

**2006 No. 276**

**PLANNING**

**The Planning (Electronic Communications) Order (Northern Ireland) 2006**

*Made* - - - - *22nd June 2006*

*Coming into operation* - *1st August 2006*

The Department of the Environment makes the following Order in exercise of the powers conferred by sections 1 and 2(6) of the Electronic Communications Act (Northern Ireland) 2001(a).

The Department is the appropriate department(b) for the purposes of the Planning (Northern Ireland) Order 1991(c).

In accordance with section 1(3) of that Act the Department considers that the authorisation of the use of electronic communications or electronic storage for any purpose is such that the extent (if any) to which records of such things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications or electronic storage than in other cases.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Planning (Electronic Communications) Order (Northern Ireland) 2006 and shall come into operation on 1st August 2006.

(2) In this Order “the 1991 Order” means the Planning (Northern Ireland) Order 1991.

**Insertion of definitions and interpretation provisions**

2.—(1) Article 2 of the 1991 Order (interpretation) shall be amended as follows.

(2) In paragraph (2)—

(a) after the definition of “the Act of 1965” there shall be inserted—

““address” in relation to electronic communications, means any number or address used for such purposes;”;

(b) after the definition of “electricity undertaker” there shall be inserted—

““electronic communication” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001;”.

(3) After paragraph (2) there shall be inserted the following paragraph—

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(a) 2001 c.9 (N.I.)

(b) See definition of “appropriate department” in section 2(1) of the Electronic Communications Act (Northern Ireland) 2001

(c) S.I. 1991/1220 (N.I. 11) as amended by S.I. 2003/430 (N.I. 8) and S.I.2006/1252 (N.I.7)

“(2A) Where—

- (a) an electronic communication is used for the purpose of giving or serving a notice or other document on or to any person for the purposes of this Order, and
  - (b) the communication is received by that person outside that person’s business hours,
- it shall be taken to have been received on the next working day, and in this paragraph, “working day” means a day which is not a Saturday, Sunday or a public holiday.”.

### **Service of Notices and Documents**

3. After Article 2 of the 1991 Order there shall be inserted—

#### **“Service of Notices and Documents**

**2A.**—(1) This Article does not apply to—

- (a) Part VII, and so far as relating to that Part, Articles 3(2), 102 to 104, 121, 122, 125 and 130;
- (b) Articles 100 and 101, and Article 103 so far as relating to the making of an order under Article 100; or
- (c) Articles 110, 111(1) to (3) and (5) and 127(1)(c).

(2) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, any notice or other document required or authorised to be served on or sent or given to any person under the provisions of this Order may be served, sent or given, in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (3), to that person at that address (subject to paragraph (4)).

(3) The condition mentioned in paragraph (2) is that the notice or other document shall be—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference,

and for this purpose “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 served or given by means of a notice or document in printed form.

(4) Paragraph (2) shall not apply to—

- (a) service of a copy of a notice under Article 23(4);
- (b) service of a building preservation notice under Article 42A(a);
- (c) giving of notice of the making of a tree preservation order or the service of a copy of such an order, in accordance with regulations under Article 65(b);
- (d) service of a planning contravention notice under Article 67C(c);
- (e) service of a temporary stop notice under Article 67E(d);
- (f) service of a copy of an enforcement notice under Article 68(e);
- (g) the variation or withdrawal of an enforcement notice under Article 68B(f);

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(a) Article 42A was inserted by Article 25 of S.I. 2003 No. 430 (N.I. 8)  
(b) Article 65(2) was substituted by Article 26 of S.I. 2003 No. 430 (N.I. 8)  
(c) Article 67C was inserted by Article 3 of S.I. 2003 No. 430 (N.I. 8)  
(d) Article 67E was inserted by Article 13 of S.I. 2006/1252 (N.I.7)  
(e) Article 68 was substituted by Article 7 of S.I. 2003 No. 430 (N.I. 8)  
(f) Article 68B was inserted by Article 7 of S.I. 2003 No. 430 (N.I. 8)

