

Savings Bank Consolidation.

No. XI.

An Act to amend and consolidate the Law relating
to the Savings Bank of New South Wales.
[19th December, 1862.]

SAVINGS BANK
CONSOLIDATION.

WHEREAS it is expedient to amend and consolidate the Law relating Preamble.
to the Savings Bank of New South Wales Be it therefore
enacted by the Queen's Most Excellent Majesty by and with the advice and
consent of the Legislative Council and Legislative Assembly of New South
Wales in Parliament assembled and by the authority of the same as
follows :—

1. The Act seventeenth Victoria number twenty-four is hereby Repeal of
repealed 17 Vic. No. 24. Provided that the said repeal or anything herein shall not
prejudice the establishment of the Savings Bank of New South Wales or
of the "Trustees of the Savings Bank of New South Wales" and herein-
after called the "Savings Bank" or the "Trustees" as the context may
require nor any rights privileges powers authorities property or estates
real or personal now held or possessed by the said Savings Bank or
Trustees or to which they are in anywise entitled nor affect or interfere
with any of the present Trustees or with the present Managing Trustee
Accountant or other officers of the Savings Bank otherwise than is
herein expressly enacted nor annul invalidate or prejudice in any manner
any act deed matter or thing lawfully done or executed under the
authority of the said repealed Act.

2. All land now or hereafter belonging to the Savings Bank for Lands vested in
any estate as or in the nature of a security or otherwise or in or to which Trustees with power
the said Bank is or shall be in any way interested or entitled by virtue of to take hold and
any mortgage release grant or otherwise howsoever and in the name or convey.
names of whomsoever the same respectively now do or shall or may stand
or be held in trust for or on behalf of the Savings Bank shall be held to be
vested in law in the Trustees as such body corporate and all land
intended to be conveyed assigned or assured to the Savings Bank shall be
conveyed assigned and assured to the Trustees and their successors as a
body corporate for such estate as in any deed or indenture expressed or
thereby intended to be conveyed and all such land shall be to the use of
the Trustees and their successors but for the benefit of the depositors in
the Savings Bank And the Trustees and their successors may take and
hold sell exchange let convey reconvey assign reassign surrender assure
reassure and otherwise dispose of as and in the nature of a body corporate
unrestrained in point of alienation all such land and also all other land
belonging to the Savings Bank Provided that all such conveyances
reconveyances assignments and reassignments surrenders assurances and
reassurances of land shall be executed by the Trustees under their common
seal in the presence of one of the Trustees Provided also that the same
shall not operate by virtue of such execution until one of the Trustees
shall have attested such execution and also that if any consideration
money be expressed therein the Managing Trustee or Accountant shall
have certified upon the said instrument under his hand that such con-
sideration money has been duly paid Provided further nevertheless that
the receipt in writing of any one of the Trustees together with the
Managing Trustee or the Accountant for any sum of money receivable by
the Savings Bank or the Trustees for the redemption of any mortgage
shall to all intents and purposes and as against all parties be an effectual
discharge at law and in equity for the money expressed to have been so
received.

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Securities and personal property vested in Trustees for depositors.

3. All bonds mortgages warrants of attorney and other securities at any time heretofore taken in the name of the Vice-President of the Savings Bank for and on account of the same shall and may be put in suit and may be sued and prosecuted at law or in equity in the name of "The Trustees of the Savings Bank of New South Wales" and all such bonds mortgages and other securities and also all bonds mortgages and other securities hereafter taken by the Trustees on account of the Savings Bank or the depositors therein and all moneys goods chattels property and effects whatsoever belonging to or vested in or held by the Savings Bank or the Vice-President or the Trustees or any other person whomsoever on behalf of the Savings Bank or by the depositors therein shall be vested in and held and possessed by the Trustees as such corporate body as aforesaid.

Governor to be President.
Bank to be managed by Trustees appointed by Governor.

