

CO-OPERATION, COMMUNITY  
SETTLEMENT, AND  
CREDIT ACT.

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Act No. 1, 1924.

An Act to amend the law relating to co-operation ; **George V,**  
to provide for the formation, registration and **No. 1.**  
management of co-operative societies, includ-  
ing rural societies, trading societies, com-  
munity settlement societies, community  
advancement societies, building societies,  
rural credit societies, urban credit societies,  
investment societies, and associations and  
unions of societies; to provide for an advisory  
council; and to repeal the Building and  
Co-operative Societies Act, 1901, and to  
amend the Income Tax (Management) Act,  
1912, and certain other Acts; and for pur-  
poses connected therewith. [Assented to,  
3rd January, 1924.]

George V,  
No. 1. **B**E it enacted by the King'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:—

## PART I.

## PRELIMINARY.

Short title  
and com-  
mencement.

**1.** (1) This Act may be cited as the "Co-operation, Community Settlement, and Credit Act, 1923."

(2) This Act shall commence and come into operation on the thirty-first day of December, one thousand nine hundred and twenty-three.

Division into  
Parts.

**2.** This Act is divided into Parts as follows:—

## PART I.—PRELIMINARY.

## PART II.—CO-OPERATIVE SOCIETIES.

DIVISION 1.—*Societies generally.*

DIVISION 2.—*Rural societies.*

DIVISION 3.—*Trading societies.*

DIVISION 4.—*Community settlement societies.*

DIVISION 5.—*Community advancement societies.*

DIVISION 6.—*Building societies.*

DIVISION 7.—*Rural credit societies.*

DIVISION 8.—*Urban credit societies.*

DIVISION 9.—*Investment societies.*

DIVISION 10.—*Associations and unions.*

## PART III.—INCORPORATION.

DIVISION 1.—*Registration.*

DIVISION 2.—*Members and funds.*

DIVISION 3.—*Privileges powers and duties.*

## PART IV.—RULES MANAGEMENT AND DISPUTES.

DIVISION 1.—*Rules.*

DIVISION 2.—*Management.*

DIVISION 3.—*Disputes.*

## PART V.—WINDING-UP AND CANCELLATION.

PART

PART VI.—EVIDENCE AND OFFENCES.

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DIVISION 1.—*Evidence.*

DIVISION 2.—*Offences.*

PART VII.—ADVISORY COUNCIL.

PART VIII.—ADMINISTRATION.

**3.** The Act mentioned in the First Schedule to this Act is to the extent therein expressed hereby repealed.

**4.** (1) Any alteration of the law by this Act, whether by the repeal of an enactment or otherwise, shall not, unless otherwise expressly provided by this Act, affect—

- (a) any right accrued, or obligation incurred before the commencement of this Act under the law so altered;
- (b) the validity or invalidity, or any operation, effect or consequence of any instrument executed or made, or of anything done or suffered before the commencement of this Act;
- (c) any action proceeding or thing pending or uncompleted at the commencement of this Act.

(2) Every such action proceeding or thing may be carried on and completed as if the enactment had not been repealed, or the law otherwise altered.

**5.** In the interpretation of this Act, unless the context or subject-matter otherwise indicates or requires—

“Agricultural implements and machinery” means implements machinery and plant for any rural industry.

“Agricultural products” means products of any rural industry.

“Board” means the board of directors of a society, and includes a committee of management of a society.

“Bond” includes debenture.

“Farming operations” means operations of any rural industry.

“Farming requisites” means requisites for any rural industry.

“Mortgage”

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- “Mortgage” includes lien, charge or other security over property.
- “Officer” includes director, secretary, treasurer, or other person empowered under the rules to give directions in regard to the business of a society.
- “Prescribed” means prescribed by this Act or by regulation.
- “Registrar” means the registrar of co-operative societies under this Act.
- “Regulation” means regulation made under this Act.
- “Rule” means registered rule of a society for the time being in force.
- “Rural industry” means the cultivation or use of land for any agricultural, pastoral, dairying or rural purpose.
- “Society” means a society registered under this Act, and includes an association or union so registered.

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## PART II.

### CO-OPERATIVE SOCIETIES.

#### DIVISION I.—*Societies generally.*

Societies.

6. (1) A society may be formed as a society for promoting the economic or social interests of its members, or as an association or union for facilitating the operations of such societies, that is to say, a society may be formed as a society association or union of any one of the following kinds:—

- (a) a rural society;
- (b) a trading society;
- (c) a community settlement society;
- (d) a community advancement society;
- (e) a building society;
- (f) a rural credit society;
- (g) an urban credit society;
- (h) an investment society;
- (i) an association of co-operative societies;
- (j) a union of co-operative associations.

(2)

(2) A society so formed shall be deemed to be a co-operative society and to have all the privileges powers rights and duties by any law conferred or imposed on co-operative societies.

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(3) A society so formed may promote co-operation for the improvement of conditions of rural or urban life, and encourage and assist in the formation of co-operative societies.

DIVISION 2.—*Rural societies.*

**7.** (1) A rural society may be formed for all or any of the following objects:—

Objects.  
S. Af. 1922,  
No. 28, s. 4.

- (a) to dispose of the agricultural products or live stock of its members or other persons ;
- (b) to manufacture or treat the agricultural or live stock products of its members or other persons, and to dispose of the products so manufactured or partly manufactured ;
- (c) to purchase or otherwise acquire on behalf of and to supply to its members or other persons agricultural implements and machinery, live stock, fodder, seeds, fruit trees, fertilisers, and other farming requisites ;
- (d) to manufacture treat or conserve fodder, fertilisers or other farming requisites for supply to its members or other persons ;
- (e) to purchase hire or otherwise acquire, and to work on behalf of its members or other persons agricultural implements or machinery ;
- (f) to purchase hire or otherwise acquire, and to use and control on behalf of its members or other persons breeding stock ;
- (g) to purchase or otherwise acquire, and manufacture or treat and dispose of agricultural or live stock products and farming requisites ;
- (h) to purchase or otherwise acquire household requisites for supply to its members or other persons ;
- (i) to provide cold storage for the products of its members or other persons ;

(j)

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- (j) to carry on orchard spraying or cleansing, ploughing, and other farming operations for its members or other persons ;
- (k) to engage competent persons to carry out any of its objects and to give instruction and advice to its members on farming operations ;
- (l) to acquire and distribute information as to agriculture and the best manner of carrying on farming operations profitably ;
- (m) to acquire and distribute information on the markets of the world, and on co-operation in general ;
- (n) to erect and maintain buildings and factories for any objects of the society ;
- (o) to engage employees for its members or other persons ;
- (p) to purchase or otherwise acquire goods and sell products on behalf of its members or other persons ;
- (q) to arrange insurance on behalf of its members or other persons ;
- (r) to do anything that a community advancement society may do ;
- (s) to do all such things calculated to promote the economic interests of the members of the society in relation to the objects mentioned in this section, as may be prescribed by regulation.

(2) For the purposes of subsection one of this section, unless otherwise provided in the rules of a society—

“to dispose of,” in relation to the agricultural products or live stock of members or other persons ;

“to purchase, hire, or otherwise acquire,” in relation to agricultural implements and machinery, live or breeding stock, fodder, seeds, fruit trees, fertilisers, and other farming requisites,

shall include receiving and storing, grading and packing, establishing agencies in the State and elsewhere, arranging freight, shipping, and insurance, arranging transport by land, entering into contracts, and guaranteeing the performance of members' obligations under contract.