- (h) service of a stop notice, or notice of withdrawal of a stop notice under Article 73(a);
- (i) service under Article 76(4) of a notice of the Department’s intention to take steps required by an enforcement notice;
- (j) service of a breach of condition notice under Article 76A(b);
- (k) service of a copy of a listed building enforcement notice, or notice of variation or withdrawal of a listed building enforcement notice under Article 77;
- (l) service of a copy of a hazardous substances contravention notice, or notice of withdrawal of a hazardous substances contravention notice under Article 81;
- (m) service of a copy of a notice varying a hazardous substances contravention notice under Article 81A(c);
- (n) service of a notice under Article 125 requiring information as to estates in land.

(5) Where a person uses electronic communications to transmit any notice or other document for any purpose of this Order which is capable of being carried out electronically he shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his address for that purpose is the address incorporated into, or otherwise logically associated with the notice or document.

(6) Where a person is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being carried out electronically, he shall give notice in writing—

- (a) withdrawing any address notified to the Department or the planning appeals commission for that purpose; or
- (b) revoking any agreement entered into or deemed to have been entered into with the Department or the planning appeals commission 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.”.

**Electronic publication of notices of applications**

4.—(1) In Article 21 of the 1991 Order (publication of notices of applications) for paragraph (1) there shall be substituted—

“(1) Subject to paragraph (2), where an application for planning permission is made to the Department, the Department—

- (a) shall publish notice of the application in at least one newspaper circulating in the locality in which the land to which the application relates is situated; and
- (b) shall, where it maintains a website for the purpose of advertisement of applications, publish the notice on that website; and
- (c) shall not determine the application before the expiration of 14 days from the date on which the notice is first published in a newspaper in pursuance of sub-paragraph (a) or is first published on the website, whichever is the later.”.

(2) In Schedule 1 of the 1991 Order (listed building consent – applications and appeals) for paragraph 2 there shall be substituted—

“2. Where an application for listed building consent is made to the Department, it—

- (a) shall publish notice of the application in at least one newspaper circulating in the locality in which the building to which the application relates is situated; and

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(a) Article 73(1),(2),(3) and (7) was substituted by Article 11 of S.I. 2003 No. 430 (N.I. 8)  
 (b) Article 76A was inserted by Article 4 of S.I. 2003 No. 430 (N.I. 8)  
 (c) Article 81A was inserted by Article 15 of S.I. 2003 No. 430 (N.I. 8)

- (b) shall, where it maintains a website for the purpose of advertisement of applications, publish the notice on that website; and
- (c) shall not determine the application before the expiration of 14 days from the date on which notice of the application is first published in a newspaper in pursuance of sub-paragraph (a) or is first published on the website, whichever is the later.”.

**Postal addresses to be provided in certain notices**

5.—(1) In Article 22 (3) of the 1991 Order (notification of applications to certain persons) after “names and” there shall be inserted “postal”.

(2) In the following provisions of the 1991 Order—

- (a) paragraphs (3)(c) and (e) of Article 67C of that Order (power to require information about activities on land); and
- (b) paragraphs (2)(b) and (e) of Article 125 of that Order (information as to estates in land), after “name and” there shall be inserted “postal”.

**Amendment of Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 1988**

6.—(1) The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 1988(a) shall be amended in accordance with Schedule 1.

**Amendment of the Planning (Development Plans) Regulations (Northern Ireland) 1991**

7. The Planning (Development Plans) Regulations (Northern Ireland) 1991(b) shall be amended in accordance with Schedule 2.

**Amendment of Planning (Listed Buildings) Regulations (Northern Ireland) 1992**

8. The Planning (Listed Buildings) Regulations (Northern Ireland) 1992(c) shall be amended in accordance with Schedule 3.

**Amendment of the Planning (Control of Advertisements) Regulations (Northern Ireland) 1992**

9. The Planning (Control of Advertisements) Regulations (Northern Ireland) 1992(d) shall be amended in accordance with Schedule 4.