4. The Governor shall continue to be President of the Savings Bank and the whole affairs and business thereof shall continue to be managed by the Trustees the number of whom shall not exceed eighteen and of whom one shall be Vice-President And all such Trustees shall be appointed and such Vice-President named by the Governor with the advice of the Executive Council and such appointments and nomination shall be notified in the *Gazette*.

Disqualification as Trustee.

5. No person shall be qualified to take or hold the office of a Trustee or District Trustee under this Act who shall become a bankrupt or insolvent within the provisions of any Act for the relief of insolvent debtors or who shall compound with his creditors or make any assignment of his property in trust or otherwise for their benefit And any Trustee who shall be absent from the Meetings of Trustees for more than six months consecutively without leave of the Trustees shall thereby become disqualified from holding his office of Trustee.

Managing Trustee.

6. It shall be lawful for the Trustees at a meeting convened solely for the purpose to nominate to the Governor and for the Governor with the advice aforesaid to appoint some fit person to be Managing Trustee who unless already a Trustee shall become an additional Trustee and a member of the corporate body but shall not vote on any question affecting his personal interests.

Four Trustees to be a quorum.

7. Every act (except as herein otherwise enacted) which the Trustees are authorized or required to do by or under this Act may be done by any four Trustees assembled at any duly convened meeting of the Trustees and not otherwise.

Chairman.

8. At every meeting of the Trustees the Vice-President or in his absence the Trustee then present whose appointment shall have been first in date or order shall be Chairman and such Chairman shall in addition to his vote as Trustee have a casting vote in case of an equality of votes.

Trustees &c. not to deposit or borrow.

9. It shall not be lawful for any Trustee or other person in any way concerned in the management of the Savings Bank to deposit therein or to borrow therefrom any money nor shall any Trustee except the Managing Trustee as such receive directly or indirectly any salary or emolument whatever from the funds of the Savings Bank.

Accountant Clerks &c. to be appointed.

10. It shall be lawful for the Trustees to appoint an Accountant of the Savings Bank in Sydney and such Tellers Clerks and other subordinate officers as the Trustees shall deem necessary for the due conduct of the affairs and business of the Savings Bank.

Managing Trustee and Accountant to give security.

11. The Managing Trustee Accountant and such other officers of the Savings Bank as the Trustees may require shall before acting in their respective offices give security for the due and faithful discharge of the duties thereof in a bond to the Trustees with such sureties and in such penal sum as shall be fixed by the Trustees.

Notice of meetings.

12. One clear day's notice at least of every meeting of the Trustees shall be given to all the Trustees by circular letter to be addressed by the Managing Trustee or the Accountant to all the other Trustees

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Trustees respectively at their usual offices or places of abode which letters may be transmitted by post And whenever it is intended to appoint or nominate any person to any office or to fix the amount of any salary or to advance or invest money on any security such intention shall be expressed in the notice.

13. It shall be lawful for the Trustees to fix such yearly salaries to be paid to the Managing Trustee Accountant Clerks and other officers respectively as they shall think fit regard being had to their respective duties and responsibilities And all such salaries and also all charges and expenses in the conduct and management of the affairs and business of the Savings Bank incurred under the sanction of the Trustees or which shall be approved of by them shall be defrayed and paid by the Trustees out of the interest or dividends received by them on moneys invested in any manner herein provided.

Salaries to be fixed by the Trustees and paid as other charges of management out of interest or dividends.

14. It shall be lawful for the Trustees to make or alter any regulations (all lawfully subsisting rules and regulations in the meantime remaining in force) for the conduct and management of the affairs and business of the Savings Bank as they shall deem expedient And every such new or altered regulation shall have the force of law when approved by the Governor with the advice aforesaid and published in the *Gazette*.

Regulations to be framed.