(3)

(3) Where any of the objects of a rural society are such dealings as are described in this section, similar dealings with other rural societies shall be deemed to be included among its objects. George V,  
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8. The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may— Powers,  
*Ibid.* s. 4.

- (a) raise money on loan for any objects of the society ;
- (b) receive money on deposit ;
- (c) acquire by purchase or otherwise shares in any other society ;
- (d) make advances to its members or other persons against products delivered to the society.

DIVISION 3.—*Trading societies.*

9. (1) A trading society may be formed for all or any of the following objects :— Objects.  
*Ibid.* s. 5.

- (a) to carry on any business trade or industry specified in or authorised by its rules, whether wholesale or retail ;
- (b) to acquire and distribute information as to the markets of the world, and as to co-operative trading in general ;
- (c) to establish agencies in the State and elsewhere for any objects of the society ;
- (d) to do all such other things calculated to promote the economic interests of the members of the society in relation to the objects mentioned in this section, as may be prescribed by regulation.

(2) In particular, the buying and selling of land, the working of mines and quarries, timber-getting and fishing shall be deemed to be a trade or industry within the meaning of this section. 1902, No. 17,  
s. 33.

(3) It shall not be competent for a trading society to dispose of the agricultural products or live stock of any of its members in the manner provided in this Act for the disposal by a rural society of the agricultural products or live stock of the members of a rural society.

(4) Nothing in this section shall be deemed to prevent a trading society from purchasing from any of its

**George V,** its members or any other person agricultural products  
**No. 1.** or live stock, or from selling agricultural products or  
 live stock so purchased.

Powers.

S. Af. 1922,  
 No. 28, s. 5.

**10.** The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may—

- (a) raise money on loan for any objects of the society ;
- (b) receive money on deposit ;
- (c) acquire by purchase or otherwise shares in any other trading society ;
- (d) make advances to its members against products delivered to the society.

#### DIVISION 4.—*Community settlement societies.*

Objects.

**11.** A community settlement society may be formed for the object of acquiring land in order to settle or retain people thereon, and of providing any community service or benefit.

Powers.

**12.** (1) The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may—

- (a) prepare land for settlement and do anything thereon or in connection therewith in order to fit the same for convenient and profitable use and to improve the conditions of rural life ;
- (b) subdivide land, make and maintain private ways bridges culverts and drains, and make open and dedicate roads ;
- (c) erect and maintain buildings ;
- (d) provide and maintain wells, dams, irrigation and flood works ;
- (e) set apart land and buildings for any community service or benefit ;
- (f) sell or let land to its members or to any other society ;
- (g) enter into share-farming or other agreements with its members ;
- (h) make or arrange loans to members of the society for any of the following purposes, that is to say, purchasing land, making improvements, carrying on farming operations, conserving



- conserving fodder, procuring agricultural implements and machinery, live stock, fodder, seeds, fruit trees, fertilisers, and other farming requisites, doing anything that may increase agricultural production, and paying off any debt or liability incurred for any such purpose ;
- (i) provide and carry on any community service, including transport and the supply of water, gas, and electricity, and do anything that a community advancement society may do ;
- (j) issue bonds to the vendor or any other person in respect of, or to finance the purchase of any land acquired by the society ;
- (k) raise money on loan for any objects of the society ;
- (l) receive money on deposit ;
- (m) acquire by purchase or otherwise shares in any other society ;
- (n) purchase or otherwise acquire goods and sell products on behalf of its members ;
- (o) arrange insurance on behalf of its members ;
- (p) do all such things calculated to promote the economic interests of its members in relation to the objects mentioned in the preceding section, as may be prescribed by regulation.

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(2) Nothing in this Act shall prevent the society from issuing bonds to the vendor or any other person, in respect of or to finance the purchase of any land acquired by the society, to the full amount of the purchase money.

**13.** (1) The Colonial Treasurer, if authorised by resolution of both Houses of Parliament, may guarantee the payment of principal and interest of any bonds of the society.

(2) Before the resolution is moved, a report from a Closer Settlement Advisory Board shall be laid before both Houses of Parliament.

(3) The number, amount, and currency of the bonds, the rate of interest and such other particulars as may be prescribed, shall be specified in the resolution.

(4) Any moneys required to meet any liabilities on the guarantee shall be paid out of the Consolidated Revenue Fund.

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DIVISION 5.—*Community advancement societies.*

Objects.

**14.** A community advancement society may be formed for the object of providing any community service or benefit.

Powers.

**15.** The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may—

- (a) provide and carry on any community service, including transport and the supply of water gas and electricity, provide and instal plant fittings and requisites in connection with any community service, and do anything necessary or convenient therefor ;
- (b) provide maintain and operate factories, mills, ginneries, silos, drying and packing sheds, cold stores, abattoirs, saleyards, drafting yards, motor garages, smithies, and machinery repair shops ;
- (c) undertake farming operations and purchase or otherwise acquire agricultural machinery implements and requisites on behalf of its members ;
- (d) erect dwellings and buildings either on behalf of or for sale or letting to its members ;
- (e) provide and maintain buildings and grounds for education, recreation, or other community purpose, and promote and assist clubs for any such purpose ;
- (f) promote and carry out any charitable undertaking ;
- (g) raise money on loan for any objects of the society ;
- (h) acquire by purchase or otherwise shares in any other society ;
- (i) do anything calculated to improve the conditions of urban or rural life in relation to the objects mentioned in the preceding section, as may be prescribed by regulation.

DIVISION 6.—*Building societies.*

Objects.

**16.** (1) A building society may be formed for all or 1902, No. 17, any of the following objects :—

s. 6 ;

W.A., 1920,  
No. 20, s. 4.

- (a) to assist its members to acquire or erect homes ;
- (b)

(b) to assist its members to acquire other freehold George V,  
No. 1. or leasehold property ;

(c) to make loans to its members upon the security of freehold or leasehold property.

(2) The society may be either a terminating or Terminating  
or permanent  
society. a permanent society, that is to say—

(a) the society shall be a terminating society if it 37 & 38 Vic.,  
c. 42, s. 5. is a Starr-Bowkett society or if by its rules it is to terminate at a fixed date or when a result specified in its rules is attained ;

(b) the society shall be a permanent society if it is not a Starr-Bowkett society or has not by its rules any such fixed date or specified result at which it is to terminate.

(3) In this section “leasehold” includes any tenure of land not being freehold held for a term of not less than twenty-one years, or if for a lesser term than twenty-one years, then with the right to an extension for not less than twenty-one years, or to acquire the fee simple.

**17.** (1) The society may do all or any of the following Powers. things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may—

(a) raise money on loan for any objects of the society ;

(b) receive money on deposit ;

(c) acquire by purchase or otherwise shares in any community advancement society ;

(d) make advances to any other building society or to any community advancement society.

(2) If the objects of the society include assist- 1919, No. 31  
s. 3. ing its members to acquire or erect homes, and the society is authorised by its rules to raise money on loan, the society shall be deemed to be a building society whose objects include the erection or provision of houses for its members within the meaning of section thirty-eight of the Housing Act, 1912.

(3) Nothing in paragraphs (b) (c) and (d) of subsection one of this section shall be deemed to extend to a terminating society.

**18.** (1) The society shall not advance money on the Second  
mortgage. security of any property which is subject to a prior mortgage, unless the prior mortgage is in favour of the 57 & 58 Vic.,  
c. 47, s. 13. society.

(2)

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(2) If any advance is made in contravention of this section the members of the board who authorised the advance shall be jointly and severally liable for any loss on the advance occasioned to the society.