**Amendment of the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993**

10. The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993(e) shall be amended in accordance with Schedule 5.

**Amendment of the Planning (General Development) Order (Northern Ireland) 1993**

11. The Planning (General Development) Order (Northern Ireland) 1993(f) shall be amended in accordance with Schedule 6.

(a) S.R. 1988 No. 5 as amended by S.R. 2006 No. 218  
 (b) S.R. 1991 No. 119 as amended by S.R. 1994 No. 394, S.R. 2000 No. 101 and S.R. 2004 No. 438  
 (c) S.R. 1992 No. 263 as amended by S.R. 2006 No. 218  
 (d) S.R. 1992 No. 448 as amended by S.R. 1998 No. 147 and S.R. 2006 No. 218  
 (e) S.R. 1993 No. 275 as amended by S.R. 2001 No. 101, S.R. 2005 No. 320 and S.R. 2006 No. 218  
 (f) S.R. 1993 No. 278 as amended by S.R. 1999 No. 73, S.R. 2003 No. 98, S.R. 2003 No. 445 , S.R. 2006 No. 218 and S.R. 2006 No.219

**Amendment of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999**

12. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(a) shall be amended in accordance with Schedule 7.

**Amendment of the Planning (Trees) Regulations (Northern Ireland) 2003**

13. The Planning (Trees) Regulations (Northern Ireland) 2003(b) shall be amended in accordance with Schedule 8.

Sealed with the Official Seal of the Department of the Environment on 22nd June 2006.



*Marianne Fleming*  
A senior officer of the Department

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(a) S.R. 1999 No. 73  
(b) S.R. 2003 No. 444 as amended by S.R. 2006 No. 218

**Amendment of the Planning (Conservation Areas) (Demolition)  
Regulations (Northern Ireland) 1988**

1.—(1) Regulation 2 (interpretation) shall be amended as follows.

(2) The existing provision shall be renumbered as paragraph (1) and at the end of that provision as so renumbered, there shall be added the following definition—

““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001.”

(3) After paragraph (1), as so renumbered, there shall be inserted the following paragraphs—

“(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 purpose of such communications, except that where these Regulations impose any 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 forms, plans, notices or other documents or to copies of such things 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 these Regulations to give or send any form, plan, notice or other document to any other person (“the recipient”).

(4) The requirement shall be taken to be fulfilled where the form, plan, notice or other document transmitted by means of 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 or a public holiday.

(7) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4).”.

2. After regulation 6 (claims for compensation and purchase notices), there shall be inserted the following regulation—

**“Use of electronic communications**

6A.—(1) Paragraphs (2) and (3) apply where a person uses electronic communications for any of the following purposes—

- (a) making an application under regulation 3 for conservation area consent;
- (b) making a claim for compensation or serving a purchase notice under regulation 6.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim or giving or serving the notice shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application, claim or notice (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application, claim or notice;
- (c) that the person's deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.

(3) In regulation 3(1) (applications) the requirement that an application for conservation area consent—

- (a) shall be accompanied by a plan sufficient to identify the building shall be satisfied where the applicant identifies the building on an electronic map provided by the Department and for this purpose a map is taken to be provided where the Department has published it on its website, and
- (b) shall be accompanied by two further copies of the form, plans and drawings shall not apply.”.

## SCHEDULE 2

Article 7

### Amendment of the Planning (Development Plans) Regulations (Northern Ireland) 1991

1.—(1) Regulation 2 (interpretation) shall be amended as follows.

(2) In paragraph (1)—

- (a) after the definition of “the Directive” there shall be inserted the following definition—  
““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001.”;
- (b) in the definition of “local advertisement”, after the words “replacement of a development plan;” there shall be inserted “and where the Department maintains a website for the purpose of advertisement, by publication of the notice on the website;”.

(3) After paragraph (3) there shall be inserted the following paragraphs—

“(4) 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 purpose of such communications;
- (b) references to notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(5) Paragraphs (6) to (9) apply where an electronic communication is used by a 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”).

(6) The requirement shall be taken to be fulfilled where the notice or other document transmitted by means of 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.

(7) In paragraph (6), “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.

(8) 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 or a public holiday.