15. All regulations when so approved shall be transcribed on parchment and deposited with the Prothonotary or Chief Clerk of the Supreme Court who shall without fee or reward file and preserve the same among the records of the said Court and all depositors in the Savings Bank and their representatives shall upon such filing be deemed in law to have full notice thereof and every transcript so deposited or a certified copy thereof shall be received in all Courts of Justice as evidence of the rules and regulations therein contained.

To be recorded in Supreme Court.

16. It shall be lawful for the Managing Trustee or any other officer of the Savings Bank whom the Trustees may appoint for that purpose at such time and place as shall be fixed by any such regulation and at no other time or place to receive from any person by way of deposit any sum of money not being less than one shilling nor more whether by one or by successive payments than two hundred pounds to the credit of any one account except as herein otherwise provided and every sum of money so received shall be immediately entered in the books to be kept for that purpose and placed to the credit of the depositor or of such other person as he may appoint and every such deposit and all other money received into the Savings Bank shall at the end of each day be paid into such Bank in Sydney or into one of such several Banks in Sydney as shall be appointed by the Trustees to receive moneys and shall be there placed to the credit of the Savings Bank to an account intituled "Account of the Trustees of the Savings Bank of New South Wales" and no money paid into such Bank shall be withdrawn without the written order of two or more Trustees countersigned by the Managing Trustee or in his absence by the Accountant.

Deposits.

17. It shall be lawful for the Trustees to deposit any portion of the funds of the Savings Bank in the Colonial Treasury upon such terms and subject to such conditions as shall be agreed upon between the Governor with the advice aforesaid and the Trustees—or to deposit any portion of the like funds in any Bank in the Colony at such rate of interest if interest can be obtained for the same as may be agreed upon between the Directors of such Bank and the Trustees—or to invest any portion of the like funds in the purchase of or by way of loan upon the security of any debentures or other forms of security issued or granted by the Government of this Colony and secured upon the Consolidated Revenue Fund or any public debt contracted under Legislative authority by or on behalf of such Government—or upon any shares or other securities bearing a fixed rate of interest guaranteed by such

Investments in Colonial Treasury Banks or Public or Municipal Securities.

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Government either permanently or until payment of an ascertained principal sum—or upon the security of debentures lawfully issued by the Municipal Council of Sydney or by any Municipality legally established.

Investments on mortgage of land.

18. It shall be lawful for the Trustees to lend any portion of the like funds upon mortgage of any land in the Colony of an estate of inheritance in fee simple free from all charges and incumbrances. Provided that no loan upon mortgage as aforesaid shall exceed the amount of eight thousand pounds to any one person and that not more than one half of the whole moneys deposited in the said Bank shall be lent on such mortgages as aforesaid. And all land so mortgaged shall be conveyed or assured to the Trustees as such corporate body as aforesaid in fee simple subject to the usual proviso for redemption reconveyance or reassurance on payment of principal and interest and with power to insure and with the usual power of sale in default of payment of principal or interest.

Investments on Bank Bills.

19. It shall also be lawful for the Trustees to purchase with any portion of the like funds not exceeding one fourth part thereof any Bills of Exchange drawn by any Bank within the Colony duly chartered or incorporated or regulated by Imperial or Colonial Act upon any Bank or agent in Great Britain. Provided that such Bills by reason of the discount thereon shall offer a profitable investment of such funds and that proper measures shall be adopted by the said Trustees for the return to the Colony of the proceeds of every such Bill so soon as the same shall have been realized.

Representatives of officers to pay money due to Savings Bank before any other debts.