(3) This section shall not prevent the society from taking from its mortgagor or any other person a second mortgage by way of collateral security, or from advancing money on second mortgage, where the prior mortgage is in favour of the Commissioners of the Government Savings Bank of New South Wales.

(4) In the case of any terminating building society which at the commencement of this Act is established or registered or deemed to be established or registered under the Building and Co-operative Societies Act, 1901, this section shall not prevent the society from advancing money on second mortgage, where the prior mortgage is in favour of another such society or the Commissioners of the Government Savings Bank of New South Wales.

#### DIVISION 7.—*Rural credit societies.*

Objects.  
Manitoba,  
7 Geo. V,  
c. 73, s. 22.

**19.** (1) A rural credit society may be formed for all or any of the following objects:—

- (a) to make or arrange loans to its members for any of the following purposes, that is to say, making improvements, carrying on farming operations, conserving fodder, procuring agricultural implements and machinery, live stock, fodder, seeds, fruit trees, fertilisers, and other farming requisites, and doing anything that may increase agricultural production;
- (b) to guarantee loans made by any person to the members of the society for any such purpose;
- (c) to supervise and report on the expenditure of loans made to its members for any such purpose;
- (d) to purchase or otherwise acquire goods and sell products on behalf of its members;
- (e) to arrange insurance on behalf of its members.

(2) A loan for the purpose of enabling a member to pay any debt or liability incurred for any purpose for which

which a loan may be made arranged or guaranteed under subsection one of this section shall be deemed to be within the purposes therein mentioned. George V,  
No. 1.

**20.** The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is, the society may— Powers.

- (a) raise money on loan for any objects of the society ;
- (b) receive money on deposit ;
- (c) acquire by purchase or otherwise shares in any other society ;
- (d) make advances to any other rural credit society or to any urban credit society.

**21.** (1) The society shall not make or guarantee a loan unless the member to whom the loan is made resides within the limits of the district specified in the rules for that purpose, provided that unless otherwise permitted by any regulation or by the registrar the district shall not extend beyond a limit of fifteen miles from the registered office of the society. Loans to  
members.  
*Ibid.*  
ss. 24-26, 28.

(2) The loan shall not be made or guaranteed unless the board is satisfied by a statutory declaration of the member that he is not a member of and does not owe any money to any other rural credit society.

(3) The purposes for which the loan is to be used shall be such that in the opinion of the board there is a reasonable prospect of the amount of the loan repaying itself by the production business or economy which it will enable or assist the borrower to effect.

(4) The member desiring the loan shall make an application to the society in the prescribed manner—

- (a) stating the amount required and the purpose for which it is to be used ;
- (b) stating such other particulars as may be prescribed by regulation ;
- (c) agreeing to repay the loan at a fixed date, together with interest.

(5) The date for repayment shall not be later than the thirtieth day of June next thereafter, provided that where the application is made after the thirtieth day of April in any year the date for repayment shall not be later than the thirtieth day of June in the next year thereafter.

(6)

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(6) The board may approve the application in whole or part and on such terms as it may deem proper, and may require such security as it may think necessary.

(7) If the application is approved in part only or subject to any variation, a new application shall be made in accordance with the approval, and the former application shall be cancelled.

(8) If the application is finally approved, the approval shall be certified and recorded as prescribed by regulation.

(9) Before any moneys are advanced, the society or the lender may require the member to sign a promissory note or promissory notes for the amount of the moneys to be advanced.

(10) If the moneys are to be advanced by the lender, and the repayment, together with interest, is to be guaranteed by the society, the society shall endorse the promissory note or promissory notes, and the secretary shall have authority to endorse on behalf of the society.

*Ibid.* s. 30.

(11) If the member is not able to repay the loan on or before the fixed date, the board or the lender may grant a renewal of the loan or any portion thereof until such further time as may be agreed, provided that where the loan is made or guaranteed by the society the time until which the renewal is granted shall not be later than one year next after the maturity of the loan, and provided that the society shall not be liable, if the lender without its consent grants a renewal of a loan guaranteed by the society.

(12) The application for a renewal shall be made in the prescribed manner, and shall be kept distinct from any new application made by the same member, but in all other respects the provisions of this Act relating to applications, and the rights and liabilities arising thereunder, shall be applicable to the renewal.

(13) The total amount owing by the borrower in respect of any loans made or guaranteed by the society shall not exceed three hundred pounds.

*Ibid.* s. 31.

(14) Where the moneys are advanced by the lender and guaranteed by the society, if the member fails to pay the amount of his loan, or within one month  
from

from the due date to renew the same, the lender may demand payment from the society of the amount owing, with interest thereon to date of payment, and the society shall pay the amount to the lender.

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(15) Upon payment by the society the lender shall deliver to the society all securities held by him for the loan or any part thereof, and the society shall be entitled to recover the amount so paid from the member, and the lien conferred by this Act shall enure for the benefit of the society.

(16) Every form of application for a loan and every acknowledgment or security of any kind given by the borrower for a loan from the society shall have printed or written therein or thereon a statement that the borrower is subject to the liabilities and restrictions imposed by this Division of this Act.

**22.** (1) The society, or where the loan is made by a lender under a guarantee by the society then the lender, shall have a special lien for securing repayment of the amount of the loan for the time being unpaid, together with any arrears of interest.

Lien to secure  
repayment.  
*Ibid.* s. 32.

(2) The following property shall be subject to the lien, that is to say—

- (a) all animals, machinery, goods or personal property of any kind of the borrower for the purchase of which the loan was made or used, together with the progeny of such animals ;
- (b) the crops or other products grown on the land for the working of which the loan was made or used.

(3) Except with the written consent of an officer of the society, or the lender, as the case may be, none of the property subject to the lien shall during the currency of the loan be sold or disposed of, or be removed, except in the ordinary course of the operations or business of the borrower, from his premises.

(4) All the proceeds of the sale of any property subject to the lien, or so much thereof as may be necessary to repay the amount of the loan with any arrears of interest, shall be paid to the society or the lender, as the case may be, on account of the loan.

(5)

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(5) In the case of crops or other products grown on the land—

- (a) the lien shall only extend to crops or products grown during such time as the borrower is entitled, by virtue of his estate or interest in the land or by agreement or otherwise, to occupy or use the land;
- (b) where a subsequent loan is made for the working of the land the lien in respect of that loan shall have priority over the lien in respect of a previous loan.

(6) Where the land or any part thereof is occupied or used by the borrower upon terms which provide for the delivery or payment to any other person of the proceeds of any part of the crop grown on the land, and the loan is made or used in whole or part for seed grain or fertiliser purposes on the land, the lien shall to the extent to which the loan is so made or used have priority over the delivery or payment, and any division of the crop shall be made after the amount of the lien has been deducted, unless the board or lender consent otherwise.

(7) The lien shall not take effect until a certificate of the lien is registered at the court of petty sessions nearest to the registered office of the society, and on registration shall, subject to the provisions of subsections five and six of this section, have and take priority according to the time of registration.

(8) A renewal of the loan or any portion thereof shall not prejudice the lien, provided that a certificate of renewal is registered within thirty days at the same court of petty sessions.

(9) On repayment or satisfaction of the loan the society or the lender, as the case may be, shall register a certificate of discharge within thirty days at the same court of petty sessions, and the registration of the certificate shall operate as a discharge of the lien.

