
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.

For the purposes of section 8 of the 2000 Act, the National Assembly for Wales (“the National Assembly”) may, by virtue of section 10(2) of the 2000 Act, exercise the Order-making power insofar as the exercise of that power is for one of the purposes contained in section 10(3) of the 2000 Act.

Functions to which section 10(3) of the 2000 Act applies and which are relevant to this Order are contained in and under the —

- (a) Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (“the Listed Buildings Act”) and the Environment Act 1995 (c. 25), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); and
- (b) Town and Country Planning Act 1990 (c. 8) (“the Planning Act”), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (as varied by the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) (W.5)).

Section 10(5) of the 2000 Act requires the National Assembly to secure the consent of the Secretary of State when it exercises this Order-making power. The consent of the Secretary of State for Wales has been secured.

This Order modifies legislation relating to planning.

Articles 3 to 6 of this Order modify certain provisions of the Planning Act.

Article 3 authorises the use of electronic communications for the specific purpose of sending notices of appeal against planning enforcement notices to the National Assembly.

Article 4 amends section 329 of the Planning Act to authorise the use of electronic communications for the general purpose of sending or giving notices or other documents under the Planning Act, where certain conditions are fulfilled and subject to exceptions in cases where criminal sanctions attach to a failure to comply with certain types of notice. Section 329 applies for the purposes of other planning enactments and any modifications made to that section by this Order have effect, with further modifications as noted below, also for the Listed Buildings Act (see section 89(1) of that Act), the Planning (Hazardous Substances) Act 1990 (c. 10) (see section 37 of that Act) and Schedules 13 and 14 to the Environment Act 1995 (c. 25) (see section 96(2) of that Act).

Article 6 inserts definitions relating to electronic communication into section 336 (interpretation) of the Planning Act. Consequential upon the insertion of a new definition of “address”, article 5 makes minor amendments to sections 171C and 330 of the Planning Act, to ensure that requirements in those sections to give an address can be fulfilled only by giving a postal, and not an electronic, address. Article 6 also makes provision as to when electronic communications are deemed to have been received.

Articles 7 to 9 of this Order modify certain provisions of the Listed Buildings Act.

Article 7 makes parallel provision, in relation to section 39 of that Act, to that made by article 3 in relation to section 174 of the Planning Act.

Article 8 makes amendments to section 89 of the Listed Buildings Act, consequential upon the amendments to section 329 of the Planning Act. In particular, it dis-applies the use of electronic

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communications for service of certain notices where criminal sanctions attach to a failure to comply with those notices.

Article 9 makes amendments to section 91 (the interpretation section) of the Listed Buildings Act which are parallel to those made by article 6 in relation to the equivalent section in the Planning Act.

Article 10 of this Order makes amendments to Schedules 13 and 14 to the Environment Act 1995, in relation to the use of electronic communications for the purpose of making certain applications under those Schedules to a mineral planning authority.

Articles 11 to 13 of this Order give effect to the Schedules to this Order.

Schedule 1 makes provision amending the Town and Country Planning (General Development Procedure) Order 1995, so as to facilitate the use of electronic communications for making certain applications and appeals under the Planning Act, to authorise the use of a website by the National Assembly in relation to appeals under section 78 of that Act and to facilitate the use of websites and electronic storage by local planning authorities.

Schedule 2 amends the Town and Country Planning (Applications) Regulations 1988 ([S.I. 1988/1812](#)), so as to authorise the electronic publication of forms of application for planning permission by the National Assembly and the use of electronic communications to transmit forms to the local planning authority, subject to specified conditions.

Schedule 3 amends the Town and Country Planning (General Permitted Development) Order 1995 ([S.I. 1995/418](#)), so as to authorise the use of electronic communications for the purpose of certain applications under that Order, subject to specified conditions.

Schedule 4 amends the Planning (Listed Buildings and Conservation Areas) Regulations 1990 ([S.I. 1990/1519](#)), made under the Listed Buildings Act, so as to authorise the use of electronic communications for making certain applications, or giving notice of appeal to the National Assembly, under the Regulations (again subject to specified conditions) and to facilitate the use of websites by local planning authorities for certain purposes of those Regulations.

Similar amendments to those being made by this Order are being made, by order, by the—

- (a) National Assembly, to procedural regulations made by it in relation to planning appeals in Wales; and
- (b) Lord Chancellor, to procedural rules made by him in relation to planning appeals in Wales.

The amendments made by this Order were made in relation to England in the Town and Country Planning (Electronic Communications) Order 2003 ([S.I. 2003/956](#)).