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STATUTORY INSTRUMENTS

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**2011 No. 593**

The Mutual Societies (Electronic Communications) Order 2011

PART 3

Friendly societies

*Ballots and proxies*

**Interpretation**

**18.** In section 116 of the 1992 Act (interpretation), insert at the appropriate place—

““ballot” means—

- (a) a postal ballot (within the meaning of paragraph 8 of Schedule 12),
- (b) an electronic ballot (within the meaning of paragraph 8A of that Schedule), or
- (c) a combined ballot (within the meaning of paragraph 8B of that Schedule);”.

**Electronic communications in postal ballots**

**19.**—(1) Paragraph 8 of Schedule 12 to the 1992 Act (postal ballots) is amended as follows.

(2) In sub-paragraph (1), omit “in this Act “ballot” or”.

(3) After sub-paragraph (1) insert—

“(1A) The rules of a friendly society or registered branch may also make provision in relation to the use of electronic communications in the conduct of a postal ballot.”.

(4) After sub-paragraph (4) insert—

“(4A) A friendly society or registered branch is to be regarded as giving notice of a postal ballot for the purposes of this paragraph if it makes the notice available to a member on a website; and the end date for the purposes of section 119AB(4)(b) is the voting date.

(4B) A notice given in accordance with sub-paragraph (4A) is to be treated as given to the member on the day the member is notified in accordance with section 119AB(3).

(4C) If the notice of postal ballot is absent from the website for part of the period referred to in section 119AB(4), and the absence is disregarded for the purposes of section 119AB(5), that absence does not invalidate the postal ballot.

(4D) If a notice of postal ballot includes an electronic address for the society or registered branch, the address is to be regarded as one to which a completed voting paper, or other documents or information relating to the ballot may be sent; but that is subject to such conditions or restrictions as the notice specifies, and any express provision to the contrary made in the rules of the society or branch.”.

## **Electronic ballots and combined ballots**

20. After paragraph 8 of Schedule 12 to the 1992 Act (postal ballots) insert—

### **“Electronic ballots**

**8A.**—(1) The rules of a friendly society or registered branch may provide for the voting in an election of the committee of management or, where applicable, the secretary, or on any resolution (whether special or not) to be conducted in all, or any particular, circumstances by electronic ballot.

(2) An “electronic ballot”, in relation to such an election or resolution, means an electronic ballot taking place by virtue of those rules.

(3) A person is to be regarded as voting in an electronic ballot only if the following conditions are satisfied.

(4) The first condition is that the person—

- (a) has agreed (generally or specifically) that the society or branch may make a facility for registering a vote in the ballot available on a website, and
- (b) has not revoked that agreement.

(5) The second condition is that the society or branch has notified the person of—

- (a) the presence of the facility on the website;
- (b) the address of the website;
- (c) the place on the website where the facility may be accessed; and
- (d) how to access the facility.

(6) The third condition is that the facility is present on the website for the whole of the period—

- (a) beginning with the day on which the notification under sub-paragraph (5) is given, and
- (b) ending at the time which the society or branch specifies in the notice of the ballot as the final time for the registration of votes in the ballot.

(7) The fourth condition is that the person registers a vote in the ballot by using the facility.

(8) The notification given under sub-paragraph (5) must—

- (a) state that it concerns a notice of an electronic ballot on a specified matter, and
- (b) be given not less than 14 days before the final date for the registration of votes in the ballot.

(9) Notice of an electronic ballot must be given not less than 14 nor more than 56 days before the date which the society or branch specifies as the final day for the registration of votes in the ballot.

(10) Unless express provision to the contrary is made in the rules of a society or branch, sub-paragraphs (4) and (5) of paragraph 8 apply to a notice of an electronic ballot as they apply to a notice of a postal ballot.

(11) The rules of the society or branch may make provision as to the consequences of any irregularities occurring in the course of a ballot, including provision as to the validity of multiple votes cast by a member in the same election or on the same resolution.

(12) Unless express provision to the contrary is made in the rules of a society or branch, if the facility for registering a vote is absent from the website for part of the period referred

to in sub-paragraph (6), the absence is to be disregarded if it is wholly attributable to circumstances that it would not be reasonable to have expected the society or branch to prevent or avoid.

### **Combined ballots**

**8B.**—(1) The rules of a friendly society or registered branch may provide for the voting in an election of the committee of management or, where applicable, the secretary, or on any resolution (whether special or not) to be conducted in all, or any particular, circumstances by combined ballot.

(2) A “combined ballot”, in relation to such an election or resolution, means a postal ballot and electronic ballot taking place in accordance with those rules.

(3) The rules must, in particular, stipulate that no person entitled to vote in a combined ballot is permitted to do so in both the postal and the electronic ballot.

(4) Paragraph 8(2) to (5) applies to a combined ballot in so far as it involves a postal ballot.

(5) Paragraph 8A(3) to (12) applies to a combined ballot in so far as it involves an electronic ballot.”.

### **Consequential amendments**

**21.**—(1) In the following provisions of the 1992 Act for “instruments appointing proxies” substitute “appointments of proxies”—

- (a) paragraph 4(1)(b) of Schedule 12;
- (b) paragraph 7(1)(b)(ii) of Schedule 12;
- (c) paragraph 1(3)(b) of Schedule 15;
- (d) paragraph 4(b) of Schedule 15.

(2) In the following provisions of the 1992 Act, omit “postal”—

- (a) section 86(9)(b);
- (b) paragraph 1(2) of Schedule 11;
- (c) paragraph 7(2) and (3) of Schedule 12.

(3) In paragraph 7(1)(c) of Schedule 12 to the 1992 Act, after “ballot papers” insert “or, in the case of an electronic ballot, the section of the website on which in which the facility for registering a vote may be used”.