(10) A certificate of the lien or of renewal or discharge shall be in or to the effect of the prescribed form, and shall contain such particulars and shall be registered in such manner as may be prescribed by regulation.

(11)



(11) The lien shall not affect any distraint for rent or the title of any person purchasing from the borrower in good faith in the ordinary course of business, whether with or without notice of the lien. **George V, No. 1.**

**23.** Any person who sells, removes or disposes of any property subject to a special lien in contravention of this Act, or fails to account for and pay over moneys received from the sale of the property as provided by this Act shall be guilty of an offence, and liable to a penalty not exceeding one hundred pounds, and in default of payment to imprisonment for a period not exceeding six months. *Illegal sale or removal. Ibid. s. 32A.*

**24.** (1) In any of the following events the full amount of principal, interest, and any other sum that may be added to the same by virtue of this Act or of the agreement for the loan, shall immediately become due and payable, that is to say— *Default. Ibid. s. 34A.*

- (a) if default is made in payment of the loan or of the interest thereon or any part thereof;
- (b) if the borrower attempts to sell or dispose of or in any way part with the possession of any animals, machinery, crops or personal property upon which the society or the lender has a lien or charge, or to remove the same or any part thereof, except in the ordinary course of the operations or business of the borrower, from his premises, whether the loan is due or not, without the previous consent in writing of an officer of the society or the lender to the sale disposal or removal;
- (c) if the borrower suffers or permits any such property to be seized or taken in execution;
- (d) if the borrower absconds or attempts to abscond from the State;
- (e) if a stipendiary or police magistrate upon application as prescribed certifies that the board or the lender has reasonable grounds for believing that the loan is unsafe or insecure, or for believing that there is a danger of the property subject to the lien or charge being sold or removed in contravention of this Act;
- (f)

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- (f) if the borrower fails to pay on or before the due date the rent of the land and premises mentioned in the application for the loan at any time during the currency of the loan, or of any renewal thereof;
- (g) if any distress for such rent is made or authorised;
- (h) if the borrower fails to insure and to keep insured any property to the extent agreed upon with the society or the lender, as the case may be;
- (i) if the borrower abandons any property subject to the lien or charge;
- (j) if the borrower abandons the land mentioned in the application for the loan;
- (k) if the borrower makes an assignment for the benefit of creditors, or becomes bankrupt;
- (l) if the borrower is arrested on any criminal charge;
- (m) if any writ of attachment is issued against the borrower;
- (n) if default is made in the performance of any undertaking given by the borrower in the application for the loan or set out in the terms upon which the loan is granted;
- (o) if the borrower has obtained the loan by fraud, or has made an untrue statement in his application for the loan;
- (p) if the borrower becomes an insane patient or insane or incapable person within the meaning of the Lunacy Act of 1898.

(2) In any such event the society by any person authorised by it, or the lender personally or by any person authorised by him, with such assistance as may be required, may at any time during the day enter into or upon any land or premises upon which any property subject to the lien or charge may be, and may seize remove and sell any such property or any part thereof.

(3) The sale may be by public auction or private contract.

(4)

(4) The purchaser shall not be concerned to inquire whether the sale is authorised by this section, or to see to the application of the purchase money. George V,  
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(5) The proceeds of the sale shall be applied in the first place in paying and reimbursing the society or the lender, as the case may be, all such moneys as may then be due owing and accruing under the terms of the loan, and all costs and expenses that may have been incurred by the society or the lender in consequence of the default neglect or failure of the borrower to pay the loan or interest thereon.

(6) All such surplus as may remain after the proceeds have been so applied shall be payable to the borrower or other person entitled thereto.

**25.** The society making or guaranteeing a loan, or an officer or agent of the society, and the lender or his agent may at any time during the currency of the loan enter on the premises of the borrower and inquire into the manner in which the borrower is carrying on such farming or other operations as are required for the purposes for which the loan was granted, and ascertain whether the terms of the loan are being carried out, and whether the security for the loan is in good condition and on the premises of the borrower. Entry.  
*Ibid.* s. 35.

**26.** No person who has obtained a loan under this Act, any part of which remains unpaid, shall dispose or attempt to dispose of his stock, chattels or crops otherwise than in the ordinary course of business, unless with the previous written consent of the board or lender. Sale in  
ordinary  
course of  
business.  
*Ibid.* s. 37.

**27.** The borrower shall be liable not only for the payment of the amount of the loan and interest thereon, but also for any charges and costs of collection thereof. Liability of  
borrower.  
*Ibid.* s. 38.

**28.** Where the society undertakes to supervise the expenditure of the loan, the obligations of the society shall be as agreed between the society and the lender, but unless otherwise agreed the society shall only be bound to take reasonable care to see that the loan is used for the purpose for which it is made. Supervision  
by society.

George V,  
No. 1.

DIVISION 8.—*Urban credit societies.*

Objects.

**29.** (1) An urban credit society may be formed for all or any of the following objects:—

- (a) to assist its members to purchase furniture for a home;
- (b) to assist its members to pay the expenses of removing household furniture and effects;
- (c) to assist its members to acquire tools, implements, machinery, material or stock-in-trade for any business trade or industry;
- (d) to assist its members to commence acquire or carry on any business trade or industry;
- (e) to assist its members to pay a deposit in respect of any purchase or lease of a home or place of business trade or industry;
- (f) to make or arrange loans to its members for any such purpose or for any purpose prescribed by regulation;
- (g) to guarantee loans made by any person to the members of the society for any such purpose;
- (h) to supervise and report on the expenditure of loans made to its members for any such purpose.

(2) A loan made for the purpose of enabling a member to pay any debt or liability incurred for any purpose for which a loan may be made arranged or guaranteed under subsection one of this section shall be deemed to be within the purposes therein mentioned.

Powers.

**30.** The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may—

- (a) raise money on loan for any objects of the society;
- (b) receive money on deposit;
- (c) acquire by purchase or otherwise shares in any other society;
- (d) make advances to any other urban credit society or to any rural credit society.

**31.**

**31.** (1) The society shall not make or guarantee a loan unless the member to whom the loan is made resides within the limits of the district specified in the rules for that purpose, provided that unless otherwise permitted by any regulation or by the registrar the district shall not extend beyond a limit of ten miles from the registered office of the society.

**George V,  
No. 1.**  
Loans to  
members.

(2) The loan shall not be made or guaranteed, unless the board is satisfied by a statutory declaration of the member that he is not a member of and does not owe any money to any other urban credit society.

(3) The provisions of subsections four to sixteen of section twenty-one, and the provisions of sections twenty-four to twenty-eight of this Act shall, mutatis mutandis, and with such modifications, if any, as may be prescribed by regulation, be deemed to extend to a loan under this section, with the exception that the total amount owing by the borrower in respect of any loans made or guaranteed by the society shall not exceed one hundred pounds.

#### DIVISION 9.—*Investment societies.*

**32.** (1) An investment society may be formed for all or any of the following objects:—

- (a) to acquire shares in or bonds of any society specified in or authorised by the rules of the investment society;
- (b) to acquire shares in or debentures of any incorporated company specified in or authorised by the rules of the investment society;
- (c) to invest in any securities authorised by law for the investment of trust funds;
- (d) to do all such things for the mutual benefit and advantage of its members in relation to the objects mentioned in this section, as may be prescribed by regulation.

(2) An investment society shall not acquire shares in any society or company with unlimited liability.

(3)

George V,  
No. 1.

(3) An incorporated company within the meaning of subsection one of this section shall include any incorporated company carrying on business in the State, whether incorporated in the State or elsewhere.