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

2. After regulation 14 (notice of adoption of a development plan), insert—

**“Use of electronic communications**

**14A.**—(1) Paragraph (2) applies where a person uses electronic communications for any of the following purposes—

- (a) making representations about proposals under regulation 3;
- (b) making objections to the making, alteration, etc. of a development plan under regulation 4;
- (c) making representations about an objection under regulation 4A.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the objection or representation shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the objection or representation (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the objection or representation;
- (c) that the person’s deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.”.

**SCHEDULE 3**

Article 8

**Amendment of the Planning (Listed Buildings) Regulations (Northern Ireland) 1992**

1.—(1) Regulation 1 (citation, commencement and interpretation) shall be amended as follows.

(2) In paragraph (2), after the definition of “the 1991 Order”, there shall be inserted the following definition—

““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001.”.

(3) After paragraph (2) there shall be inserted the following paragraphs—



“(3) 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 purpose of such communications, except that where these Regulations impose any 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 forms, plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(4) Paragraphs (5) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any form, plan, notice or other document to any other person (“the recipient”).

(5) The requirement shall be taken to be fulfilled where the form, plan, notice or other document transmitted by means of 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.

(6) In paragraph (5), “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.

(7) 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 or a public holiday.

(8) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (5), and “written” and cognate expressions are to be construed accordingly.”.

2. After regulation 8 (claims for compensation), there shall be inserted—

**“Use of electronic communications**

**8A.**—(1) Paragraphs (2) and (3) apply where a person uses electronic communications for any of the following purposes—

- (a) making an application under regulation 2 for listed building consent or approval of the Department required by a condition imposed on a grant of listed building consent;
- (b) making an application under regulation 5, for consent to execute works without compliance with conditions previously attached;
- (c) making a claim for compensation under regulation 8.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application or claim (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application or claim;
- (c) that the person’s deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.

(3) The requirement in regulation 2(1)(b) that an application for listed building consent shall be accompanied by a plan sufficient to identify the building is satisfied where the applicant identifies the building on an electronic map provided by the Department and for this purpose a map is taken to be provided where the Department has published it on its website.”.

## SCHEDULE 4

Article 9

### Amendment of the Planning (Control of Advertisements) Regulations (Northern Ireland) 1992

1.—(1) Regulation 2 (interpretation) shall be amended as follows.

(2) In paragraph (1), after the definition of “Department”, there shall be inserted the following definition—

““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001.”.

(3) After paragraph (3) there shall be inserted—

“(4) 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—

- (a) the expression “address” includes any number or address used for the purpose of such communications;
- (b) references to forms, plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(5) Paragraphs (6) to (10) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any form, plan, notice or other document to any other person (“the recipient”).

(6) The requirement shall (except in a case referred to in paragraph (7)) be taken to be fulfilled where the notice or other document transmitted by means of 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.

(7) The cases are—

- (a) serving notice under regulation 6(3);
- (b) serving notice requiring application for express consent under regulation 11.

(8) In paragraph (6), “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.

(9) 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 or a public holiday.

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

2. In regulation 6 (2) (directions restricting deemed consent) after the word “locality”, where it first appears, there shall be inserted “and, where the Department maintains a website for the purpose of advertisement, by publication of the notice on the website”.

3. After regulation 14 (compensation for revocation or modification of consents), there shall be inserted—

**“Use of electronic communications**

**14A.**—(1) Paragraphs (2) and (3) apply where a person uses electronic communications for any of the following purposes—

- (a) making an application for express consent under regulation 7;
- (b) serving notice of appeal to the planning appeals commission under regulations 11 or 12;
- (c) making a claim for compensation under regulation 14;
- (d) giving notice to the Department under a deemed consent under Part 1 of Schedule 3 which is subject to a condition to give such a notice.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application, claim or giving or serving notice shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application, appeal, claim or notice (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application, appeal, claim or notice;
- (c) that the person’s deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.

(3) The requirement in regulation 7(3)(b) that an application for express consent to display advertisements shall be accompanied by a plan sufficient to identify the site is satisfied where the applicant identifies the site on an electronic map provided by the Department and for this purpose a map is taken to be provided where the Department has published it on its website.”.

