Draft Order laid before Parliament under section 104(5) of the Building Societies Act 1986 and section 2(2) of the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. xxxx

BUILDING SOCIETIES

The Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008

Made - - - -	*****
Coming into force - -	*29th June 2008*

A draft of this Order has been laid before Parliament in accordance with section 104(5) of the Building Societies Act 1986(**1**) and section 2(2) of the European Communities Act 1972(**2**) and approved by both Houses of Parliament.

The Treasury is a department designated(**3**) in relation to the conduct of the business of a building society, and the authorisation and regulation of the carrying on of business by building societies, and in relation to auditors and the audit of accounts.

The Treasury, in exercise of the powers conferred by section 104(1), (3) and (4) of the Building Societies Act 1986 and by section 2(2) of the European Communities Act 1972, make the following Order.

PART 1

INTRODUCTORY

Citation, commencement and application

1.—(1) This Order may be cited as the Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008.

(2) This Order comes into force on 29th June 2008.

(3) The modifications to the 1986 Act made by articles 3 to 6 and Schedules 1 and 2 apply only in relation to—

(**1**) 1986 c.53.
(**2**) 1972 c.68.
(**3**) S.I. 2001/3495 and S.I. 2007/1679.

(a) financial years beginning on or after 29th June 2008, and

(b) auditors appointed for those financial years;

and the 1986 Act shall have effect in relation to previous financial years, and auditors appointed for them, as if those modifications had not been made.

Interpretation

2. In this Order "the 1986 Act" means the Building Societies Act 1986.

PART 2

ACCOUNTS AND AUDIT

Disclosures relating to off-balance-sheet arrangements

3. After section 72K of the 1986 Act (disclosures about related undertakings required in notes to accounts)(**4**), insert—

"**Disclosures relating to off-balance-sheet arrangements required in notes to accounts**

72L.—(1) If in any financial year—

(a) a building society is or has been party to arrangements that are not reflected in its balance sheet, and

(b) at the balance sheet date the risks or benefits arising from those arrangements are material,

the information required by this section must be given in notes to the society's annual accounts.

(2) The information required is—

(a) the nature and business purpose of the arrangements, and

(b) the financial impact of the arrangements on the society.

(3) The information need only be given to the extent necessary for enabling the financial position of the society to be assessed.

(4) Where a building society is required to prepare consolidated group accounts, this section applies in relation to those accounts as if the undertakings included in the consolidation were a single building society.".

Disclosure of auditor remuneration

4.—(1) After section 72L of the 1986 Act (inserted by article 3), insert—

"**Disclosure of auditor remuneration required in notes to accounts**

72M.—(1) The information specified in Schedule 10C must be given in notes to a building society's annual accounts.

(2) The Treasury may, by order, modify the provisions of Schedule 10C.

(**4**) Section 72K was inserted by S.I. 2004/3380.

(3) An order under this section may—

(a) make consequential amendments of or repeals in other provisions of this Act;

(b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient;

(c) make different provision for different cases.

(4) The power to make an order under this section is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(5) In this section "modify" includes amend, add to or repeal.".

(2) In Schedule 10A to the 1986 Act (disclosures about directors, other officers and employees in notes to accounts)(**5**), omit paragraphs 11 and 12.

(3) Schedule 1, which inserts Schedule 10C into the 1986 Act, has effect.

Signature of auditor's report

5. For section 78A of the 1986 Act (signature of auditors' report)(**6**), substitute—

"**Signature of auditor's report**

78A.—(1) The auditor's report must state the name of the auditor and be signed and dated.

(2) Where the auditor is an individual, the report must be signed by him.

(3) Where the auditor is a firm, the report must be signed by the senior statutory auditor in his own name, for and on behalf of the auditor.

Senior statutory auditor

78B.—(1) The senior statutory auditor means the individual identified by the firm as senior statutory auditor in relation to the audit in accordance with the standards or guidance mentioned in section 504(1) of the Companies Act 2006.

(2) The person identified as senior statutory auditor must be eligible for appointment as auditor of the building society in question (see Chapter 2 of Part 42 of the Companies Act 2006).

