
STATUTORY INSTRUMENTS

2011 No. 593

The Mutual Societies (Electronic Communications) Order 2011

PART 4

Industrial and provident societies and credit unions

Use of name in electronic communications

- 22.**—(1) In section 5(6) of the 1965 Act⁽¹⁾ (name of society), after paragraph (d) insert—
- “(e) in all its business correspondence and documentation that takes electronic form;
 - (f) on all its websites.”.
- (2) In section 5(7) of the 1965 Act⁽²⁾—
- (a) in paragraph (b), for “or (d)” substitute “, (d) or (e)”; and
 - (b) after paragraph (c), insert—
 - “; or
 - (d) causes or authorises the appearance on the internet of a website such as is mentioned in subsection (6)(f) in which the society’s registered name is not mentioned in legible characters,”.
- (3) After section 5(7), insert—
- “(8) The references in this section and section 5A to a society’s websites include a reference to a section of another person’s website—
 - (a) which relates to the society, and
 - (b) which the society placed, or the placement of which the society authorised, on the other person’s website.”.
- (4) In section 5A(1) of the 1965 Act⁽³⁾ (display of charitable status), immediately after paragraph (d) omit “and” and after paragraph (e) insert—
- “(f) in all its business correspondence and documentation that takes electronic form; and
 - (g) on all its websites.”.
- (5) In section 5A(5) of the 1965 Act—
- (a) in paragraph (a), for “or (d)” substitute “, (d) or (f)”; and
 - (b) omit “or” immediately after paragraph (b); and
 - (c) after paragraph (c), insert—
 - “; or

(1) 1965 c.12; section 5(6) was amended by the Co-operatives and Community Benefit Societies Act 2003, section 5(3), (9), Sch.
(2) 1965 c.12; section 5(7) was amended by the Co-operatives and Community Benefit Societies Act 2003, section 5(4), (9), Sch.
(3) 1965 c.12; section 5A was inserted by the Co-operatives and Community Benefit Societies Act 2003, section 2.

- (d) causes or authorises the appearance on the internet of a website such as is mentioned in subsection (1)(g) in which the society's registered name is not mentioned in legible characters.”.

Electronic transmission of annual returns and group accounts

23.—(1) After subsection (5) of section 39 of the 1965 Act⁽⁴⁾ (annual returns), insert—

“(6) A society (“S”) is to be regarded as having supplied to a person (“P”) a copy of S’s latest return if each of the following conditions is satisfied.

(7) The first condition is that P—

- (a) has agreed (generally or specifically) that S may make the return available to P on a website, and
- (b) has not revoked that agreement.

(8) The second condition is that S has notified P of—

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

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

- (a) beginning with the day on which S sends P the notification referred to in subsection (8) or, if later, the day on which the return first appears on the website, and
- (b) ending on the day when that return ceases to be S’s latest return.

(10) If the return is absent from the website for part of the period referred to in subsection (9), the absence is to be disregarded if it is wholly attributable to circumstances that it would not be reasonable to have expected S to prevent or avoid.”.

(2) In section 13 of the 1968 Act⁽⁵⁾ (group accounts of industrial and provident societies), after subsection (7), insert—

“(8) Subsections (6) to (10) of section 39 of the Act of 1965 apply to the latest group accounts of an industrial and provident society as those subsections apply to a copy of the latest annual return of an industrial and provident society.”.

Inclusion of electronic address in register of members and officers

24. In section 44(1) of the 1965 Act (register of members and officers)—

- (a) in paragraphs (a) and (e), before “addresses” insert “postal”;
- (b) after subsection (1) insert—

“(1A) Where a member or officer has notified to the society an electronic address for the purpose of receiving notices or documents under this Act, the requirement under subsection (1) includes a requirement to secure that the register shows—

- (a) that electronic address; and
- (b) the purposes for which it has been notified.

⁽⁴⁾ 1965 c.12; there are amendments to section 39 not relevant to this Order.

⁽⁵⁾ 1968 c.55; section 13 was amended by S.I. 2001/2617 arts 4(1)(a), 13(1), Sch 1, Pt 1, Sch 3 Pt III paras 246, 255.

(1B) Where it appears to a society that an electronic address shown on the register pursuant to subsection (1) is no longer current, the society may remove that address from the register.”; and

(c) in subsection (5)(a), for “addresses” substitute “postal and electronic addresses”.

Registration provisions

25. In section 2(1)(b) and (2) of the 1965 Act(6) (registration), omit “printed”.

Form and delivery of documents to the Authority

26.—(1) In section 72 of the 1965 Act (the title to which becomes “Form, delivery and evidence of documents”), in subsection (1)(7), for “deposited” substitute “delivered”.

