STATUTORY RULES OF NORTHERN IRELAND

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(**1**).

The Department is the appropriate department(**2**) for the purposes of the Planning (Northern Ireland) Order 1991(**3**).

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;".

(**1**) 2001 c. 9 (N.I.)
(**2**) See definition of "appropriate department" in section 2(1) of the Electronic Communications Act (Northern Ireland) 2001
(**3**) 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)

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

"(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(**4**);

(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(**5**);

(d) service of a planning contravention notice under Article 67C(**6**);

(e) service of a temporary stop notice under Article 67E(**7**);

(**4**) Article 42A was inserted by Article 25 of S.I. 2003 No. 430 (N.I. 8)
(**5**) Article 65(2) was substituted by Article 26 of S.I. 2003 No. 430 (N.I. 8)
(**6**) Article 67C was inserted by Article 3 of S.I. 2003 No. 430 (N.I. 8)
(**7**) Article 67E was inserted by Article 13 of S.I. 2006/1252 (N.I.7)

(f) service of a copy of an enforcement notice under Article 68(**8**);

(g) the variation or withdrawal of an enforcement notice under Article 68B(**9**);

(h) service of a stop notice, or notice of withdrawal of a stop notice under Article 73(**10**);

(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(**11**);

(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(**12**);

(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

(**8**) Article 68 was substituted by Article 7 of S.I. 2003 No. 430 (N.I. 8)
(**9**) Article 68B was inserted by Article 7 of S.I. 2003 No. 430 (N.I. 8)
(**10**) Article 73(1),(2),(3) and (7) was substituted by Article 11 of S.I. 2003 No. 430 (N.I. 8)
(**11**) Article 76A was inserted by Article 4 of S.I. 2003 No. 430 (N.I. 8)
(**12**) Article 81A was inserted by Article 15 of S.I. 2003 No. 430 (N.I. 8)

(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

(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(**13**) 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(**14**) 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(**15**) 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(**16**) shall be amended in accordance with Schedule 4.

(**13**) S.R. 1988 No. 5 as amended by S.R. 2006 No. 218
(**14**) S.R. 1991 No. 119 as amended by S.R. 1994 No. 394, S.R. 2000 No. 101 and S.R. 2004 No. 438
(**15**) S.R. 1992 No. 263 as amended by S.R. 2006 No. 218
(**16**) S.R. 1992 No. 448 as amended by S.R. 1998 No. 147 and S.R. 2006 No. 218

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

10. The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993(**17**) 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(**18**) shall be amended in accordance with Schedule 6.

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

12. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(**19**) 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(**20**) 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

(**17**) S.R. 1993 No. 275 as amended by S.R. 2001 No. 101, S.R. 2005 No. 320 and S.R. 2006 No. 218
(**18**) 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
(**19**) S.R. 1999 No. 73
(**20**) S.R. 2003 No. 444 as amended by S.R. 2006 No. 218