

SCHEDULE 10

Article 16(2)

**Amendment of the Town and Country Planning  
(Enforcement) (Inquiries Procedure) (England) Rules 2002**

1. The existing provisions of rule 2 (interpretation) shall become paragraph (1) of that rule, and in that paragraph—

- (a) after the definition of “document”, insert the following definition—

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(1);”;
- (b) in the definition of “questionnaire”, after the word “Rules” insert—

“, and for this purpose a form is taken to be supplied where the Secretary of State has published it on a website and has notified the local planning authority of—

  - (i) publication of the form on the website,
  - (ii) the address of the website, and
  - (iii) the place on the website where the form may be accessed, and how it may be accessed;”.

2. After rule 2(1), add—

“(2) In these Rules, and in relation to the use of electronic communications for any purpose of these Rules which is capable of being carried out electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where these Rules 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 statements, notices, summaries, applications, or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Rules that an application, notice, or other document should be made, sent or given to any other person (“the recipient”).

(4) The requirement shall be taken to be fulfilled where the application, notice, or other document or (in the case of an agreement) the text concluding the agreement which is 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 notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a notice or 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 “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

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(1) 2000 c. 7.

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

(8) A requirement in these Rules to send more than one copy of a statement or other document may be complied with by sending one copy only of the statement or document in question.”.

**3.** In rule 8 (service of statements of case etc.)—

(a) in paragraph (2), at the end add—

“(and including, in any case in which the local planning authority rely on paragraph (13A), the details mentioned in that paragraph)”;

(b) after paragraph (13), insert—

“(13A) For the purposes of the previous paragraph an opportunity shall be taken to have been given to a person where the person is notified of—

- (a) publication on a website of the documents mentioned in that paragraph;
- (b) the address of the website;
- (c) the place on the website where the documents may be accessed, and how they may be accessed.”.

**4.** In rule 11 (date and notification of inquiry)—

(a) after paragraph (3), insert—

“(3A) A written notice shall be taken to have been given by the Secretary of State for the purposes of paragraph (3) where he and any person entitled to appear at the inquiry have agreed that notice of the matters mentioned in that paragraph may instead be accessed by that person via a website, and—

- (a) the notice is a notice to which that agreement applies;
- (b) the Secretary of State has published that notice on the website;
- (c) not less than 4 weeks before the date fixed by the Secretary of State for the holding of the inquiry, the person is notified of—
  - (i) the publication of the notice on a website,
  - (ii) the address of the website, and
  - (iii) the place on the website where the notice may be accessed, and how it may be accessed.”;

(b) in paragraph (4), for the words “paragraph (3)” substitute “paragraphs (3) and (3A)”.

**5.** In rule 16 (proofs of evidence) at the end add—

“(8) For the purposes of the previous paragraph an opportunity is to be taken to have been given to a person where the person is notified of—

- (a) publication of the relevant document on a website,
- (b) the address of the website,
- (c) the place on the website where the document may be accessed, and how it may be accessed.”.

**6.** In rule 17 (statement of common ground), after paragraph (2) add—

“(3) For the purposes of the previous paragraph an opportunity is to be taken to have been given to a person where the person is notified of—

- (a) publication of the statement of common ground on a website,

- (b) the address of the website,
- (c) the place on the website where the document may be accessed, and how it may be accessed.”.

7. In rule 21 (notification of decision)—

- (a) after paragraph (1), insert—

“(1A) Notification of a decision and reasons is to be taken to have been given to a person for the purposes of this rule where—

- (a) the Secretary of State and the person have agreed that decisions and reasons required under this rule to be given in writing may instead be accessed by that person on a website;
- (b) the decision and reasons are a decision and reasons to which that agreement applies;
- (c) the Secretary of State has published the decision and reasons on a website;
- (d) the person is notified, in a manner for the time being agreed between him and the Secretary of State, of—
  - (i) the publication of the decision and reasons on a website;
  - (ii) the address of the website;
  - (iii) the place on the website where the decision and reasons may be accessed, and how they may be accessed.”;

- (b) in paragraph (2), after “decision” in the first place in which it occurs, insert “or published on a website in accordance with paragraph (1A)”;

- (c) after paragraph (3), insert—

“(3A) For the purposes of the previous paragraph an opportunity is to be taken to have been afforded to a person where that person is notified of—

- (a) publication of the relevant documents on a website;
- (b) the address of the website;
- (c) the place on the website where the documents may be accessed, and how they may be accessed.”.

8. For rule 25 (service of notices by post), substitute—

**“Sending of notices etc.**

**25.** Notices or documents required or authorised to be served, sent or supplied under these Rules may be served, sent or supplied—

- (a) by post; or
- (b) by using electronic communications to serve, send or supply the notice or document (as the case may be) to a person at such address as may for the time being be specified by the person for that purpose.”.

9. After rule 25, insert—

**“Withdrawal of consent to use of electronic communications**

**25A.** Where a person is no longer willing to accept the use of electronic communications for any purpose of these Rules which is capable of being effected 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 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.”.