

SCHEDULE 12

Article 16(4)

**Amendment of the Town and Country Planning
(Enforcement) (Hearings 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, in a manner for the time being agreed between the Secretary of State and the authority for that purpose, 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, 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 a statement or other document should be sent or given to any other person (“the recipient”).

(4) The requirement shall be taken to be fulfilled where the 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 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 “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(1) 2000 c. 7.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) A requirement in these Rules that any notice or 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.

(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 5 (hearing statements), after paragraph (6) insert—

“(6A) 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 any document mentioned in sub-paragraph (a) or (b) of the previous paragraph;
- (b) the address of the website;
- (c) the place on the website where the document may be accessed, and how it may be accessed.”.

4. In rule 6 (date and notification of hearing)—

(a) after paragraph (2), insert—

“(2A) A written notice shall be taken to have been given by the Secretary of State for the purposes of paragraph (2) where he and any person entitled to appear at the hearing have agreed that notice of the matters mentioned in that paragraph may instead be accessed by that person on a website and—

- (a) the notice is a notice to which that agreement applies;
- (b) the Secretary of State has published the notice on a 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 (3), for the words “paragraph (2)” substitute “paragraphs (2) and (2A)”.

5. Rule 15 (notification of decision—non-transferred appeals) is amended as follows—

(a) after paragraph (2), insert—

“(2A) Notification in writing of a decision and reasons shall 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, reasons, and copies of reports 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 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 (3), after “decision” in the first place in which it occurs, insert “or published on a website in accordance with paragraph (2A)”;

(c) after paragraph (4), insert—

“(4A) For the purposes of the previous paragraph an opportunity shall be taken to have been given 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.”.

6. In rule 16 (notification of decision—transferred appeals) after paragraph (3), insert—

“(3A) For the purposes of the previous paragraph an opportunity shall be taken to have been given 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.”.

7. For rule 19 (notices by post), substitute—

“Sending of notices etc.

19. Notices or documents required or authorised to be sent or supplied under these Rules may be sent or supplied—

- (a) by post; or
- (b) by using electronic communications to 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.”.

8. After rule 19, add—

“Withdrawal of consent to use of electronic communications

20. Where a person is no longer willing to accept the use of electronic communications for any purpose which under these Rules is capable of being carried out electronically, the person shall give notice in writing—

- (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.”.