

SCHEDULE 3

Article 3(2)

Amendment of the Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003

1. Renumber regulation 2 (interpretation) as regulation 2(1) and—
 - (a) after the definition of “document” contained in that regulation, insert the following definition—

““electronic communication” (cyfathrebu electronig” and “cyfathrebiad electronig”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(1);”;
 - (b) in the definition of “questionnaire” contained in that regulation, after the word “Regulations”, 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 a 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 regulation 2(1), add—
 - (2) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations 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 Regulations 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 the required postal address;
 - (b) references to notices, representations 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 (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in regulations 4 to 8 of these Regulations that representations or other documents should be sent or submitted 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 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;

(1) 2000 c. 7.

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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 Regulations that any notice or document should be in writing is fulfilled where that document meets the criteria in paragraph (4); and (except in regulation 5) “written” and cognate expressions are to be construed accordingly.”.

3. In regulation 3 (application of these Regulations), after paragraph (2), insert—

“(2A) Where an appellant (or, as the case may be, the appellant and the local planning authority) so informs the National Assembly using electronic communications, the appellant will be taken to have agreed—

- (a) to the use of such communications for all purposes of these Regulations relating to the appeal which are capable of being carried out electronically;
- (b) that the address provided by the appellant for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that person’s communication so informing the National Assembly; and
- (c) that the appellant’s deemed agreement under this paragraph will subsist until notice is given in accordance with regulation 11A of a wish to revoke the agreement,

and the references in paragraphs (1) and (2) of this regulation to an appeal being disposed of on the basis of written representations will not be taken to preclude the use of electronic communications in accordance with this paragraph and regulation 2.”.

4. In regulation 7 (representations), at the end, add—

“(9) Where a party to which this regulation applies elects to use electronic communications for submitting, sending, copying or sending a copy of any representations, questionnaire or other document, this regulation has effect subject to the following modifications—

- (a) where the party so electing is the appellant, the words “2 copies of” in paragraphs (3) and (7) are omitted;
- (b) where the party so electing is the local planning authority, the words “2 copies of” in paragraphs (4) and (7) are omitted.”.

5. For regulation 11 (transmission of documents), substitute—

“Transmission of documents

11. Notices or documents required or authorised to be served, sent or supplied under these Regulations 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.”.

6. After regulation 11, insert—

“Withdrawal of consent to use of electronic communications

11A. Where a person is no longer willing to accept the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically, that person must give notice in writing—

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- (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.”.