(2) After that section insert—

“Form etc. of electronic documents sent to the Authority

72A.—(1) The Authority may impose requirements as to the form, authentication and manner of delivery of documents sent electronically to the Authority under this Act.

(2) As regards authentication of a document sent to the Authority electronically, the Authority may—

- (a) require the document to be authenticated by a particular person or a person of a particular description;
- (b) specify the means of authentication;
- (c) require the document to contain or be accompanied by the name or registered number of the society to which it relates (or both).

(3) As regards the manner of delivery of a document sent electronically, the Authority may specify requirements as to the hardware and software to be used, and technical specifications (for example, matters relating to protocol, security, anti-virus protection or encryption).

(4) The power conferred by this section does not authorise the Authority to require documents to be delivered electronically.

(5) Requirements imposed under this section must not be inconsistent with requirements imposed by this Act or any other enactment with respect to the form, authentication and delivery of the document concerned.

(6) In this section, a document is sent electronically if it is sent by electronic means or in electronic form.”.

(3) In section 11(3) of the 1968 Act(8) (amendments relating to annual returns), for “section 72(1)” substitute “section 72(1) or 72A”.

(4) After section 14 of the 1968 Act (exemption from requirements in respect of group accounts), insert—

(6) 1965 c.12; subsections (1) and (2) were amended by S.I. 1996/1738 arts 3(1), 4(1) and S.I. 2001/2617 art 13(1), Sch 3, Pt III paras 214, 215(i).

(7) 1965 c.12; section 72(1) was substituted by S.I. 2001/3649, art 182.

(8) 1968 c.55; section 11(3) was amended by the Friendly Societies Act 1974, section 116, Sch 11 and by S.I. 2001/2617, art 13(1), Sch 3, Pt III, paras 246, 253(b).

“Form etc. of electronic documents sent to the Authority

14A. Section 72A of the Act of 1965 applies for the purposes of this Act as it applies for the purposes of that Act.”.

(5) In section 31(2) of the Credit Unions Act 1979⁽⁹⁾ (interpretation, etc), for “72 and 74” insert “72, 72A, 74 and 74A”.

Interpretation: communications

27.—(1) In section 74 of the 1965 Act (interpretation: general), in subsection (1)⁽¹⁰⁾, insert at the appropriate place—

““electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means.”.

(2) After that section insert—

“Meaning of “electronic form”, “by electronic means” etc.

74A.—(1) The following provisions apply for the purposes of this Act.

(2) A document or information is sent in electronic form if it is sent—

- (a) by electronic means (for example, by email or fax), or
- (b) by any other means while in electronic form (for example, sending a disk in the post).

References to electronic copy have a corresponding meaning.

(3) A document or information is sent by electronic means if it is—

- (a) sent initially and received at its destination by means of electronic equipment for the processing (which expression includes digital compression) or storage of data, and
- (b) entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

References to “electronic means” have a corresponding meaning.

(4) A document or information sent in electronic form must be sent in a form, and by a means, that the sender reasonably considers will enable the recipient—

- (a) to read it, and
- (b) to retain a copy of it.

(5) For the purposes of this section, a document or information can be read only if—

- (a) it can be read with the naked eye, or
- (b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

(6) The provisions of this section apply whether the provision of this Act uses the word “send” or uses other words (such as “deliver”, “furnish”, “issue”, “produce”, “provide” or “supply”) to refer to the sending of a document or information.”.

Electronic transmission of representations of retiring auditor

28. In section 6 of the 1968 Act (provisions as to resolutions relating to appointment and removal of auditors), after subsection (7) insert—

⁽⁹⁾ 1979 c. 34; section 31(2) was amended by S.I. 2001/2617, art 13(1), Sch 3, PtIV, paras 264, 289(a), Sch 4 and S.I. 2002/1555, art 7(1), (3).

⁽¹⁰⁾ 1965 c.12; there are amendments to section 74(1) not relevant to this Order.

“(7A) A society (“S”) is to be regarded as sending a member (“M”) a copy of the document containing the representations received by it for the purposes of subsection (7) (c) if each of the following conditions is satisfied.

(7B) The first condition is that M—

- (a) has agreed (generally or specifically) that S may make the document available to M on a website, and
- (b) has not revoked that agreement.

(7C) The second condition is that S has notified M of—

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

(7D) The third condition is that the document is present on the website for the whole of the period—

- (a) beginning when S sends M the notification referred to in subsection (7C) or, if later, when the document first appears on the website, and
- (b) ending 28 days after the later of the two dates referred to in paragraph (a).

(7E) If the document is absent from the website for part of the period referred to in subsection (7D), the absence is to be disregarded if it is wholly attributable to circumstances that it would not be reasonable to have expected S to prevent or avoid.”.