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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 election addresses**

**3.—(1)** Section 61 of the 1986 Act (directors: supplementary provisions as to elections, etc.) is amended as follows.

(2) After subsection (7) insert—

“(7A) Subsection (7B) applies where, in a case in which—

- (a) a society gives notice in accordance with paragraph 22A or 22B of Schedule 2 of the meeting at which the election is to be conducted;
- (b) a society gives notice of a postal ballot by which the election is to be conducted by sending it electronically to an electronic address; or
- (c) a society gives notice of an electronic ballot by which the election is to be conducted,

the copy of the election address or revised election address that is required to be sent to a member under subsection (7)(b) is not transmitted or published at the same time as the notice.

(7B) The requirement of subsection (7)(b) to send a member his copy of the election address or revised election address in the same manner as the notice is satisfied if—

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

(7C) Where a copy of an election address or revised election address is sent to a member electronically under subsection (7B), it must be sent to an electronic address notified by the member for the purpose.

(7D) The requirements of subsection (7)(b) or (7B)(a) are satisfied by the publication of a copy of the election address or revised election address on a web site only if—

- (a) the notice of the election meeting or of the electronic ballot 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 copies of election addresses or revised election addresses for the meeting or ballot in question;
- (c) the member is notified, in a manner agreed between him and the society, of—
  - (i) the publication of a copy of the address or revised address on a web site,
  - (ii) the address of that web site, and
  - (iii) the place on that web site where the copy may be accessed, and how it may be accessed;

- (d) the notification for the purposes of paragraph (c) above is given no later than the day after the date on which the copy of the election address or revised election address is first capable of being accessed on the notified web site; and
- (e) that date was the same as the date on which the notice of the election meeting or of the electronic ballot was first capable of being accessed on a web site or (in a case to which subsection (7B) applies) was as soon as practicable after that date;
- (f) a copy of the election address or revised election address is continuously published on the notified web site throughout the period beginning with the day on which it was first accessible on that site and ending with the voting date (within the meaning of section 60(17)).

(7E) Where, in a case in which subsection (7D) is relied on for compliance with a requirement under subsection (7)(b) or (7B)(a) above, nothing in subsection (9A) above shall invalidate the election of a director where—

- (a) a copy is published for a part, but not all, of the period mentioned in subsection (7D)(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 election of a director.”.