(2) The senior statutory auditor is not, by reason of being named or identified as senior statutory auditor or by reason of his having signed the auditor's report, subject to any civil liability to which he would not otherwise be subject.

Names to be stated in copies of auditor's report filed or published

78C.—(1) The copy of the auditor's report sent to the Authority under section 81, and every copy of the auditor's report that is published by or on behalf of the society, must—

(a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or

(b) if the conditions in section 78D (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Authority in accordance with that section.

(**5**) Schedule 10A was inserted by S.I. 2004/3380.
(**6**) Section 78A was inserted by S.I. 2004/3380.

(2) For the purposes of this section a building society is regarded as publishing the report if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.

(3) If a copy of the auditor's report is sent to the Authority or published without the statement required by this section, an offence is committed by—

(a) the society, and

(b) every officer of the society who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Circumstances in which names may be omitted

78D.—(1) The auditor's name and, where the auditor is a firm, the name of the person who signed the report as senior statutory auditor, may be omitted from—

(a) the copy of the report sent to the Authority under section 81, and

(b) published copies of the report,

if the following conditions are met.

(2) The conditions are that the building society—

(a) considering on reasonable grounds that statement of the name would create or be likely to create a serious risk that the auditor or the senior statutory auditor, or any other person, would be subject to violence or intimidation, has resolved by an ordinary resolution that the name should not be stated, and

(b) has given notice of the resolution to the Authority, stating—

(i) the name of the society,

(ii) the financial year of the society to which the report relates, and

(iii) the name of the auditor and (where the auditor is a firm) the name of the person who signed the report as senior statutory auditor.".

Removal and resignation of auditors

6.—(1) In Schedule 11 to the 1986 Act (auditors: appointment etc)(**7**), after paragraph 6 insert—

"Removal of auditor on improper grounds

6A.—(1) Where an auditor of a building society is removed from office an application may be made to the High Court under this paragraph.

(2) The persons who may make such an application are—

(a) any member of the society who was also a member at the time of the removal;

(b) the Authority.

(3) If the court is satisfied that the removal was—

(a) on grounds of divergence of opinion on accounting treatments or audit procedures, or

(b) on any other improper grounds,

it may make such order as it thinks fit for giving relief in respect of the removal.

(**7**) Schedule 11 was amended by S.I. 2008/948.

(4) The court may, in particular—

(a) declare that any resolution of the society removing an auditor, or appointing a new auditor in his place, is void;

(b) require the directors of the society to re-appoint the auditor until the next general meeting of the society;

(c) give directions as to the conduct of the society's affairs in the future.".

(2) In that Schedule, after paragraph 8 insert—

"Duty of auditor to notify appropriate audit authority

8A.—(1) Where an auditor of a building society ceases for any reason to hold office, he must notify the appropriate audit authority.

(2) The notice must—

(a) inform the appropriate audit authority that he has ceased to hold office, and

(b) if the auditor resigns, be accompanied by a copy of the auditor's notice of resignation.

(3) The notice required by this paragraph must also be accompanied by a statement of the reasons for his ceasing to hold office unless—

(a) the auditor resigns, and

(b) the notice of resignation contains a statement under paragraph 7(2)(b).

(4) The auditor must comply with this paragraph—

(a) if the auditor resigns, at the same time as he deposits his notice of resignation at the principal office of the building society;

(b) in any other case, not later than the end of the period of fourteen days beginning with the date on which he ceases to hold office.

(5) A person ceasing to hold office as auditor who fails to comply with this paragraph commits an offence.

(6) If that person is a firm an offence is committed by—

(a) the firm, and

(b) every officer of the firm who is in default.

(7) A person guilty of an offence under this paragraph is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

Duty of building society to notify appropriate audit authority

8B.—(1) Where an auditor ceases to hold office before the end of his term of office, the building society must notify the appropriate audit authority.

(2) The notice must—

(a) inform the appropriate audit authority that the auditor has ceased to hold office, and

(b) be accompanied by—

(i) a statement by the society of the reasons for his ceasing to hold office, or

(ii) if the auditor resigns, and his notice of resignation contains a statement under paragraph 7(2)(b), a copy of that statement.