
STATUTORY INSTRUMENTS

2004 No. 3172

**TOWN AND COUNTRY PLANNING, WALES
TRIBUNALS AND INQUIRIES, WALES**

**The Town and Country Planning (Electronic
Communications) (Wales) (No. 3) Order 2004**

<i>Made</i>	- - - -	<i>1st December 2004</i>
<i>Laid before Parliament</i>		<i>3rd December 2004</i>
<i>Coming into force</i>	- -	<i>1st January 2005</i>

The Lord Chancellor, having considered that the authorisation by him by this Order of the use of electronic communications 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, in exercise of the powers conferred by sections 8 and 9 of the Electronic Communications Act 2000⁽¹⁾, hereby makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Electronic Communications) (Wales) (No. 3) Order 2004 and comes into force on 1st January 2005.

(2) This Order applies to land in Wales.

Amendment of certain rules relating to planning inquiries

2.—(1) The Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003⁽²⁾ are amended in accordance with Schedule 1 to this Order.

(2) The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003⁽³⁾ are amended in accordance with Schedule 2 to this Order.

(3) The Town and Country Planning (Hearings Procedure) (Wales) Rules 2003⁽⁴⁾ are amended in accordance with Schedule 3 to this Order.

(1) 2000 c. 7.
(2) S.I. 2003/1266.
(3) S.I. 2003/1267.
(4) S.I. 2003/1271.

Amendment of regulations and rules relating to enforcement appeals

3.—(1) The Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003⁽⁵⁾ are amended in accordance with Schedule 4 to this Order.

(2) The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003⁽⁶⁾ are amended in accordance with Schedule 5 to this Order.

(3) The Town and Country Planning (Enforcement) (Hearings Procedure) (Wales) Rules 2003⁽⁷⁾ are amended in accordance with Schedule 6 to this Order.

1st December 2004

Baroness Ashton of Upholland

⁽⁵⁾ S.I. 2003/1269.
⁽⁶⁾ S.I. 2003/1270.
⁽⁷⁾ S.I. 2003/1268.

SCHEDULE 1

Article 2(1)

Amendment of the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003

1. Renumber rule 2 (interpretation) as rule 2(1) and, in the definition of “questionnaire” contained therein, after the word “Rules”, insert—

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

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) 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 effected 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 that person’s name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides that address;
- (b) references to statements, notices, summaries and applications, 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 to give or send any statement, notice or other document to any other person (“the recipient”).

(4) The requirement will be taken to be fulfilled where the notice or other 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 statement, 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 will 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.

(7) A requirement in these Rules that any 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 other document in question.”.

3. In rule 6 (receipt of statements of case etc.)—

- (a) for sub-paragraph (a)(i) of paragraph (2), substitute—

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- “(i) details of the time and place where the opportunity to inspect and take copies described in paragraph (13) below is to be afforded (including, where the local planning authority rely on paragraph (13A), the details mentioned in that paragraph); and”;
- (b) after paragraph (13), insert—
- “(13A) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded 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 10 (date and notification of inquiry)—

(a) after paragraph (3), insert—

“(3A) Written notice under paragraph (3) is also to be taken to have been given by the National Assembly where it and any person entitled to take part in 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 National Assembly has published that notice on the website;
 - (c) not less than 4 weeks before the date fixed by the National Assembly 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) to (3A)”.

5. In rule 13 (written statements of evidence), after paragraph (7), insert—

“(8) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded 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 14 (statement of common ground), after paragraph (2), insert—

“(3) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded 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 18 (notification of decision)—

(a) after paragraph (1), insert—

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

- (a) National Assembly and the person have agreed that a decision and reasons required under this rule to be given in writing may instead be accessed by that person on a website;
- (b) decision and reasons are a decision and reasons to which that agreement applies;
- (c) National Assembly has published the decision and reasons on a website;
- (d) person is notified, in a manner for the time being agreed between him and the National Assembly, of—
 - (i) 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) 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. In rule 21 (additional copies), after paragraph (2), insert—

“(3) Any obligation imposed by these Rules to send more than one copy of a statement or other document may, where sending is effected using electronic communications, be complied with by transmitting one copy only of the statement or (as the case may be) document in question using such communications.”.