Powers.

**33.** (1) The society may do all or any of the following things, if specified in or authorised by its rules, as incidental to its objects, that is to say, the society may appoint two or more of its members to be trustees for the society, authorise the trustees to receive transfers of shares debentures or securities belonging to the society, and remove the trustees from the trusts.

(2) The trustees shall hold any shares debentures or securities so transferred to them in trust for the society, and shall comply with any directions given by the board in respect of the same, and in particular with any directions for sale or transfer to a purchaser or any other person.

(3) The trustees shall be appointed and may retire or be removed as prescribed by the rules of the society.

(4) The society, unless its rules otherwise provide, may from time to time vary any investment.

#### DIVISION 10.—*Associations and unions.*

Association.  
S. Af. 1922,  
No. 28, s. 35.

**34.** (1) An association may be formed of any number of societies, provided that the component societies of the association shall be of the same kind.

(2) The association may be formed for all or any of the objects for which a component society may be formed, and for all or any of the following objects, that is to say—

(a) to supervise the affairs of its component societies, and in particular the audit of their accounts;

(b) to render services to and act on behalf of its component societies in such ways as may be specified in or authorised by its rules or as may be prescribed by regulation.

(3)

(3) The association may do all or any of the things, if specified in or authorised by its rules, as incidental to its objects, that a component society might do, and in the case of an association of any of the following kinds of societies, that is to say, rural societies, trading societies, rural credit societies, and urban credit societies, the association may, unless otherwise provided by its rules—

George V,  
No. 1.

- (a) raise money on loan for any objects of the association ;
- (b) receive money on deposit ;
- (c) make advances to its component societies.

**35.** (1) The objects of an association of rural societies may include the joining with any foreign association in any operations for the sale of produce or the purchase of agricultural requisites on behalf of the component societies.

Rural  
association.  
*Ibid.*

(2) The association may, if so authorised by its rules, acquire by purchase or otherwise shares in any other association or in any union or in any foreign association.

(3) For the purposes of this section a “foreign association” means an association, union, company, agency or institution which is registered or incorporated elsewhere than in the State and has as part of its main objects the sale of produce or the purchase of agricultural requisites on behalf of producers organised in accordance with co-operative principles.

**36.** (1) The objects of an association of trading societies may include the acquisition by purchase or otherwise of shares in any other association of trading societies or in any union or in any foreign association.

Trading  
association.  
*Ibid.* s. 36.

(2) For the purposes of this section a “foreign association” means an association, union, company, agency or institution which is registered or incorporated elsewhere than in the State and has objects the same as or similar to those of a trading society registered under this Act.

**37.** (1) A union may be formed by any number of associations.

Union.  
*Ibid.* s. 37.

(2)

George V,  
No. 1.

(2) A society which is qualified to be but is not a component society of an association may be admitted as a member of the union, if the registrar certifies that there is no association to which the society may conveniently belong.

*Ibid.* s. 38.

(3) The union may be formed for all or any of the following objects, that is to say—

- (a) to promote co-operation for the improvement of conditions of rural or urban life, and encourage and assist in the formation of co-operative societies ;
- (b) to supervise the affairs of its component associations and societies or of the component societies of such associations, and in particular the audit of their accounts ;
- (c) to render services to and act on behalf of its component associations and societies or of the component societies of such associations in such ways as may be specified in or authorised by its rules or as may be prescribed by regulation.

(4) The union may, unless otherwise provided by its rules—

- (a) raise money on loan for any objects of the union ;
- (b) receive money on deposit ;
- (c) make advances to its component associations and societies.

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### PART III.

#### INCORPORATION.

##### DIVISION 1.—*Registration.*

Liability and  
membership.

**38.** (1) A society shall be formed with limited liability, except in the case of a rural credit society, which may be formed either with limited or with unlimited liability.

(2)



(2) Unless otherwise provided by the rules every person shall, except as provided in this section, be qualified to be a member of the society. George V,  
No. 1.

(3) In the case of a rural credit society or an urban credit society a person under the age of twenty-one years shall not be qualified to be a member of the society.

(4) In the case of any other society, unless otherwise provided by the rules, a person under the age of twenty-one years may be a member of the society, and may execute all instruments and give all necessary acquittances, but shall not be competent to vote or hold any office in the society, or to be one of the seven or more persons by whom a society may be formed. 37 & 38 Vic.,  
c. 42, s. 38.

(5) In the case of a rural society or a rural credit society, unless otherwise provided by the rules, a person shall not be qualified to be a member of the society, unless he is engaged in a rural industry in the State, either for his own benefit or as a share farmer employee or otherwise, and either exclusively or in conjunction with some other person or some other business profession or occupation: Provided that he shall not cease to be qualified merely because he ceases to be so engaged in a rural industry. S. Af. 1922,  
No. 28, s. 3.

(6) In the case of a rural credit society with unlimited liability a corporate body shall not be qualified to be a member of the society.

**39.** (1) A society may be formed by any seven or more persons, provided that the persons are qualified to be members of the society. Formation.  
56 & 57 Vic.  
c. 39, s. 5.

(2) No society formed after the commencement of this Act shall be registered unless there has been a meeting at which there have been present seven or more persons qualified to be members of the society. S. Af. 1922,  
No. 28,

(3) At the meeting there shall be presented—

- (a) a written statement showing the objects of the society, and the reasons for believing that, when registered, it will be able to carry out its objects successfully;
- (b) a copy of the rules which it is proposed to tender for registration.

(4)

George V,  
No. 1.

(4) If, at the same or any subsequent or adjourned meeting, after consideration of the statement and rules, seven or more persons qualified to be members approve the rules with or without amendment and sign an application for membership, they shall proceed to elect the first directors of the society in accordance with the rules as so approved.

(5) Within two months after the election of directors an application shall be made in the prescribed manner to the registrar for the registration of the society and shall be accompanied by—

- (a) a statutory declaration from the chairman and secretary of the meeting as to the compliance with the requirements of this section ;
- (b) a copy of the statement ;
- (c) two copies of the proposed rules signed by not less than seven applicants for membership, each of whose signatures shall be attested by a witness ;
- (d) a list containing the full name and the occupation and address of each director ;
- (e) a list containing the full name and the occupation and address of each applicant for membership and the number of shares subscribed for by him ;
- (f) such other particulars as may be prescribed by regulation.

(6) The statutory declaration mentioned in subsection five of this section may be accepted by the registrar as sufficient evidence of compliance with the requirements of this section.

(7) If the registrar is satisfied that the society has complied with the provisions of this Act and the regulations, and that the proposed rules of the society are not contrary to this Act or to the regulations, the registrar shall register the society and its rules, and issue a certificate that the society is incorporated under this Act.

(8) Notwithstanding any other provision of this section an association or union may be formed and registered as prescribed by regulation.

(9)

(9) The expenses of and incidental to the formation of the society association or union may be paid either out of capital or income. **George V,  
No. 1.**

**40.** (1) A society may not be registered by a name identical with that by which a society is already registered, or so nearly resembling that name as in the opinion of the registrar to be calculated to deceive. **Name.  
1902, No. 17,  
s. 38.  
56 & 57 Vic.,  
c. 39, s. 52.**

(2) If a society through inadvertence or otherwise is registered by a name identical with that by which a society is already registered, or so nearly resembling that name as in the opinion of the registrar is calculated to deceive, the society shall, if the registrar so directs, change its name. **S. Af. 1922,  
No. 23, s. 12**

(3) A society may change its name by special resolution, provided that the new name is not identical with that of any society previously registered and still subsisting, or so nearly resembling that name as in the opinion of the registrar to be calculated to deceive, unless the subsisting society is in course of being terminated or wound-up, and consents to the registration.