## SCHEDULE 5

Article 10

### Amendment of the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993

1.—(1) Regulation 2 (interpretation) shall be amended as follows.

(2) In paragraph (1), after the definition of “the Directive”, there shall be inserted the following definition—

““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001.”.

(3) After paragraph (3) there shall be inserted the following paragraphs—

“(4) 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 purpose of such communications except that where these Regulations impose any 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 forms, maps, plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(5) Paragraphs (6) to (9) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any form, map, plan, notice or other document to any other person (“the recipient”).

(6) The requirement shall be taken to be fulfilled where the application or other document transmitted by means of 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.

(7) In paragraph (6), “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.

(8) 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 or a public holiday.

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

2. In regulation 6 (1) (advertisement of notices of applications) after the word “situated” there shall be inserted “and, where the Department maintains a website for the purpose of advertisement, by publication of the notice on the website”.

3. After regulation 19 (effect of hazardous substances contravention notices), there shall be inserted—

## “PART 6

### ELECTRONIC COMMUNICATIONS

#### **Use of electronic communications**

20.—(1) Paragraphs (2) and (3) apply where a person uses electronic communications for any of the following purposes—

(a) making an application for hazardous substances consent under regulation 5;

(b) making a claim for deemed consent under regulation 14;

(c) serving notice of appeal against a hazardous substances contravention notice under regulation 18.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or serving notice of appeal shall be taken to have agreed—

(a) to the use of electronic communications for all purposes relating to the application, claim or appeal (as the case may be) which are capable of being effected using such communications;

- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application, claim or appeal;
  - (c) that the person's deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.
- (3) In regulation 5—
- (a) in paragraph 1(b) the requirement that an application for express consent shall include a site map is satisfied where the applicant identifies the site on an electronic map provided by the Department and for this purpose a map is taken to be provided where the Department has published it on its website;
  - (b) in paragraphs (1)(c), (2)(c) or (3)(c) the requirement that an application for hazardous substances consent shall be accompanied by 3 additional copies of the documents required shall not apply.”.

## SCHEDULE 6

Article 11

### Amendment of the Planning (General Development) Order (Northern Ireland) 1993

- 1.—(1) Article 2 (interpretation) shall be amended as follows.
- (2) In paragraph (1), after the definition of “EIA development”, there shall be inserted the following definition—
- ““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001;”.
- (3) After paragraph (3) there shall be inserted the following paragraphs—
- “(4) In this Order and in relation to the use of electronic communications or electronic storage for any purpose of this Order which is capable of being carried out electronically—
- (a) the expression “address” includes any number or address used for the purpose of such communications or storage, except that where this Order imposes any 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 applications, forms, maps, plans, drawings, certificates or other documents or to copies of such things include references to such documents or copies of them in electronic form.
- (5) Paragraphs (6) to (9) apply where an electronic communication is used by a person for the following purposes—
- (a) fulfilling any requirement in this Order to give or send any application, notice or other document to any other person (“the recipient”); or
  - (b) lodging an application, certificate or other document under Article 11(3) with the Department.
- (6) The requirement shall not be taken to be fulfilled, or (as the case may be) the application or other document shall not be taken to have been lodged, unless the document transmitted by 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.

(7) In paragraph (6), “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.

(8) 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 or a public holiday.

(9) A requirement in this Order that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (6), and “written” and cognate expressions are to be construed accordingly.”.

2. In Article 5(2) (notices relating to article 4 directions) after the word “situate” there shall be inserted “and, where the Department maintains a website for the purpose of advertisement, by publication of the notice on the website”.

3. After Article 22 (register of orders and directions) there shall be inserted—

**“Registers held using electronic storage**

**22A.** Where registers held under Articles 18 to 22 are kept using electronic storage, the Department may make the registers available in each case for inspection by the public on a website maintained by the Department for that purpose.