20. If any person now or hereafter holding any office in the Savings Bank or any branch thereof and having in his possession or power any money or effects belonging thereto or any deed or security relating to the same shall become insolvent under any Act for relief of insolvent debtors or shall make any assignment of his property for the benefit of his creditors or against whose land goods chattels or effects any execution attachment or other process shall have issued or if any such officer shall die any two of the Trustees may apply to such officer or his assignee or to the Sheriff or other person executing such process or to his executors or administrators or to any other person having legal right as the case may require and may demand that all such moneys or effects deeds securities or papers belonging to the Savings Bank shall be paid over or delivered up to the Trustees or such person as they shall appoint and the party so applied to and having the same shall on such demand deliver over to the Trustees or to any person whom they may appoint to receive the same all effects or other things belonging to the Savings Bank and all deeds securities or papers relating to the same or belonging to the said Bank and shall pay out of the estate assets or effects of such officer all money due by such officer to the said Bank before any other of the debts of the said officer are paid or satisfied and before the money directed to be levied by such process as aforesaid is paid over to the party issuing the same and all assets land goods chattels estate and effects of such officer shall be bound to the payment and discharge thereof accordingly.

Trustees to lay annual account and balance sheet before the Governor.

21. The Trustees shall within one month after the close of every year cause an account and balance sheet to be prepared containing a true statement of the deposits in the Savings Bank at the end of the past year and of the money at that period remaining in any such chartered or incorporated or regulated Bank as aforesaid to the credit of the Savings Bank and of all sums of money due to the Trustees and they shall certify to the best of their belief the correctness of the said account and balance sheet under their hands and shall within three days thereafter lay the same before the Governor and shall cause the same after being approved by him with the advice aforesaid to be published in the *Gazette*.

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22. Every person who shall have deposited any sum of money not less than twenty shillings in the Savings Bank or the person on whose account any such deposit may have been made and to whose credit it is placed in the books of the Savings Bank shall be entitled to receive interest upon the same at the rate to be from time to time fixed by the Trustees and it shall be in the power of the Trustees to limit the interest so as not to be payable on the surplus of any account exceeding one hundred pounds. Provided that interest shall not be allowed on any sum less than one pound nor on odd shillings or pence and that the interest shall be calculated by months omitting odd days and the Trustees shall pay such interest out of the interest received by them on sums which they shall have lent out and such interest shall subject to the regulations aforesaid be added to and incorporated with the sum which may be then standing in the books of the Savings Bank to the credit of the depositor.

Rate of interest on deposits.

23. Out of the profits of the business of the Savings Bank the Trustees shall annually set apart such sums not being less than one-twentieth nor more than one-fifth part of the whole amount of interest produced during the year as they may think proper towards the establishment of a Rest or Security Fund for the purpose of equalizing the rate of interest and meeting any loss or deficiency which may occur.

Rest or Security Fund.

24. Any person being the depositor or owner of any sum of money deposited in the Savings Bank or the interest thereof or any person duly authorized by any such depositor or owner or his executors or other lawful representatives may claim and receive back such sum of money or any part thereof in the manner and upon the conditions following that is to say—If the sum so required to be repaid shall not exceed five pounds the claimant thereof shall on some day appointed for the meeting of the Trustees deliver or cause to be delivered to the Managing Trustee or Accountant a notice signed with his name declaring his intention to withdraw such sum from the Bank at the expiration of seven days from the date of the said notice and if the sum to be withdrawn shall exceed five pounds but be not more than twenty pounds then fourteen days like notice shall in like manner be given and a like notice of twenty days when the sum to be withdrawn shall exceed twenty pounds and a like notice of thirty days for any larger amount. Provided that the Trustees may in their discretion dispense with any such notice.

Conditions on which deposits to be withdrawn.

25. It shall be lawful for the Trustees to borrow and for the Governor with the advice aforesaid to guarantee the repayment of any money the loan of which it may at any time become necessary for the said Trustees to negotiate in order to meet the demands of depositors. Provided that no such loans outstanding at any time so guaranteed shall exceed the sum of fifty thousand pounds without the previous advice and consent of the Legislative Assembly.

Loan under Government guarantee.

26. In case of any sudden or unusual demand upon the funds of the Savings Bank the Trustees may subject to any charge which may have been created under the next preceding section borrow upon the security of the property and revenues of the said Bank or any part thereof from any person or body of persons any moneys for the purpose of meeting such demand upon such terms as may be mutually agreed upon.