(4) Notice of any change of name, together with the certificate of incorporation, shall be sent to the registrar.

(5) The registrar shall register the change of name, and shall either note the change on the certificate of incorporation or issue a new certificate of incorporation in lieu thereof in or to the effect of the prescribed form.

(6) The change of name shall be advertised as prescribed by regulation.

(7) The change of name shall not affect any right or obligation of the society or of any member or other person, or render defective any legal proceedings by or against the society.

(8) Any legal proceedings that might have been continued or commenced against the society by its former name may be continued or commenced against it by its new name.

**41.** (1) Except in the case of the societies mentioned in the Second Schedule to this Act, the provisions of this section shall have effect with respect to every society which at the commencement of this Act is established **Existing  
societies.  
Schedule.**

**George V,** established or registered or deemed to be established or  
**No. 1.** registered under the Building and Co-operative Societies  
Act, 1901.

(2) The society shall be deemed to have applied for the registration of the society under this Act, and shall before the thirty-first day of December, one thousand nine hundred and twenty-four, make and transmit to the registrar such alterations, if any, in its rules as in his opinion are necessary to bring them into conformity with the provisions of this Act applicable to societies formed and registered thereunder.

(3) The society may make any such alterations by virtue of this Act and in accordance with the provisions of Part IV.

(4) Upon the alterations, if any, being made and transmitted to the registrar, the registrar shall register the society and its rules, issue a certificate that the society is incorporated under this Act, and notify the issue in the Gazette as prescribed by regulation.

(5) If the society does not make and transmit the alterations, if any, before the thirty-first day of December, one thousand nine hundred and twenty-four, the society may be wound up and dissolved.

(6) Until the issue of the certificate of incorporation is notified in the Gazette the repeal by this Act of any enactment shall not affect the registration of the society under the repealed enactment, and subject to the provisions of this section the repealed enactment shall continue to apply to the society, but upon the issue of the certificate of incorporation being so notified, the registration of the society under the repealed enactment and the application of that enactment to the society shall cease.

(7) Notwithstanding the provisions of subsection six of this section, Division 3 of Part IV and also Parts V and VIII of this Act shall apply to the society, and shall be deemed to extend to acts or things done or happening before or after the commencement of this Act.

(8) Upon the issue of the certificate of incorporation being notified in the Gazette the property of the  
the

the society shall as from the date of the notification, and by virtue of this Act, without any conveyance transfer or assignment, except as otherwise provided in this section, vest in the society incorporated under this Act.

**George V,  
No. 1.**

(9) For the purposes of this section the property of the society shall include all estates and interests in property, whether real or personal, vested or contingent, including all rights and choses in action whether by law assignable or not, which at the date of the notification in the Gazette belonged to or were vested in any trustee or person for the use or benefit of the society, or to which any such trustee or person was contingently entitled for the use or benefit of the society.

(10) In the following cases the property shall not vest until the appropriate transfer is executed and registered so that the property is duly transferred, that is to say, in the case of—

- (a) any land subject to the provisions of the Real Property Act, 1900 ;
- (b) any property a transfer of which is required to be registered by any other Act.

(11) In the case of any property that is only transferable in books kept by a corporation company or other body, or in manner directed by or under any Act, the property shall not vest until it is duly transferred.

(12) If any property does not vest under this section until transfer or registration, the society shall nevertheless by virtue of this Act have the right to call for a transfer of the property to the society or to such person as the board may direct, and to sue for or recover the property.

(13) Any property which is vested in or transferred to the society by virtue of or in pursuance of this section shall be subject to any debt liability or obligation specially charged on or affecting the same.

(14) All debts and liabilities, whether certain or contingent, and whether then existing or capable of arising at a future time, to or with which the society or any trustee or person for or on account of the society is, at the date of the notification in the Gazette, liable or charged shall by virtue of this Act become and be the debts and liabilities of the society so incorporated.

(15)

George V,  
No. 1.

(15) No instrument or document executed or registered for transferring any property in pursuance of this section shall be liable to stamp duty or to any fee chargeable under any Act for registration.

(16) A society which at the commencement of this Act is an association of societies may apply to be registered as an association under this Act, and the provisions of this section shall be deemed to extend to the society accordingly.

(17) Nothing in this section shall apply to a society which at the commencement of this Act is being wound up.

Existing  
societies in  
Second  
Schedule.  
Schedule.

**42.** (1) Any society mentioned in the Second Schedule to this Act may, if it passes a special resolution apply to be registered as a society under this Act, provided that before the application is granted the society shall make such alterations, if any, in its rules as in the opinion of the registrar are necessary to bring them into conformity with the provisions of this Act applicable to societies formed and registered thereunder.

(2) The application shall be in or to the effect of the form prescribed by regulation, and may be made at any time before the thirty-first day of December, one thousand nine hundred and twenty-four, or within such further time as may be prescribed by regulation.

(3) The alterations, if any, may be made at any time before the thirtieth day of June, one thousand nine hundred and twenty-five, or within such further time as may be prescribed by regulation.

(4) The society may make the alterations, if any, by virtue of this Act and in accordance with the provisions of Part IV.

(5) Upon the alterations, if any, being made and transmitted to the registrar, the registrar shall register the society and its rules, issue a certificate that the society is incorporated under this Act, and notify the issue in the Gazette, as prescribed by regulation.

(6) Upon the issue of the certificate of incorporation being notified in the Gazette the provisions of subsections eight to fifteen of section forty-one of this Act shall apply to the society.

(7)

(7) If the society does not apply before the thirty-first day of December, one thousand nine hundred and twenty-four, to be registered under this Act, or does not make and transmit the alterations, if any, in its rules, before the thirtieth day of June, one thousand nine hundred and twenty-five, the repeal by this Act of any enactment shall not affect the registration of the society under the repealed enactment, and subject to the provisions of this section the repealed enactment shall continue to apply to the society.

George V,  
No. 1.

(8) Notwithstanding the provisions of subsection seven of this section, the provisions of this Act mentioned in the Third Schedule to this Act shall apply to the society and shall be deemed to extend to acts or things done or happening before or after the commencement of this Act.

**43.** (1) Any two or more societies of the same kind registered under this Act may, by special resolution of both or all the societies, apply to be registered as an amalgamated society, with or without any winding-up or any division of the funds of the societies or any of them.

Amalgama-  
tion.  
56 & 57 Vic.,  
c. 39, ss. 53,  
57.

(2) The application shall be in or to the effect of the form prescribed by regulation, and shall be accompanied by—

- (a) two copies of the proposed rules of the amalgamated society;
- (b) such other particulars as may be prescribed by regulation.

(3) If the registrar is satisfied that the societies have complied with the provisions of this Act and of the regulations, and that the proposed rules of the amalgamated society are not contrary to this Act or the regulations, the registrar shall register the society and its rules, issue a certificate that the society is incorporated as an amalgamated society under this Act, and notify the issue in the Gazette as prescribed by regulation.

(4) The provisions of subsections eight to fifteen of section forty-one, shall, mutatis mutandis, and with such modifications, if any, as may be prescribed by regulation, be deemed to extend to an amalgamation under this section.

(5)

**George V,  
No. 1.** (5) The amalgamation shall not prejudice any right of a creditor of any society which is a party to the amalgamation.

