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WELSH STATUTORY INSTRUMENTS

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**2008 No. 540**

**The Street Works (Registers, Notices, Directions and Designations) (Wales) (No 2) Regulations 2008**

**Manner of service of notices**

6.—(1) Subject to paragraphs (2), (5) and (7), where under Part III of the 1991 Act an undertaker is under an obligation to give notice within a specified period of works having begun, other than under section 74, such notice must be given by —

- (a) sending it to the person to whom it is to be given at his or her proper address by using an electronic communication in accordance with the condition set out in paragraph (4);
- (b) delivering it to that person at that address; or
- (c) any other means agreed between the person giving it and the person to whom it is to be given.

(2) Where the person to whom an undertaker is obliged to give such notice does not have arrangements for receiving and responding to notices for any period between 4.30pm and 8.00am the following day, the undertaker will have complied with his or her obligation if he or she serves a notice by 10.00am on that following day.

(3) Subject to paragraphs (5) and (7), in any other case where a person is required or authorised to give a notice under Part III of the 1991 Act, other than under section 74 or Schedule 4B to that Act, such notice must be given by —

- (a) sending it to the person to whom it is to be given at his or her proper address by using an electronic communication in accordance with the condition set out in paragraph (4);
- (b) sending it by first class post to him or her at that address;
- (c) delivering it to him or her;
- (d) leaving it at his or her proper address; or
- (e) any other means agreed between the person giving it and the person to whom it is to be given.

(4) The condition referred to in paragraphs (1)(a) and (3)(a) is that the notice must be —

- (a) capable of being accessed by the person to whom it is being sent;
- (b) legible in all material respects; and
- (c) in a form which permits the notice to be retained for subsequent reference,

and for this purpose “legible in all material respects” means that the information contained in the notice is available to that person to no lesser extent than it would be if given by means of a notice in printed form.

(5) Subject to paragraph (7), from and including 1 April 2009 all notices required to be given under Part III of the 1991 Act by a street authority or a statutory undertaker, other than notices under Schedule 4B to that Act, must be exchanged between one street authority and another, one statutory undertaker and another and between a street authority and a statutory undertaker by using electronic communications in accordance with the condition set out in paragraph (4).

(6) Subject to section 98(2) (reckoning of periods), where an electronic communication is used for the purpose of serving a notice, then, unless the contrary is proved, the notice is deemed to be given on the day and at the time recorded by the transmitting apparatus as being the day and time of satisfactory completion of the transmission.

(7) Where, after three attempts (duly recorded by the person serving the notice) to effect service by using one particular method for transmitting an electronic communication, service cannot be effected, the notice may be given by serving it upon the person to whom it is to be given by any other such method for which there is a proper address or by any of the other means referred to in paragraph (1) or, as the case may be, paragraph (3).

(8) Subject to paragraph (9), for the purposes of this regulation, the proper address of any person to whom notice is to be given is —

(a) where such person —

(i) has provided the person giving the notice with an address for service of notices under the 1991 Act, other than notices under section 74 or Schedule 4B to that Act, by using a particular method for transmitting an electronic communication; and

(ii) has not notified the latter that the address is withdrawn for that purpose, that address in relation to that method of transmission;

(b) where such person has provided the person giving the notice with an address for postal service of such notices, that address in relation to postal service,

(c) where such person has provided the person giving the notice with an address for service of such notices by any other means, that address in relation to such other means; and

(d) otherwise —

(i) in the case of a corporation, the registered or principal office of the corporation; and

(ii) in any other case, the last known address of such person.

(9) A person may provide different addresses for different notices or different classes of notice.

(10) In this regulation —

“address” (“*cyfeiriad*”), in relation to a particular method for transmitting an electronic communication, means any number or address used for the purposes of such method of transmission; and

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(1).

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(1) 2000 c. 7. Section 15(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 158.