Other loans to meet great emergencies.

27. In case the Trustees shall receive any deposit of money from or for the use and benefit of any person under the age of twenty-one years it shall be lawful for them to pay to such person the amount of such deposit and the interest thereon in the manner and upon the conditions hereinbefore specified in the case of other depositors and the receipt of such person shall be a sufficient discharge for any money so paid.

Infants may make deposits.

28. It shall be lawful for the Trustees by order of the Governor in writing under the hand of the Colonial Secretary to receive any deposit from

As to the deposits of prisoners.

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from or on behalf of any person serving under any sentence for a criminal offence and to allow interest thereon in like manner as on other deposits and to pay over to any such person the principal sum and interest thereon at the expiration or upon the remission of his sentence.

Funds of other Savings Banks or Societies &c. may be received.

29. It shall be lawful for the Trustees to receive in deposit any money heretofore or hereafter deposited in any other Savings Bank or from any Charitable Institution or any legally established Friendly or other Society within the Colony from the Treasurer or Trustees thereof or other officer competent to pay such money and to give credit in the books and accounts of the Savings Bank for the money so received to the institution to which the same shall belong and to pay interest for the same at such rate as the Trustees may determine and the receipt of such Treasurer Trustees or other officer in respect of any repayment thereof shall be a sufficient discharge to the Trustees.

Deposits of persons deceased under £100.

30. In case any depositor shall die leaving any money in the funds of the Savings Bank which with the interest thereon shall not exceed in the whole one hundred pounds and if the Trustees shall be satisfied that such depositor died intestate and that no letters of administration have been or will be taken out of his goods and chattels the Trustees may pay the same at any time after the decease of such depositor according to the regulations of the Savings Bank And in the event of there being no regulations in that behalf the Trustees may pay out of such money any debts of such deceased depositor and defray the expenses of his funeral so far as such money shall extend and may pay the surplus if any at their discretion to the person or amongst the persons who shall appear to the Trustees entitled to the effects of the deceased intestate or according to the Statute of Distributions.

Deposits of persons deceased exceeding £100.

31. In case any depositor in the funds of the Savings Bank shall die leaving any money in the said funds or there shall be any interest due thereon belonging to him at the time of his death exceeding in the whole the sum of one hundred pounds the same shall not be paid to any person other than a duly constituted executor or administrator of the deceased depositor Provided that if any payment be made from the funds of the Savings Bank by the Trustees as directed by the two next preceding sections and the party claiming or receiving the same shall afterwards be proved not to have been lawfully entitled to the same the Trustees shall be held indemnified as against the demand of any other person whomsoever Provided also that any lawful representative of such deceased depositor shall have remedy for the money so wrongfully paid against the person who shall have received the same.

Matters in dispute shall be referred to arbitration.

32. If any dispute shall arise between the Trustees or any person acting on behalf of the Savings Bank and any individual depositor therein or any executor or administrator next of kin or creditor of any deceased depositor or any person claiming in any such character the matter in dispute shall be determined by the arbitration of two indifferent persons one to be appointed by the Trustees and the other by the other party and in case such arbitrators shall not agree then by an umpire having no interest in such matter or in the Savings Bank who shall be nominated by the arbitrators before they commence the inquiry And the award order or determination of the said arbitrators or the said umpire shall be binding and conclusive on all parties and final to all intents and purposes any law or practice to the contrary notwithstanding.

No Trustee personally liable except for wilful neglect.

33. The Trustees and the District Trustees hereinafter mentioned shall not be answerable or accountable the one for any other of them but each only for himself and none of them for any banker broker or other person with whom or in whose hands or custody any part of the trust moneys of the Savings Bank may be deposited or lodged for safe custody or otherwise in the execution of the trusts hereby reposed in the Trustees and they shall not be answerable or accountable for the insufficiency or deficiency

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deficiency of any security in or upon which any moneys shall be placed out or invested or the defect of title or value of any land nor for any other misfortune loss or damage which may happen in the execution of the trusts hereby reposed in them or in relation thereto unless the same shall happen by or through their own wilful default respectively.

