
STATUTORY INSTRUMENTS

2003 No. 404

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

Electronic transmission of transfer statements or summaries to members

27.—(1) In Part I of Schedule 17 to the 1986 Act (transfers of business: supplementary provisions)(1), paragraph 4 is amended as follows.

(2) After sub-paragraph (1) insert—

“(1A) Where a transfer statement or transfer summary is required under sub-paragraph (1) to be sent to a member in or with the notice of the meeting of the society at which the requisite transfer resolutions are to be moved—

- (a) in a case where notice of that meeting is given to that member electronically in accordance with paragraph 22A of Schedule 2, the transfer statement or transfer summary 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 that meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send the statement or summary to that member shall also be treated as satisfied if the conditions set out in sub-paragraph (1B) are satisfied.

(1B) The conditions of this sub-paragraph are satisfied in the case of a transfer statement or transfer summary if—

- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the statement or summary in question;
- (c) at the same time and in the same manner as the society notifies that member of the publication of the notice of the meeting, it notifies him of—
 - (i) the publication of the statement or summary on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or summary may be accessed, and how it may be accessed; and
- (d) the statement or summary is published continuously on that web site throughout the period beginning when the member is notified in accordance with paragraph (a) and ending with the decision of the Authority whether to confirm the transfer pursuant to section 98.

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

- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (1B)(d), but

(1) Part I was substituted, together with Part IA, for Part I as originally enacted by the Building Societies Act 1997 (c. 32), section 30(3), Schedule 5, Part I.

- (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 of a meeting or prevent the requirements of sub-paragraph (1B) from being treated as fulfilled in relation to section 98.”.

- (3) After sub-paragraph (2) insert—

“(2A) Where a transfer statement is required to be sent to a member under sub-paragraph (2)(b)—

- (a) it may be sent to him electronically only if it is sent to an electronic address notified by him to the society for the purpose;
- (b) the requirement to send it 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 transfer statement if—

- (a) the society and that member have agreed information which is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the transfer statement in question;
- (c) the society notifies the member forthwith, on receiving a request from him for such a statement, of—
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the statement may be accessed and how it may be accessed; and
- (d) that statement is published continuously on that web site for the period beginning with the giving of that notification and ending with the decision of the Authority whether to confirm the transfer pursuant to section 98.

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

- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (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,

the 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 98.”.