4) or paragraph 2(2) of Schedule 4.
- (8) In this section—
 - “electronic address” includes any number or address used for the purposes of receiving electronic communications;
 - “electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000;
 - “specified” means specified in a statement made for the purposes of subsection (3)(a).”.

Amendment of the Building Regulations 2000

3. After regulation 22A of the Building Regulations 2000(a) insert—

“Electronic service of documents

22B.—(1) Section 94A of the Act (electronic service of documents) shall have effect as if the following documents were documents mentioned in subsection (7) of that section—

- (a) a building notice and any accompanying statement, description, particulars or plan under regulation 13;
- (b) full plans and any accompanying statement under regulation 14;
- (c) a notice under regulation 15;
- (d) a certificate or notice under regulation 16A;
- (e) a completion certificate under regulation 17;
- (f) an energy performance certificate under regulation 17E(2)(a);
- (g) a notice under regulation 17E(2)(b);
- (h) results of sound insulation testing under regulation 20A(2)(b);
- (i) a notice of the results of pressure testing under regulation 20B(2)(b);
- (j) a notice under regulation 20C(2);
- (k) a notice under regulation 20D(1);
- (l) an application for a regularisation certificate under regulation 21(3);
- (m) a regularisation certificate under regulation 21(6).

(a) S.I. 2000/2531; regulation 22A was inserted by S.I. 2008/671.

(2) Where full plans are deposited by means of an electronic communication in accordance with section 94A of the Act, regulation 14 shall apply as if—

- (a) sub-paragraph (a) of paragraph (2) were omitted;
- (b) in sub-paragraph (b) of that paragraph—
 - (i) the words “a copy” were substituted for the words “an additional two copies”;
 - (ii) the word “and” was substituted for the words “, both of which”;
- (c) in paragraph (6) the words “a copy” were substituted for the words “additional copies”.”(a).

Amendment of the Building (Approved Inspectors etc.) Regulations 2000

4. Before regulation 32 of the Building (Approved Inspectors etc.) Regulations(b), but after the cross-heading which precedes that regulation, insert—

“Electronic service of documents

31A. Section 94A of the Act (electronic service of documents) shall have effect as if the following documents were documents mentioned in subsection (7) of that section—

- (a) a certificate under regulation 11A(2);
- (b) a notice under regulation 11A(3)(a);
- (c) an energy performance certificate under regulation 12(2)(a);
- (d) a notice under regulation 12(2)(b);
- (e) results of sound insulation testing under regulation 12A(2)(b);
- (f) a notice of the results of pressure testing under regulation 12B(2)(b);
- (g) a notice under regulation 12C(2);
- (h) a notice under regulation 12D(1) or (4)(b);
- (i) a notice under regulation 19(1);
- (j) a notice under regulation 20(2)(b).”(c).

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

28th August 2008

Iain Wright
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) Regulation 13 was amended by S.I. 2001/3335 and 2006/652. Regulation 14 was amended by S.I. 2001/3335, 2005/1541 and 2006/652. Regulation 15 was amended by S.I. 2002/440 and 2006/652. Regulation 16A was inserted by S.I. 2002/440, substituted by S.I. 2004/3210, and amended by S.I. 2006/652. Regulation 17 was amended by S.I. 2005/1541, 2006/3318 and 2007/991. Regulation 17E was inserted by S.I. 2006/652 and substituted by S.I. 2007/991. Regulation 20A was inserted by S.I. 2002/2871 and amended by S.I. 2004/1465. Regulations 20B to 20D were inserted by S.I. 2006/652.

(b) S.I. 2000/2532.

(c) Regulation 11A was inserted by S.I. 2006/652. Regulation 12 was substituted by S.I. 2007/991. Regulation 12A was inserted by S.I. 2002/2872 and amended by S.I. 2004/1466. Regulations 12B, 12C and 12D were inserted by S.I. 2006/652.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order facilitates the use of electronic communications for the service of a document required or authorised as part of the building control process and specified in articles 2, 3 and 4.

Article 2 inserts a new section 94A into the Building Act 1984. Subsection (1) of that section provides that the section applies to a document of a kind mentioned in subsection (7) which section 94 authorises the giving or serving on a person by one of the methods set out in section 94. Subsection (2) provides that transmission of the document electronically to that person has the effect of delivery for the purposes of section 94 if the conditions in subsection (3) of section 94A are met. Subsection (8) defines for the purposes of section 94A “electronic address”, “electronic communication” and “specified”.

Article 3 inserts a new regulation 22B into the Building Regulations 2000. Paragraph (1) of that new regulation lists documents in those Regulations which may be electronically delivered and have effect under section 94A. Paragraph (2) of regulation 22B provides that where plans are sent electronically there is no requirement for additional copies to be provided as required by regulation 14(2).

Article 4 inserts a new regulation 31A into the Building (Approved Inspectors etc.) Regulations 2000. That new regulation lists documents in those Regulations which may be electronically delivered and have effect under section 94A.

An Impact Assessment has been delivered in relation to this Order. It has been placed in the Library of each House of Parliament and copies may be obtained from the Department for Communities and Local Government, Sustainable Buildings Division, Eland House, Bressenden Place, London SW1E 5DU.

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E2988 9/2008 182988T 19585