9. For rule 22 (transmission of documents), substitute—

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

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

10. After rule 22, insert—

“Withdrawal of consent to use of electronic communications

22A. 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, that person must give notice in writing—

- (a) withdrawing any address notified to the National Assembly or to a local planning authority for that purpose; or
- (b) revoking any agreement entered into with the National Assembly or with a local planning authority for that purpose,

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and such withdrawal or revocation will be final and will 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.”.

SCHEDULE 2

Article 2(2)

Amendment of the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003

1. Renumber rule 2 (interpretation) as rule 2(1) and, in the definition of “questionnaire” contained therein, after the word “Rules”, insert—

“; and for this purpose a form is taken to be supplied where the National Assembly has published it on a website and has notified the local planning authority, in a manner for the time being agreed between the National Assembly and the authority for that purpose, of—

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) 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 effected 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 that person’s name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides the required postal address;

(b) references to documents, statements, notices and applications, or to copies of such things, include references to such things 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 will 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 will 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.

(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 6 (receipt of statements of case etc.)—
- (a) for sub-paragraph (a)(i) of paragraph (2), substitute—
- “(i) details of the time and place where the opportunity to inspect and take copies described in paragraph (13) below is to be afforded (including, where the local planning authority rely on paragraph (13A), the details mentioned in that paragraph); and”;
- (b) after paragraph (13), insert—
- “(13A) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded 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 10 (date and notification of inquiry)—
- (a) after paragraph (2), insert—
- “(2A) Written notice under paragraph (2) is also to be taken to have been given by the National Assembly where it and any person entitled to take part in the inquiry 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 National Assembly has published that notice on a website;
- (c) not less than 4 weeks before the date fixed by the National Assembly 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) to (2A)”.
5. In rule 14 (written statements of evidence), after paragraph (7), insert—
- “(8) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded to a person where that person is notified, in a manner for the time being agreed between that person and the local planning authority for that purpose, 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 15 (statement of common ground), after paragraph (2), insert—
- “(3) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded to a person where the person is notified, in a manner for the time being agreed between that person and the local planning authority for that purpose, of—

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- (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 19 (notification of decision)—

(a) after paragraph (1), insert—

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

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

(b) after paragraph (2), insert—

“(2A) 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. In rule 22 (additional copies), after paragraph (2), insert—

“(3) Any obligation imposed by these Rules to send more than one copy of a statement or other document may, where sending is effected using electronic communications, be complied with by sending one copy only of the statement or (as the case may be) document in question.”.

9. For rule 23 (transmission of documents), substitute—

“**23.** Notices or documents required or authorised to be sent or supplied under these Rules may be sent or supplied by—

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

10. After rule 23, insert—

“Withdrawal of consent to use of electronic communications

23A. 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 effected using such communications, that person must give notice in writing—

- (a) withdrawing any address notified to the National Assembly or (as the case may be) to a local planning authority for that purpose; or
- (b) revoking any agreement entered into with the National Assembly or (as the case may be) with a local planning authority for that purpose,

and such withdrawal or revocation will be final and will 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.”.

SCHEDULE 3

Article 2(3)

Amendment of the Town and Country Planning (Hearings Procedure) (Wales) Rules 2003

1. Renumber rule 2 (interpretation) as rule 2(1) and, in the definition of “questionnaire” contained therein, after the word “Rules”, insert—

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

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) 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 effected 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 that person’s name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides the required postal address;
- (b) references to documents, statements, notices and applications, or to copies of such things, include references to such things 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 will 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.

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(6) Where the electronic communication is received by the recipient outside the recipient's business hours, it will 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.

(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 6 (receipt of hearing statements etc.), after paragraph (6), insert—

"(6A) For the purposes of the previous paragraph, a reasonable opportunity is to be taken to have been afforded to a person where the person is notified of—

- (a) publication on a website of any document mentioned in sub-paragraph (a) or 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 7 (date and notification of hearing)—

(a) after paragraph (2), insert—

"(2A) Written notice under paragraph (2) is also to be taken to have been given by the National Assembly where it and any person entitled to take part in 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 National Assembly has published the notice on a website;
- (c) not less than 4 weeks before the date fixed by the National Assembly for the holding of the inquiry, the person is notified of the—
 - (i) publication of the notice on a website;
 - (ii) address of the website; and
 - (iii) 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) to (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 under this rule is also to be taken to have been given to a person where the—

