

SCHEDULE 5

Article 16

Amendment of The Town and Country Planning (Appeals)
(Written Submissions Procedure) (Scotland) Regulations 1990

1. In regulation 2 (interpretation)–
 - (a) in the definition of “appeals questionnaire” after “Regulations” insert–

“, and for this purpose a form is deemed to be supplied where the Scottish Ministers have published it on a website and have notified the 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;”.
 - (b) after the definition of “application”, insert–

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(1);”.
2. After regulation 2, insert–

“**2A.**—(1) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations 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 Regulations 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; and
 - (b) references to notices or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(2) Paragraphs (3) to (6) apply where an electronic communication is used by another person for the purpose of fulfilling any requirement in these Regulations to give or send any notice or other document to any other person (“the recipient”).

(3) The requirement shall be deemed to be fulfilled where the form, 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.

(4) In paragraph (3), “legible in all material respects” means that the information contained in the notice or other 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.

(5) Where the electronic communication is received by the recipient–

 - (a) at any time before the end of the day which is a working day, it shall be deemed to have been received on that day; or
 - (b) at any time during a day which is not a working day, it shall be deemed to have been received on the next working day,

and for these purposes, “working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act

(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.

1971(2), a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.

(6) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (3), and “written” and cognate expressions are to be construed accordingly.”

3. In regulation 3 (application), after paragraph (2) insert–

“(2A) Where an appellant or, as the case may be, the appellant and the planning authority, so informs the Scottish Ministers using electronic communications, the appellant shall be deemed to have agreed–

- (a) to the use of such communications for all purposes relating to that appeal which are capable of being carried out electronically;
- (b) that the address for the purpose of such communications with the appellant is the address incorporated into, or otherwise logically associated with, the appellant’s notice of appeal;
- (c) that the appellant’s deemed agreement under this paragraph shall subsist until the appellant gives notice with regulation 8A that the appellant wishes to revoke the agreement;

and the references in paragraphs (3) and (4) of this regulation to an appeal being disposed of on the basis of written submissions shall not be deemed to preclude the use of electronic communications in accordance with this paragraph and regulation 2A.”

4. In regulation 4 (notice to interested parties) paragraph (1) is amended as follows–

- (a) in sub-paragraph (a), after “by post” insert “or by means of electronic communication”; and
- (b) in sub-paragraph (b), after “by post” insert “or by means of electronic communication”.

5. After regulation 8 insert–

“Withdrawal of consent to use of electronic communications

8A. Where a person is no longer willing to accept the use of electronic communications for any purpose which, under these Regulations, is capable of being carried out using such communications, that person shall give notice in writing–

- (a) withdrawing any address notified to the Scottish Ministers or, as the case may be, to a planning authority for that purpose; or
- (b) revoking any agreement entered into or deemed to have been entered into with the Scottish Ministers or, as the case may be, with a 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, being a date occurring after the period of seven days, beginning with the date on which the notice is given.”