
STATUTORY INSTRUMENTS

2003 No. 404

**The Building Societies Act 1986
(Electronic Communications) Order 2003**

Electronic transmission of notices and statements in connection with a members' resolution

16.—(1) In Schedule 2 to the 1986 Act, paragraph 32 (members' resolutions: supplementary provisions) is amended as follows.

(2) After sub-paragraph (2) insert—

“(2A) Sub-paragraph (2B) applies where, in a case in which a society gives notice in accordance with paragraph 22A or 22B of this Schedule of the annual general meeting at which a resolution is intended to be moved, the notice of the resolution and the copy of a statement in respect of the resolution that are required to be sent to a member under paragraph 3 1 (1)(a) or (b) are not transmitted or published at the same time as the notice.

(2B) The requirement of sub-paragraph (2) to send a member his notice of the resolution and his copy of a statement in the same manner as the notice of the annual general meeting is satisfied if—

- (a) a notice of the resolution and a copy of the statement are made available to the member in the same way as the notice; or
- (b) such a notice and such a copy (without being made available to the member in that way) are sent to the member in a manner set out by the society for the purpose in the notice.

(2C) Where a notice of a resolution and copy of a statement are sent to a member electronically under sub-paragraph (2B), they must be sent to an electronic address notified by the member for the purpose.

(2D) The requirements of sub-paragraph (2) or (2B)(a) are satisfied by the publication of a notice of the resolution and a copy of the statement on a web site only if—

- (a) the notice of the annual general meeting at which the resolution is intended to be moved is a notice given to that member by being published on a web site;
- (b) an agreement between the society and the member to his accessing information on a web site applies to the notice of a resolution and copy of a statement for the meeting in question;
- (c) the member is notified, in a manner agreed between the society and the member, of—
 - (i) the publication of the notice of a resolution and copy of a statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the notice and copy may be accessed, and how they may be accessed;

- (d) the notification for the purposes of paragraph (c) is given no later than the day after the date on which the notice of a resolution and the copy of a statement are first capable of being accessed on the notified web site;
 - (e) that date was the same as the date on which the notice of the annual general meeting was first capable of being accessed on a web site or (in a case to which sub-paragraph (2B)(a) applies) was as soon as practicable after that date;
 - (f) the notice of a resolution and copy of a statement are continuously published on the notified web site for a period beginning (so far as practicable) at the same time as the notices and statements are sent to members in accordance with sub-paragraph (2), and ending with the conclusion of the annual general meeting at which the resolution is moved.”.
- (3) After sub-paragraph (3) insert—
- “(3A) Where, in a case in which sub-paragraph (2D) is relied on for compliance with a requirement of sub-paragraph (2) or (2B)(a)—
- (a) a notice or copy published for a part, but not all, of the period mentioned in subparagraph (2D)(f), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings at the meeting.”.