- (a) National Assembly 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) decision and reasons are a decision and reasons to which that agreement applies;
- (c) National Assembly has published the decision and reasons on a website;
- (d) person is notified of the—
 - (i) publication of the decision and reasons on a website;

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- (ii) address of the website;
 - (iii) place on the website where the decision and reasons may be accessed and how they may be accessed.”;
 - (b) after paragraph (4), insert—
 - “(4A) 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.”.
- 6. In rule 16 (notification of decision—transferred appeals) after paragraph (4), insert—
 - “(5) For the purposes of the previous paragraph, an opportunity will 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.”.
- 7. In rule 18 (further time and additional copies), after paragraph (2), insert—
 - “(3) Any obligation imposed by these Rules to send more than one copy of a statement or other document may, where sending is carried out using electronic communications, be complied with by sending one copy only of the statement or (as the case may be) document in question.”.
- 8. For rule 19 (transmission of documents), substitute—
 - “Notices or documents required or authorised to be sent or supplied under these Rules may be sent or supplied by—
 - (a) post; or
 - (b) using electronic communications to transmit the notice or document (as the case may be) to a person at such address as may for the time being be specified by that person for that purpose.”.
- 9. After rule 19, insert—

“Withdrawal of consent to use of electronic communications

19A. Where a person is no longer willing to accept the use of electronic communications for any purpose under these Rules which is capable of being effected electronically, that person must give notice in writing—

- (a) withdrawing any address notified to the National Assembly or to a local planning authority for that purpose; or
- (b) revoking any agreement entered into with the National Assembly or with a local planning authority for that purpose,

and such withdrawal or revocation will be final and will 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.”.

SCHEDULE 4

Article 3(1)

Amendment of the Town and Country Planning
(Enforcement) (Inquiries Procedure) (Wales) Rules 2003

1. Renumber Rule 2 (interpretation) as rule 2(1) and, in the definition of “questionnaire” contained therein, after the word “Rules”, insert—

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

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) 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 will 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”).

(3) The requirement will 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 will 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.

(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 will 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 will be taken to have been given by the National Assembly for the purposes of paragraph (3) where the National Assembly and any person entitled to take part in 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 National Assembly has published that notice on the website;
- (c) not less than 4 weeks before the date fixed by the National Assembly for the holding of the inquiry, the person is notified of the—
 - (i) publication of the notice on a website;
 - (ii) address of the website; and
 - (iii) 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 (written statements 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; and
- (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), at the end, 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; and
- (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 the—

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- (a) National Assembly 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) decision and reasons are a decision and reasons to which that agreement applies;
- (c) National Assembly has published the decision and reasons on a website;
- (d) person is notified, in a manner for the time being agreed between that person and the National Assembly, of the—
 - (i) publication of the decision and reasons on a website;
 - (ii) address of the website;
 - (iii) 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 (transmission of documents), substitute—

“Transmission of documents

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

- (a) post; or
- (b) 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, that person must give notice in writing—

- (a) withdrawing any address notified to the National Assembly or to a local planning authority for that purpose; or
- (b) revoking any agreement entered into with the National Assembly or with a local planning authority for that purpose,

and such withdrawal or revocation will be final and will 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.”.

SCHEDULE 5

Article 3(2)

Amendment of the Town and Country Planning (Enforcement)
(Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003

1. Renumber rule 2 (interpretation) as rule 2(1) and, in the definition of “questionnaire” contained therein, after the word “Rules”, insert—

“; and for this purpose a form is taken to be supplied where the National Assembly has published it on a website and has notified the local planning authority, in a manner for the time being agreed between the National Assembly and the authority for that purpose, of—

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) 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 will 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 will be taken to be fulfilled where the statement or other document 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 will 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.

(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 6 (service of statements of case etc.)—

- (a) in paragraph (2), at the end, add—

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“(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 is to 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 9 (date and notification of inquiry)—

(a) after paragraph (3), insert—

“(3A) A written notice is to be taken to have been given by the National Assembly for the purposes of paragraph (3) where the National Assembly and any person entitled to take part in 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 National Assembly has published that notice on the website;
- (c) not less than 4 weeks before the date fixed by the National Assembly for the holding of the inquiry, the person is notified of the—
 - (i) publication of the notice on a website;
 - (ii) address of the website; and
 - (iii) 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 15 (written statements of evidence), at the end, add—

“(8) For the purposes of the previous paragraph, an opportunity will 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 16 (statement of common ground), at the end, add—