34. It shall be lawful for the Governor with the advice aforesaid from time to time as occasion may require to appoint District Trustees of the Savings Bank for such districts of the Colony as shall seem meet such appointments to be notified in the *Gazette* And it shall be the duty of such District Trustees to receive deposits in the Savings Bank and to transmit the same to the Trustees to be invested by them in the Savings Bank in Sydney for the benefit of the country depositors in like manner and subject to the same regulations as herein provided concerning other depositors Provided that such District Trustees shall not be members of the corporate body aforesaid.

Appointment of
District Trustees.

35. An Accountant or Clerk may be appointed by the Trustees in Sydney for each such District and every such Accountant or Clerk shall give reasonable security to the satisfaction of the Trustees in Sydney for duly accounting for such moneys of depositors as shall come to his hands and he shall in the presence and not otherwise of one or more of such District Trustees receive deposits from persons residing within his District at such times and places as the District Trustees shall appoint and give proper vouchers to the depositors signed by him and by any one of the District Trustees present at the receipt thereof And every such District Accountant or Clerk shall on the first post day in every month or oftener if directed by the Trustees in Sydney and in such manner as they shall appoint remit all sums of money so deposited to the Managing Trustee in Sydney together with an account verified by one or more of the District Trustees respectively of the names residences and descriptions of the depositors and of the sums received as aforesaid in order that such depositors may be entitled to the benefit of this Act And in case there shall be at the place of such deposit any Branch of any such chartered or incorporated or regulated Bank as aforesaid such Accountant or Clerk shall within twenty-four hours of the receipt of every such deposit pay the same into such Branch Bank to the credit of the District Trustees of his District.

Appointment of Dis-
trict Accountants.

36. Any free person being the owner of any sum of money deposited with any District Accountant or Clerk for transmission for his benefit to the Savings Bank in Sydney or any other person duly authorized by such depositor or his executor administrator or other lawful representative may claim and receive back such money or any part thereof in the manner following (that is to say) if the money so required to be repaid shall not exceed five pounds the claimant thereof shall on some day to be appointed by the District Trustees deliver or cause to be delivered to the District Accountant or Clerk a notice signed with his name declaring his intention to withdraw such money at the expiration of fourteen days from the date of such notice and if exceeding five pounds but not more than twenty pounds then twenty-one days' notice and when exceeding twenty pounds thirty days notice and upon receipt of such notice the District Accountant or Clerk shall forthwith transmit the same verified under the hand of one of the District Trustees to the Managing Trustee in Sydney in order that proper steps may be taken for the payment of the amount under deposit to the party lawfully claiming the same Provided that the District Trustees may in their discretion dispense with any such notice.

Withdrawing depo-
sits in country dis-
tricts.

37. Whenever any District depositor in the funds of the Savings Bank shall die leaving any money in the said funds or any interest due

Depositors in country
districts dying pos-
sessed of money in
the Bank.

Property Law Trustees and Mortgagees.

due thereon belonging to him at his death the same shall be paid only on the conditions hereinbefore provided concerning like cases of deposits in Sydney.

District Trustees to have no interest in the funds of the Bank.

38. No District Trustee shall be allowed to deposit any money in the Savings Bank or to borrow any money from or derive any benefit from any deposit made therein or receive directly or indirectly any salary allowance profit or emolument from the funds of the Savings Bank.

Charges of management in Districts.

39. The Trustees in Sydney may out of the funds of the Savings Bank defray any necessary charges of management in the several Districts aforesaid and remunerate the District Clerks or Accountants respectively.

Short title.

40. This Act shall be styled and may be cited as the "Savings Bank Consolidation Act of 1862."