**Use of electronic communications**

**22B.—**(1) Paragraphs (2) to (4) apply where a person uses electronic communications for any of the following purposes—

- (a) serving the required notice under a relevant condition to a class of development permitted under Article 3 and set out in Part 1 of Schedule 1;
- (b) making an application for planning permission under Article 7;
- (c) making an application for approval of reserved matters under Article 9;
- (d) making an application for a certificate of lawfulness of existing use or development or a certificate of lawfulness of proposed use or development under Article 10;
- (e) making a claim for compensation or serving a purchase notice under Article 17.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim or serving notice shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application, claim or notice (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application, claim or notice;
- (c) that the person’s deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.

(3) In Article 7(1)—

- (a) in paragraph (b) the requirement that an application for planning permission shall be accompanied by a plan which identifies the land to which it relates shall be satisfied where the applicant identifies the land on an electronic map provided by

the Department and for this purpose a map is taken to be provided where the Department has published it on its website;

(b) in paragraph (c) the requirement to submit 6 additional copies of the form, plans and drawings shall not apply.

(4) In Article 9(c) the requirement to submit 6 additional copies of the form, plans and drawings shall not apply.”.

## SCHEDULE 7

Article 12

### Amendment of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999

1.—(1) Regulation 2 (interpretation) shall be amended as follows.

(2) In paragraph (1), after the definition of “EIA development”, there shall be inserted the following definition—

““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001;”.

(3) After paragraph (4) there shall be inserted the following paragraphs—

“(5) In these Regulations, and in relation to the use of electronic communications or electronic storage 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 purpose of such communications except that where these Regulations impose any 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 plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(6) Paragraphs (7) to (10) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any statement, notice or other document to any other person (“the recipient”).

(7) The requirement shall (except in the case of service of a notice under regulation 22) be taken to be fulfilled where the notice or other document transmitted by means of 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.

(8) In paragraph (7), “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.

(9) 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 or a public holiday.

(10) A requirement in these Regulations that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (7), and “written” and cognate expressions are to be construed accordingly.”.

2. In regulation 12(c) (publicity where an environmental statement is submitted) for the word “an” there shall be substituted the words “a postal”.

3. After paragraph (3) of regulation 34 (availability of information in relation to determinations, opinions, decisions, etc.) there shall be inserted—

“(4) Where the registers kept under this regulation are kept using electronic storage, the Department may make the registers available for inspection by the public on a website maintained by the Department for that purpose.”.

4. After regulation 36 (appeals to the Commission for developments for which an environmental statement is required), there shall be inserted—

#### **“Use of electronic communications**

**36A.**—(1) Paragraph (2) applies where a person uses electronic communications to make an application under regulation 6 (pre-application determination as to the need for environmental impact assessment and opinion as to content of environmental statement), and except where a contrary intention appears, the applicant shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application which is capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application;
- (c) that the person’s deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.

(2) In paragraph (3)(a) of regulation 6 the requirement for the application to be accompanied by a plan sufficient to identify the land to which the application relates is satisfied where the applicant identifies the land on an electronic map provided by the Department and for this purpose a map is taken to be provided where the Department has published it on its website.”.

## SCHEDULE 8

Article 13

### Amendment of the Planning (Trees) Regulations (Northern Ireland) 2003

1.—(1) Regulation 1 (citation, commencement and interpretation) shall be amended as follows.

(2) In paragraph (2), before the definition of “land affected by the order”, there shall be inserted the following definition—

““electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001.”.

(3) After paragraph (2) there shall be inserted—

“(3) 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—

- (a) the expression “address” includes any number or address used for the purpose of such communications;
- (b) references to notices, applications or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(4) Paragraphs (5) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any form, map, notice or other document to any other person (“the recipient”).



(5) The requirement shall be taken to be fulfilled where the form, map, notice or other document transmitted by means of 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.

(6) In paragraph (5), “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.

(7) 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 or a public holiday.

(8) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (5).”.