“(3) For the purposes of the previous paragraph, an opportunity will 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 20 (notification of decision)—

- (a) in paragraph (1), delete references to “their” where they occur and substitute “the”;
- (b) after paragraph (1), insert—

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

- (a) the National Assembly 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 National Assembly has published the decision and reasons on a website;
- (d) the person is notified, in a manner for the time being agreed between that person and the National Assembly, of the—
 - (i) publication of the decision and reasons on a website;
 - (ii) address of the website;
 - (iii) place on the website where the decision and reasons may be accessed and how they may be accessed.”;

(c) after paragraph (2), insert—

“(2A) For the purposes of the previous paragraph, an opportunity will 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.”.

8. For rule 24 (transmission of documents), substitute—

“Transmission of documents

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

- (a) post; or
- (b) 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 24, insert—

“Withdrawal of consent to use of electronic communications

24A. 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 carried out electronically, that person must give notice in writing—

- (a) withdrawing any address notified to the National Assembly or to a local planning authority for that purpose; or
- (b) revoking any agreement entered into with the National Assembly or with a local planning authority for that purpose,

and such withdrawal or revocation will be final and will 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.”.

SCHEDULE 6

Article 3(3)

Amendment of the Town and Country Planning
(Enforcement) (Hearings Procedure) (Wales) Rules 2003

1. Renumber rule 2 (interpretation) as rule 2(1) and, in the definition of “questionnaire” contained therein, after the word “Rules”, insert—

“; and for this purpose a form is taken to be supplied where the National Assembly has published it on a website and has notified the local planning authority, in a manner for the time being agreed between the National Assembly and the authority for that purpose, of—

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) 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 is not 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 will 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 will 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.

(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 will 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 will be taken to have been given by the National Assembly for the purposes of paragraph (2) where the National Assembly and any person entitled to take part in 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 National Assembly has published the notice on a website;
 - (c) not less than 4 weeks before the date fixed by the National Assembly for the holding of the inquiry, the person is notified of the—
 - (i) 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 will be taken to have been given to a person for the purposes of this rule where the—

 - (a) National Assembly 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) decision and reasons are a decision and reasons to which that agreement applies;
 - (c) National Assembly has published the decision and reasons on a website;
 - (d) person is notified of the—
 - (i) publication of the decision and reasons on a website;
 - (ii) address of the website;
 - (iii) 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 will 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;

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- (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 will 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 (transmission of documents), substitute—

“Transmission of documents

- 19. Notices or documents required or authorised to be sent or supplied under these Rules may be sent or supplied by—
 - (a) post; or
 - (b) 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 must give notice in writing—
 - (a) withdrawing any address notified to the National Assembly or to a local planning authority for that purpose; or
 - (b) revoking any agreement entered into with the National Assembly or with a local planning authority for that purpose,and such withdrawal or revocation will be final and will 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.”.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 8 of the Electronic Communications Act 2000 (“the 2000 Act”) empowers the appropriate Minister (as defined in 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.

The Lord Chancellor is the appropriate Minister in relation to matters under the Tribunals and Inquiries Act 1992 (c. 53).

Articles 2 and 3 of this Order give effect to the Schedules to this Order, which modify procedural rules made by the Lord Chancellor in relation to planning appeals in Wales.

Schedule 1 amends the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003 (S.I. 2003/1266), *Schedule 2* amends the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003 (S.I. 2003/1267), *Schedule 3* amends the Town and Country Planning (Hearings Procedure) (Wales) Rules 2003 (S.I. 2003/1271), *Schedule 4* amends the Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003 (S.I. 2003/1269), *Schedule 5* amends the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003 (S.I. 2003/1270) and *Schedule 6* amends the Town and Country Planning (Enforcement) (Hearings Procedure) (Wales) Rules 2003 (S.I. 2003/1268).

Similar amendments are being made by the National Assembly for Wales to the Town and Country Planning Act 1990, the Environment Act 1995, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Listed Buildings and Conservation Areas) Regulations 1990, the Town and Country Planning (General Development Procedure) Order 1995, the Town and Country Planning (Applications) Regulations 1988, the Town and Country Planning (General Permitted Development) Order 1995, the Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003 (S.I. 2003/390) (W.52), the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003 (S.I. 2003/394) (W.53) and the Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003 (S.I. 2003/395) (W.54).