
STATUTORY INSTRUMENTS

2003 No. 404

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

Inclusion of merger statement where the notice of a meeting is transmitted electronically

26.—(1) In Schedule 16 to the 1986 Act, in paragraph 4 (notification of proposals for merger: inclusion of merger statement with notice of meeting) after sub-paragraph (2) insert—

“(2A) Where a merger statement or a transfer proposal notification is required to be sent to a person in or with the notice of a meeting of the society under sub-paragraph (1) or (2)—

- (a) in a case where notice of a meeting is given electronically to a person in accordance with paragraph 22A of Schedule 2, the merger statement or transfer proposal notification may be sent to him electronically only if it is sent to the same electronic address and at the same time as the notice;
- (b) in a case where notice of a meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send the statement or notification shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.

(2B) The conditions of this sub-paragraph are satisfied in the case of a merger statement or transfer proposal notification if—

- (a) the society and that person 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 merger statement or transfer proposal notification in question;
- (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the meeting, it notifies him of—
 - (i) the publication of the merger statement or transfer proposal notification on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or notification may be accessed, and how it may be accessed; and
- (d) the statement or notification is published continuously on that web site throughout the period beginning when the person is notified in accordance with paragraph (c) and ending with the conclusion of the meeting.

(2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (1) or (2)—

- (a) a statement or notification is published for a part, but not all, of the period mentioned in sub-paragraph (2B)(d), 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,

that failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (2B) from being treated as fulfilled in relation to section 95(4)(c).”.

(2) Paragraph 6 of Schedule 16 to the 1986 Act shall become sub-paragraph (1) of that paragraph and, in that paragraph, after that sub-paragraph, insert—

“(2) Where, in a case in which paragraph 4(2A)(b) is relied on for compliance with a requirement under sub-paragraph (1) or (2) of paragraph 4(2)—

- (a) a merger statement or transfer proposal notification is published for a part, but not all, of the period mentioned in sub-paragraph (2B)(d), 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,

no offence is committed under this paragraph by reason of that failure.”.