WELSH STATUTORY INSTRUMENTS

2009 No. 2706 (W.225)

COUNCIL TAX, WALES

RATING AND VALUATION, WALES

The Council Tax and Non-Domestic Rating (Electronic Communications) (Wales) Order 2009

Made - - - -	*1 October 2009*
Laid before the National Assembly for Wales - -	*6 October 2009*
Coming into force - -	*31 October 2009*

The Welsh Ministers, (a) considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases; (b) with the consent of the Secretary of State(**1**); and (c) in exercise of the powers conferred on the National Assembly for Wales by sections 8 and 10 of the Electronic Communications Act 2000(**2**) and now vested in them(**3**) hereby make the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Council Tax and Non-Domestic Rating (Electronic Communications) (Wales) Order 2009 and it comes into force on 31 October 2009.

(2) This Order applies in relation to Wales.

(**1**) *See* section 10(5) of the Electronic Communications Act 2000 (c. 7).
(**2**) 2000 c. 7.
(**3**) The functions conferred on the National Assembly for Wales by sections 8 and 10 of the Electronic Communications Act 2000 were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). The powers under which the Council Tax (Administration and Enforcement) Regulations 1992 (S.I. 1992/613), the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) and the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 (S.I. 1989/2260) were made were transferred, in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the reference to the Local Government Finance Act 1988 and the Local Government Finance Act 1992 in Schedule 1. The functions were subsequently vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

Amendment of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989

2. The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(**4**) are amended in accordance with articles 3 and 4 below.

3. In regulation 1 (citation, commencement and interpretation) in paragraph (2)—

(a) after the words "In these Regulations" insert "–";

(b) after the definition of "the Act" insert—

> ""address" in relation to electronic communications, includes any number or address used for the purposes of such communications;
>
> "business day" means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**5**) in England and Wales;
>
> "demand notice regulations" means the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993(**6**);
>
> "electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—
>
> (a) by means of an electronic communications network within the meaning of section 32(1) of the Communications Act 2003(**7**);
>
> (b) by other means but while in an electronic form.".

4.—(1) Regulation 2 (service of notices) is amended as follows.

(2) After paragraph (2) insert—

> "(3) Without prejudice to section 233 of the Local Government Act 1972(**8**) and paragraphs (1) and (2) above and subject to paragraphs (4) to (7) below, any notice required or authorised to be given to or served by a billing authority on any person by a provision of Part II of these Regulations or by Regulation 11, or any information required by the demand notice regulations to be supplied to any person when a demand notice (within the meaning of Part II of these Regulations) is served:
>
> (a) may be so given, served or supplied by sending the notice or information to that person by electronic communication to such address as may be notified by that person for that purpose; or
>
> (b) is treated as given, served or supplied to that person where—
>
> (i) the billing authority and that person have agreed for that purpose that any documents containing the notice or information may be accessed by that person on a website;
>
> (ii) the document is a document to which that agreement applies;
>
> (iii) the billing authority has published the document on a website; and
>
> (iv) that person is notified, in a manner for the time being agreed for those purposes between that person and the billing authority, of—
>
> (aa) the publication of the document on a website;

(**4**) S.I. 1989/1058 to which there are amendments not relevant to this Order.
(**5**) 1971 c. 80.
(**6**) S.I. 1993/252.
(**7**) 2003 c. 21.
(**8**) 1972 c. 70.

(bb) the address of that website; and

(cc) the place on the website where the document may be accessed.

(4) For the purpose of any legal proceedings, a notice given by a means described in paragraph (3), unless the contrary is proved, is treated as served on the second business day after—

(a) it was sent in accordance with paragraph (3)(a); or

(b) notification of its publication was given in accordance with paragraph (3)(b)(iv).

(5) A person who has notified an address for the purpose of paragraph (3)(a) must, by notice in writing to the billing authority, advise the billing authority of any change in that address; and the change takes effect on the third business day after the date on which the notice is received by the billing authority.

(6) A person who has notified an address for the purpose of paragraph (3)(a) may, by notice in writing to the billing authority, withdraw that notification; and the withdrawal takes effect on the third business day after the date on which the notice is received by the billing authority.

(7) A person who has entered into an agreement with the billing authority under paragraph (3)(b)(i) may, by notice in writing to the billing authority, inform the authority that they no longer wish to be a party to the agreement; and where such notice is given, the agreement is treated as revoked on the third business day after the date on which the notice is received by the billing authority.".

Amendment of the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989

5. The Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989(**9**) are amended in accordance with articles 6 and 7.

6. In regulation 2(1), insert the following definitions in the appropriate places—

"(a) "address" in relation to electronic communications includes any number or address used for the purposes of such communications;";

"(b) "business day" means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**10**) in England and Wales;"; and

"(c) "electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

(a) by means of an electronic communications network within the meaning of section 32(1) of the Communications Act 2003(**11**);

(b) by other means but while in an electronic form;".

7. For regulation 3 substitute—

"**Service of notices**

3.—(1) Any notice required or authorised by these Regulations to be served on a person by the Welsh Ministers may be served—

(**9**) S.I. 1989/2260.
(**10**) 1971 c. 80.
(**11**) 2003 c. 21.