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STATUTORY INSTRUMENTS

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**2003 No. 404**

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

**Electronic transmission of summary financial statement**

**6.—**(1) Section 76 of the 1986 Act (summary financial statement for members and depositors) is amended as follows.

(2) After subsection (8A)(1) insert—

“(8B) Where a copy of the summary financial statement or of the auditor’s report is required to be sent to a member under subsection (8)—

- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (8C) are satisfied.

(8C) The conditions of this subsection are satisfied in the case of a copy of a summary financial statement or auditor’s report if—

- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the summary financial statement or auditor’s report in question;
- (c) the member is notified, in a manner agreed between him and the society, of—
  - (i) the publication of the summary financial statement and (where applicable) the auditor’s report on a web site,
  - (ii) the address of that web site, and
  - (iii) the place on that web site where the statement and (where applicable) the report may be accessed, and how it may be accessed;
- (d) the notification given for the purposes of paragraph (c) is given not less than 21 days before the date of the annual general meeting at which the accounts and reports are to be considered; and
- (e) a copy of the statement and (where applicable) the report is published on the web site throughout a period beginning at least 21 days before the date of meeting.

(8D) Where, in a case in which subsection (8C) is relied on for compliance with a requirement of subsection (8)—

- (a) a copy of a summary financial statement or auditor’s report is published for a part, but not all, of the period mentioned in subsection (8C)(e), and

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(1) Subsection (8) was substituted together with subsection (8A), for subsection (8) as originally enacted by [S.I. 2001/2617](#), article 13(1), Schedule 3, Part II, paragraphs 131, 168(b).

- (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 or the officer to prevent or avoid,

the failure shall not invalidate the proceedings of the meeting at which the accounts and reports are considered, and no offence is committed under subsection (10) by reason of that failure.”.

- (3) After subsection (9) insert—

“(9A) Where a copy of the summary financial statement or of the auditor’s report is required under subsection (9)(a) to be sent to an individual who for the first time subscribes for shares in the society (“new subscriber”)—

- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that new subscriber for the purpose before or at the time when he subscribes for the shares; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (9B) are satisfied.

(9B) The conditions of this subsection are satisfied in the case of a copy of a summary financial statement or of an auditor’s report if—

- (a) before or at the time when he subscribes for the shares, the society and the new subscriber have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the summary financial statement or to the auditor’s report in question;
- (c) before or at the time when he subscribes for the shares, the new subscriber is notified, in a manner agreed between him and the society, of—
  - (i) the publication of the summary financial statement or auditor’s report on a web site,
  - (ii) the address of that web site, and
  - (iii) the place on that web site where that statement or that report may be accessed, and how it may be accessed; and
- (d) a copy of the summary financial statement or of the auditor’s report is published on that web site throughout a period beginning on the date on which the new subscriber is notified in accordance with paragraph (c) and ending no later than the date of the publication of the next summary financial statement.

(9C) Where a copy of the summary financial statement or of the auditor’s report is required to be sent to a member under subsection (9)(b)—

- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (9D) are satisfied.

(9D) The requirements of this subsection are satisfied in the case of a copy of a summary financial statement or of an auditor’s report if—

- (a) the society and that member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the summary financial statement or auditor’s report in question;

- (c) within the seven days specified in subsection (9)(b), the member is notified, in a manner agreed between him and the society, of—
  - (i) the publication of the summary financial statement or auditor's report on a web site,
  - (ii) the address of that web site, and
  - (iii) the place on that web site where the statement or report may be accessed, and how it may be accessed; and
- (d) a copy of the summary financial statement or of the auditor's report is published on that web site throughout a period beginning on the date on which the member is notified in accordance with paragraph (c) and ending no earlier than the date of the publication of the next summary financial statement.

(9E) Where, in a case in which subsection (9A)(b) or (9C)(b) is relied on for compliance with a requirement under subsection (9),

- (a) a copy of a summary financial statement or auditor's report is published for a part, but not all, of the period mentioned in paragraph (d) of subsection (9B) or (9D) (as the case may be), but
- (b) the failure to publish that copy of a statement or report throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society or the officer to prevent or avoid,

the failure shall not prevent the requirements of subsection (9) from being treated as fulfilled in relation to that copy of a statement or report, and no offence is committed under subsection (11) by reason of that failure.”.