

Draft Order laid before the Scottish Parliament under sections 9(4) and (7) of the Electronic Communications Act 2000, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2006 No.

LOCAL GOVERNMENT

RATING AND VALUATION

The Non-Domestic Rating (Electronic Communications) (Scotland) Order 2006

Made - - - - *2006*
Coming into force - - *1st April 2006*

The Scottish Ministers, considering that authorisation made by this Order for the use of electronic communications and or electronic storage 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 or electronic storage than in other cases, in exercise of the powers conferred by sections 8 and 9 of the Electronic Communications Act 2000⁽¹⁾ and all other powers enabling in that behalf, and with the consent of the Secretary of State in accordance with section 9(7)(c) of that Act, hereby make the following Order, a draft of which has been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) This Order may be cited as the Non Domestic Rating (Electronic Communications) (Scotland) Order 2006 and shall come into force on 1st April 2006.

(2) This Order extends to Scotland only.

Amendment of the Local Government (Scotland) Act 1973

2. In section 192 of the Local Government (Scotland) Act 1973⁽²⁾ (service of notices), insert after subsection (6)–

(1) 2000 c. 7 (“the 2000 Act”). All by virtue of the modifications for Scotland in section 9(7) of the 2000 Act, the reference to the appropriate Minister is to be read as a reference to the Secretary of State, and the powers of the Secretary of State may be exercised by the Scottish Minister, with the consent of the Secretary of State.

(2) 1973 c. 65. Section 192 was amended by virtue of the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289F-G (as inserted by the Criminal Justice Act 1982 (c. 48), section 54) and extended by Roads (Scotland) Act 1984 (c. 54), section 137.

“(7) Without prejudice to subsections (1) to (6) above, a rating authority may use the method specified in subsection (8) below or that specified in subsection (9) below in order to–

- (a) issue a demand note under section 237 of the 1947 Act⁽³⁾;
- (b) supply information which requires to be supplied when such a demand note is issued.

(8) The method specified in this subsection is to send the demand note or information by electronic communication to an address notified to the authority for the purposes of this subsection by the recipient of the demand note or information, and an electronic communication under this subsection must be–

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

(9) The method specified in this subsection is to publish the demand note or information on a website in a case where–

- (a) the rating authority have agreed with a person that demand notes or information will be issued or supplied to that person by this method;
- (b) the demand note or information falls within the terms of that agreement; and
- (c) the authority notify that person, in a manner agreed between them of–
 - (i) the address of the website on which the demand note or information has been published; and
 - (ii) the place on the website where the demand note or information may be accessed and how it may be accessed.

(10) In subsection (8)(b) above, “legible in all other material respects” means that the information contained in the electronic communication shall be available to the recipient to no lesser extent than it would be if that information had been contained in a document in printed form.

(11) Unless the contrary is proved–

- (a) a demand note issued under subsection (8) above shall be regarded for the purposes of any legal proceedings as having been issued on the second working day after the day on which the electronic communication containing it was sent;
- (b) a demand note issued under subsection (9) above shall be regarded for the purposes of any legal proceedings as having been issued on the second working day after the day on which notification was given under paragraph (c) of that subsection.

(12) A person who has notified an address for the purposes of subsection (8) above may subsequently give notice to the rating authority of a different address for those purposes and such a notice shall take effect from the date specified in it, being a date not less than three working days after the date on which the notice is given.

(13) Where a person has agreed to receive demand notes or information by a method specified in subsection (8) or (9) above, that person may at any time withdraw from that agreement by giving notice to the rating authority and such a notice shall take effect from the date specified in it, being a date not less than seven working days after the date on which the notice is given.

(14) In this section–

(3) The Local Government (Scotland) Act 1947 (c. 43).

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

“electronic communication” has the meaning given by section 15(1) of the Electronic Communications Act 2000; and

“working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽⁴⁾, a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.”.

St Andrew’s House,
Edinburgh
2006

A member of the Scottish Executive

I consent

Minister of State,
Office of the Deputy Prime Minister

(4) 1971 c. 80.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 8 of the Electronic Communications Act 2000 empowers the Scottish Ministers, with the consent of the Secretary of State (required by 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. This Order modifies legislation relating to service by rating authorities of certain demand notes and information.

Article 2 amends section 192 of the Local Government (Scotland) Act 1973 Act to enable the use of electronic communications for the purpose of issuing demand notes or other information required to be supplied by the methods set out in new subsections (8) and (9).

Subsection (8) as inserted provides that a demand note or information may be sent by electronic communication where a person has notified an address for that purpose to the rating authority, subject to certain specified conditions.

Subsection (9) as inserted specifies that where the rating authority has so agreed with the recipient, demand notes and information may be published on a website and the rating authority may notify the recipient that it has done so, where the note or information may be found and how it may be accessed.

Subsection (10) as inserted defines the meaning for “legible in all material respects” for the purposes of service of demand notes or information by electronic communication.

Subsection (11) as inserted provides that a demand note shall be regarded as having been issued for the purpose of any legal proceedings, on the second working day after it was sent or, if published on a website, on the second day after notification is given of its publication.

Subsection (12) as inserted provides that the recipient of such demand notes or information may notify the rating authority of any change in the recipient’s electronic address.

Subsection (13) as inserted provides for a person to withdraw agreement to accepting electronic service of such notes or information or to accessing such documents on a website.

Subsection (14) as inserted defines the meaning of “address”, “electronic communication” and “working day” within the section.