

2009 No. 2706 (W. 225)

COUNCIL TAX, WALES
RATING AND VALUATION,
WALES

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 and the Council Tax (Administration and Enforcement) Regulations 1992 in relation to Wales. It provides for the service of certain notices and information by electronic communication on a person who has agreed to accept electronic service.

Article 3 inserts new definitions into regulation 1 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (“the 1989 Regulations”).

Article 4(2) adds new paragraphs to regulation 2 of the 1989 Regulations.

Under new paragraph (3) of regulation 2 any notice under Part II (Billing) or under regulation 11 (Liability orders: preliminary steps) of the 1989 Regulations or any information which is required to be supplied when demand notices are served by virtue of the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993 may be served electronically on a person who has agreed to accept electronic service of such documents. Alternatively, where the billing authority has agreed with the recipient, these documents may be published on a website and the billing authority may notify the recipient that it has

done so, where the notice or information may be found and how they may be accessed.

New paragraph (4) provides that a notice under Part II or under regulation 11 will be deemed to have been served for the purpose of any legal proceedings, on the second business day after it was sent or, if published on a website, on the second business day after notification is given of its publication.

New paragraph (5) provides that the recipient of such notices or information must notify the billing authority in writing of any change in their electronic address.

New paragraphs (6) and (7) respectively provide for the recipient to withdraw their agreement to accepting electronic service of such documents or to accessing such documents on a website.

This Order also amends the Non-Domestic Rating (Collection and Enforcement) (Central Lists) Regulations 1989 in relation to Wales.

Article 6 inserts new definitions into regulation 2 and article 7 replaces regulation 3. New regulation 3(1) allows the notices which are required to be served by the Welsh Ministers (in particular demand notices under regulation 4 and further demand notices under regulation 8) to be served electronically. If a ratepayer does not specify an address for electronic service, the ratepayer will continue to receive notices in paper form. Paragraphs (3) and (4) of new regulation 3 provide that the recipients of electronic notices must notify the Welsh Ministers in writing of any change in their electronic address and that they may withdraw their agreement to accepting electronic service.

The Council Tax (Administration and Enforcement) Regulations 1992 are amended in a similar way to the 1989 Regulations by article 9 which inserts new definitions into regulation 1 and by article 10 which adds new paragraphs (4) to (8) to regulation 2.

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COUNCIL TAX, WALES
RATING AND VALUATION,
WALES

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

Made 01 October 2009

Laid before the National Assembly for Wales

06 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

(1) See section 10(5) of the Electronic Communications Act 2000 (c.7).

of the Electronic Communications Act 2000⁽¹⁾ and now vested in them⁽²⁾ 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.

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⁽³⁾ 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⁽⁴⁾ in England and Wales;

(1) 2000 c.7.

(2) 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.

(3) S.I. 1989/1058 to which there are amendments not relevant to this Order.

(4) 1971 c.80.

“demand notice regulations” means the Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993⁽¹⁾;

“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⁽²⁾;

(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 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—

(1) S.I. 1993/252.
(2) 2003 c.21.

- (aa) the publication of the document on a website;
- (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(1) 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

(1) S.I. 1989/2260.

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(1) in England and Wales;”;
- (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(2);
 - (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—

- (a) in the case of a body corporate, by addressing the notice or information to the secretary of the body and—
 - (i) delivering it to the secretary,
 - (ii) leaving it at or sending it by post to the secretary at the registered or principal office of the body, or
 - (iii) sending it to the secretary by electronic communication to such address as may be notified by the secretary for that purpose; and
- (b) in any other case, by—
 - (i) delivering the notice or information to the person,
 - (ii) leaving it at or sending it by post to the person at that person’s last place of abode or an address given by that person at which service will be accepted, or
 - (iii) sending it to the person by electronic communication to such an address as may be notified by that person for that purpose.

(1) 1971 c.80.
(2) 2003 c.21.

(2) For the purpose of any legal proceedings, a notice given by the means described in paragraph (1)(a)(iii) or (b)(iii), unless the contrary is proved, is treated as served on the second business day after it was sent.

(3) A person who has notified an address for the purpose of paragraph (1)(a)(iii) or (b)(iii) must, by notice in writing to the Welsh Ministers, advise the Welsh Ministers 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 Welsh Ministers.

(4) A person who has notified an address for the purpose of paragraph (1)(a)(iii) or (b)(iii) may, by notice in writing to the Welsh Ministers, withdraw that notification; and the withdrawal takes effect on the third business day after the date on which the notice is received by the Welsh Ministers.

(5) Where a company registered outside the United Kingdom has an office in the United Kingdom, that office is treated for the purpose of paragraph (1)(a)(ii) as its principal office, and where it has more than one office in the United Kingdom its principal office in the United Kingdom is treated as its principal office for that purpose.”.

Amendment of the Council Tax (Administration and Enforcement) Regulations 1992

8. The Council Tax (Administration and Enforcement) Regulations 1992⁽¹⁾ are amended in accordance with articles 9 and 10 below.

9.—(1) Regulation 1 (citation, commencement and interpretation) is amended as follows.

(2) In paragraph (2) 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⁽²⁾ in England and Wales;

“electronic communication” means a communication transmitted (whether from

(1) S.I. 1992/613 to which there are amendments not relevant to this Order.
(2) 1971 c.80.

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⁽¹⁾;

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

(3) In paragraph (2), in the definition of “demand notice regulations” after the words “as is mentioned in paragraph 2(4)(e)” insert “or 2(4)(j)”.

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

(2) After paragraph (3) insert—

“(4) Without prejudice to section 233 of the Local Government Act 1972 and paragraphs (1), (2) and (3) above and subject to paragraphs (5) to (8) 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, III or V of these Regulations or by Regulation 33, or any information required by the demand notice regulations to be supplied to any person when a demand notice (within the meaning of Part V 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 to be treated as given, served or supplied to that person where—

(i) the billing authority and that person have agreed for that purpose that any document containing that 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 that purpose between that person and the billing authority, of—

(1) 2003 c.21.

- (aa) the publication of the document on a website;
- (bb) the address of that website; and
- (cc) the place on the website where the document may be accessed.

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

- (a) it was sent in accordance with paragraph (4)(a); or
- (b) notification of its publication was given in accordance with paragraph (4)(b)(iv).

(6) A person who has notified an address for the purpose of paragraph (4)(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.

(7) A person who has notified an address for the purpose of paragraph (4)(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.

(8) A person who has entered into an agreement with the billing authority under paragraph (4)(b)(i) may, by notice in writing to the billing authority, inform the authority that they no longer wish to be party to the agreement; and where such notice is given, the agreement must be treated as revoked on the third business day after the date on which the notice is received by the billing authority.”.

Brian Gibbons

Minister for Social Justice and Local Government, one
of the Welsh Ministers

01 October 2009