2. After regulation 9 (trees in conservation areas - exemptions), there shall be inserted—

**“Use of electronic communications**

**9A.**—(1) Paragraph (2) applies where a person uses electronic communications for any of the following purposes—

- (a) making objections and representations under regulation 4;
- (b) applying for consent to cut down, top, lop or uproot trees in accordance with paragraph 1 of the Second Schedule;
- (c) serving notice of appeal on the Planning Appeals Commission against the refusal of consent or the granting of consent subject to conditions under paragraph 3 of the Second Schedule or serving notice of appeal in default of decision under paragraph 4 of that Schedule;
- (d) serving a claim for compensation on the Department under paragraph 9 of the Second Schedule.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the objection and representation, application, appeal or claim shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the objection and representation, application, appeal or claim (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the objection and representation, application or claim;
- (c) that the person’s deemed agreement under this paragraph shall subsist until he gives notice in writing that he wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by him in the notice but not less than seven days after the date on which the notice is given.

(3) In this regulation “the Second Schedule” means the Second Schedule of the Schedule (form of tree preservation order).”.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 1 of the Electronic Communications Act (Northern Ireland) 2001 empowers the appropriate department (defined in section 2 of that Act) by order to modify any statutory provision for the purpose of authorising or facilitating the use of electronic communications. This Order modifies legislation relating to planning.

Articles 2 to 5 modify certain provisions of the Planning (Northern Ireland) Order 1991 (“the 1991 Order”).

*Article 2* inserts definitions relating to electronic communication into Article 2 (interpretation) of the 1991 Order. Consequential upon the insertion of a new definition of “address”, *Article 5* makes minor amendments to Articles 22(3), 67C and 125 of the 1991 Order, to ensure that requirements in those Articles to give an address can be fulfilled only by giving a postal, and not an electronic, address. Article 2 also amends Article 2 of the 1991 Order to make provision as to when electronic communications are deemed to have been received and authorises the use of electronic communications for the general purpose of giving or serving of notices (including notices of appeal to the planning appeals commission) or other documents under the 1991 Order where certain conditions are fulfilled, and subject to exceptions in cases where criminal sanctions attach to failure to comply with certain types of notice.

*Article 4* amends Article 21(1) and Schedule 1 of the 1991 Order to facilitate the use of a website by the Department for the purpose of advertisement of planning applications and applications for listed building consent, respectively.

Articles 6 to 13 give effect to the Schedules to this Order.

*Schedule 1* amends the Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 1988 to facilitate the use of electronic communications for making certain applications and claims, under those Regulations, subject to specified conditions.

*Schedule 2* amends the Planning (Development Plans) Regulations (Northern Ireland) 1991 to facilitate the use of electronic communications for making representations about proposals to make, alter, repeal or replace development plans, the making of objections to such plans, and the making of objections about those representations, subject to specified conditions. Schedule 2 also amends the definition of the phrase “local advertisement” to facilitate the use of a website by the Department for the purpose of advertisement of development plans and the holding of public local inquiries to consider objections and representations about objections to a development plan.

*Schedule 3* amends the Planning (Listed Buildings) Regulations (Northern Ireland) 1992 to authorise the use of electronic communications for making certain applications and claims, under those Regulations, subject to specified conditions.

*Schedule 4* amends the Planning (Control of Advertisements) Regulations (Northern Ireland) 1992 to authorise the use of electronic communications for making applications and sending certain notices under those Regulations, subject to specified conditions.

*Schedule 5* amends the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 to authorise the use of electronic communications for making applications, claims and sending certain notices under those Regulations, subject to specified conditions.

*Schedule 6* amends the Planning (General Development) Order (Northern Ireland) 1993 to authorise the use of electronic communications for making applications and sending certain notices and other documents under that Order, subject to specified conditions, and facilitates the use of an electronic planning register by the Department.

*Schedule 7* amends the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 to authorise the use of electronic communications for making applications and sending certain notices and other documents under those Regulations, subject to specified conditions. The amendments, where electronic communications are used for certain purposes, facilitate the use of an electronic register by the Department.

*Schedule 8* amends the Planning (Trees) Regulations (Northern Ireland) 2003 to authorise the use of electronic communications for making applications and sending certain notices and other documents under those Regulations, subject to specified conditions.