**Existing  
companies.  
S. Af. 1922,  
No. 28, s. 57.** **44.** (1) Every company which at the commencement of this Act is registered or deemed to be registered as a limited company under the Companies Act, 1899, may, if the company passes a special resolution within the meaning of that Act for the purpose, apply to be registered as a society under this Act, provided that before the application is granted the company shall make such alterations, if any, in its memorandum and articles of association as in the opinion of the registrar are necessary to bring them substantially into conformity with the provisions of this Act applicable to societies formed and registered thereunder.

(2) The application may be made at any time before the thirty-first day of December, one thousand nine hundred and twenty-four, or within such further time as may be prescribed by regulation.

(3) The application shall be in or to the effect of the form prescribed by regulation, and shall be accompanied by—

- (a) a certificate of the incorporation of the company ;
- (b) two copies of the memorandum and articles of association of the company in force at the date of the application ;
- (c) a list containing the name address and occupation of each director ;
- (d) a list containing the name address and occupation of each shareholder, and the number and class, if more than one class has been issued, of shares held by him ;
- (e) such other particulars as may be prescribed by regulation.

(4) The registrar shall give the company a notice stating the nature of the alterations, if any, which in his opinion are necessary to be made in the memorandum and articles of association.

(5)



(5) The alterations, if any, may be made at any time before the thirtieth day of June, one thousand nine hundred and twenty-five, or within such further time as may be prescribed by regulation.

George V,  
No. 1.

(6) The company may make any such alterations by virtue of this Act and in accordance with the provisions of Part IV as if the company were a society and its memorandum and articles of association were its rules.

(7) Upon the alterations, if any, being made the registrar shall register the company as a society and its memorandum and articles of association as the rules of the society, issue a certificate that the company is incorporated under this Act, give notice of the issue to the registrar of joint stock companies, and notify the issue in the Gazette as prescribed by regulation.

(8) Upon the issue of the certificate being notified in the Gazette the company shall be deemed to be incorporated under this Act instead of under the Companies Act, 1899, and the name of the company shall be removed from the register under that Act.

(9) The incorporation of the company under this Act shall not prejudice any right of a member in respect of any shares held by him at the time when the company is so registered, and any preferential or other right attached thereto may continue notwithstanding any provision in this Act with respect to shares being of one class and all ranking equally.

(10) Nothing in this section shall be deemed to affect the identity of the company, and in particular any right or claim for the time being subsisting against the company, and any penalty for the time being incurred by the company, may be enforced against the company either by its former name or by its name as a society in the same manner as if it had not been registered as a society under this Act.

(11) The memorandum and articles of association of a company registered as a society under this Act shall be deemed to be the rules of the society, and may be altered in accordance with the provisions of this Act.

**George V,**

**No. 1.**

Certificate of  
incorporation.  
57 & 58 Vic.,  
c. 47, s. 26.

**45.** (1) A certificate of incorporation under this Act shall be in or to the effect of the prescribed form, in accordance with the nature of the objects of the society, and shall contain a statement that the incorporation of the society does not imply any approval by the registrar of the policy of its rules, or any guarantee of its good management or financial stability.

S. Af. 1922,  
No. 28, s. 11.

(2) The certificate shall be conclusive evidence that all the requirements of this Act in respect of registration have been complied with, provided that this subsection shall not affect any provisions of this Act for the winding-up or dissolution of the society or the cancellation of its registration.

#### DIVISION 2.—*Members and funds.*

**Members.**

**46.** (1) The members of a society which is formed under this Act shall be the persons who sign the application for membership on the formation of the society, and any other persons who are admitted to membership in accordance with its rules.

(2) The members of a society which at the commencement of this Act is established or registered or deemed to be established or registered under the Building and Co-operative Societies Act, 1901, and which is registered as a society under this Act, shall be the persons who at the date of the registration under this Act were members of the society, and any other persons who are admitted to membership in accordance with its rules.

(3) The members of a company which is registered as a society under this Act shall be the persons who at the date of the registration were members of the company, and any other persons who are admitted to membership in accordance with the rules of the society.

(4) The members of an amalgamated society shall be the persons who at the date of the amalgamation were members of any society which is a party to the amalgamation, and any other persons who are admitted to membership in accordance with the rules of the amalgamated society.

(5)

(5) The members of an association shall be the societies by which the association is formed, and any other societies which are admitted to membership in accordance with the rules of the association.

**George V,  
No. 1.**

(6) The members of a union shall be the associations by which the union is formed, and any other associations which are admitted to membership in accordance with the rules of the union, together with any societies which are so admitted in any case where the registrar certifies that there is no association to which they may conveniently belong.

(7) Where a society appoints any member to represent the society in respect of a share held by it in any other society, the person so appointed shall during the continuance of his appointment be deemed a member of that society and as holding the share for all purposes except the liability in respect of the share or except the transfer thereof or the giving receipts for any dividends thereon.

56 & 57 Vic.,  
c. 39, s. 41.

(8) No rights of membership shall be exercised unless or until the member has made such payment to the society in respect of membership or acquired such share or interest as may be provided in the rules of the society.

(9) A person shall cease to be a member in any of the following circumstances, that is to say—

- (a) where his share is transferred to another person in accordance with the rules of the society, and the transferee is registered as holder in his place;
- (b) where his share is forfeited in accordance with the rules of the society;
- (c) where his share is sold by the society under a power conferred by the rules of the society, and the purchaser is registered as holder in his place;
- (d) where his share is purchased by the society in accordance with the provisions of this Act;
- (e) where he is expelled in accordance with the rules of the society;

(f)

George V,  
No. 1.

- (f) where he becomes bankrupt, and the official assignee disclaims in accordance with the provisions of the Bankruptcy Act, 1898 ;
- (g) on death, provided that his estate shall remain liable until his nominee executor or administrator or some other person is registered as holder in his place, or until the society pays the value of his share in accordance with the provisions of this Act ;
- (h) where the contract of membership is rescinded on the ground of misrepresentation or mistake ;
- (i) in the case of a borrower's share, where he ceases to be a member in accordance with the rules of the society ;
- (j) in the case of a building society where the value of his share is repaid or a refund in respect of his subscriptions is made to him in accordance with the rules of the society ;
- (k) in the case of a component society of an association, where the society ceases to be a member in accordance with the rules of the association ;
- (l) in the case of a component association or society of a union, where the association or society ceases to be a member in accordance with the rules of the union ;
- (m) in the case of a corporate body, where the corporate body is dissolved.

Shares.  
S. Af. 1922,  
No. 28, s. 16.

**47.** (1) The capital of a society shall vary in amount according to the nominal value of shares from time to time subscribed.

(2) The capital shall be divided into shares of a fixed amount, which shall be specified in the rules.

(3) Except as provided in subsections four and five of this section, the shares shall be of one class, all ranking equally.

(4) In the case of a society with limited liability the shares may be classified as shares with and shares without a contingent liability attached thereto, and each class of shares shall have such rights as may be specified in the rules of the society.

(5)

(5) In any society where the rules provide that loans are to be made on condition that the borrower subscribes for shares of a number and value depending upon the amount of the loan, the shares may also be classified as borrowers' shares and ordinary shares, and each class of shares shall have such rights as may be specified in the rules of the society.

(6) In the case of a society with limited liability shares with a contingent liability attached thereto may be issued with such maximum amount of the contingent liability not exceeding one-half of the nominal value of the shares and upon such conditions as may be specified in the rules of the society.

(7) Borrowers' shares shall bear such ratio to the amount of the loan and may be issued upon such terms and with such provision for the ceasing of membership as may be specified in the rules of the society.

(8) Except in the case of a Starr-Bowkett society or of borrowers' shares, no share shall be allotted unless one-tenth of the nominal value thereof has been paid.

(9) Any balance unpaid in respect of shares at the time of allotment shall be paid by periodic subscriptions or in such manner as may be specified in the rules.

(10) No member shall hold more than one-fifth of the shares or more than such less proportion as may be specified in the rules.

(11) No member shall have or claim any interest in shares to a nominal value exceeding one thousand pounds or such less amount as may be specified in the rules.

(12) Notwithstanding the provisions of subsections ten and eleven of this section a member of a community settlement society, or of a society under the Building and Co-operative Societies Act, 1901, registered as a society under this Act, or of a company registered as a society under this Act or of an association or union may hold such proportion not exceeding one half of the shares as may be specified in the rules, and may have

or

**George V,  
No. 1.** or claim an interest therein to a nominal value exceeding one thousand pounds, provided that in the case of a society under the Building and Co-operative Societies Act, 1901, or a company the shares are held by the member at the time when the society or company is so registered.

(13) A member shall subscribe for such minimum number of shares as may be prescribed by the rules, and the number may be determined with reference to the use made by him of the society or in any manner specified in the rules.

(14) In the case of a rural credit society with unlimited liability no dividend shall be paid to a member in respect of any share held by him, and in the case of any other society the maximum amount which may be paid to a member by way of dividend in respect of any share held by him shall not exceed eight per centum per annum on the amount paid on the share.

(15) Any dividend bonus or rebate to a member shall be applied to paying off any subscriptions or calls on shares which may at the time when the dividend or bonus becomes payable be due by him and unpaid.

(16) A share may be held by two or more persons jointly.

(17) A share may not be sold or transferred without the consent of the board.

Funds of  
limited  
society.  
S. Af. 1922,  
No. 28, s. 16.

**48.** (1) Five per centum at least of the surplus arising in any year from the business of a society with limited liability shall be carried to a reserve fund until the fund is at least one-fourth of the aggregate amount of the capital for the time being paid up and of the moneys raised on loan or received on deposit and for the time being remaining unpaid.

(2) The reserve fund shall not be distributed amongst the members of the society, except in the event of winding-up, provided that nothing in this subsection shall affect the provisions of this Act with respect to the funds of a terminating building society.

(3) The reserve fund shall at any time be applicable to any purposes to which the capital of the society is applicable.

(4)

(1) If authorised by the rules of the society, but subject to the provisions of subsection one of this section, an amount not exceeding ten per centum of the surplus arising in any year from the business of the society may be applied to any charitable purpose or for promoting co-operation or any community advancement.

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(5) If authorised by the rules of the society, but subject to the provisions of subsection one of this section, any part of the surplus arising in any year from the business of the society may—

- (a) be paid to a member by way of dividend in respect of the shares held by him;
- (b) be paid to a member by way of bonus or rebate based on the business done by him with the society;
- (c) be credited to any employee who is not a member, but is qualified to be a member, by way of bonus in proportion to his salary or wages at a rate equal to the rate of bonus or rebate paid to a member on the business done by him with the society;
- (d) be credited to any person who is not a member, but is qualified to be a member, by way of bonus or rebate in proportion to the business done by him with the society.

(6) A bonus or rebate shall only be credited to any employee or person who is not a member, until the amount credited is equal to the nominal value of the minimum number of shares for which a member is required by the rules to subscribe and in or towards payment for such minimum number of shares to be issued to him on application as prescribed by the rules.

(7) Nothing in this section shall preclude the payment of a bonus to an employee in accordance with the terms of his employment.

(8) In this section the surplus means the surplus after making proper allowance for depreciation in value of the property of the society and for contingent liability for loss.

**49.** (1) The surplus arising from the business of a rural credit society with unlimited liability shall be carried to a reserve fund.

Funds of an  
unlimited  
society.  
S. Act. 1922, s. 15.

(2)

George V,  
No. 1.

(2) No part of the funds of the society shall, except in the event of winding-up, be divided amongst its members by way of profit bonus dividend or otherwise, provided that nothing in this subsection shall be deemed to extend to any sums due to members in accordance with the rules in respect of products sold on their behalf, or by way of rebate based on goods purchased or insurances effected on their behalf.

Liability of  
members of  
a limited  
society.

**50.** In the case of a society with limited liability, a member shall be liable to the society for the amount, if any, unpaid on the shares held by him, together with any charges payable by him to the society as prescribed by the rules.

Liability of  
members of  
an unlimited  
society.

**51.** In the case of a society with unlimited liability, a member shall be liable to the society for the amount, if any, unpaid on the shares held by him, together with any charges payable by him to the society as prescribed by the rules, and shall also be liable to the society jointly and severally with the other members for the full amount of all liabilities incurred by the society.

Purchase of  
shares.

**52.** A society may, if authorised by its rules, purchase out of its reserve fund any share of a member in the society, provided that the shares so purchased in any one year shall not exceed one-twentieth of the paid up capital of the society.

Cancellation  
and re-issue  
of shares.

**53.** A society may cancel or sell and re-issue any share purchased by or forfeited to the society in accordance with the provisions of this Act.

Repayment  
of shares in a  
trading or  
building  
society.  
37 & 38 Vic.,  
c. 42, s. 13.

**54.** (1) A trading society or a building society may repay to any member, with his consent, the value of his shares, ascertained in accordance with the rules, at any time when the money is no longer required for the purposes of the society.

(2) The society may not, except with the consent of the registrar, make any such repayment if the society has received any money on loan or deposit which is not secured by mortgage and is still unpaid.

Refund in a  
terminating  
building  
society.

**55.** (1) A member of a terminating building society, unless he has received an advance, may obtain a refund in respect of his subscriptions by notice in writing at any time after five years from the date on which he became a member.

(2)



(2) The refund shall not, without the consent of the society, be payable until the end of the financial year in which the notice is given, and the notice may be withdrawn at any time during that year.

(3) The refund shall be the amount of the subscriptions paid by him, after deducting therefrom any charges due by him up to the end of such year, together with—

- (a) a further charge at the rate of one pound for each hundred pounds of the amount of the subscriptions as the fair contribution of the member to the working expenses of the society for the current and ensuing year; and
- (b) such sum as represents the fair proportion of any loss that may have happened to the funds of the society before the end of the financial year in which the notice is given.

(4) The refund shall be made in order of priority according to the date on which the notice is received by the society, but shall only be payable out of moneys received by the society after that date in repayment of advances made to members.

(5) No refund shall be made, except with the consent of the registrar, if the society has received any money on loan or deposit which is not secured by mortgage and is still unpaid.

(6) After the end of the financial year in which the notice is given, the member shall not, unless the rules otherwise provide, vote or exercise any other right of a member except such rights as may be necessary in order to obtain the refund.

(7) The rules of the society may fix a shorter period than the five years mentioned in subsection one of this section as the period after which the notice may be given, and may also fix a less percentage than that mentioned in subsection three of this section.

(8) This section shall not apply to a terminating building society which at the commencement of this Act is established or registered or deemed to be established or registered under the Building and Co-operative Societies Act, 1901.

**George V,  
No. 1.**Distribution of  
funds of a  
terminating  
building society.

**56.** On the termination of a terminating building society the funds of the society shall be distributed among the members entitled thereto in accordance with the rules.

Charge and  
set-off of any  
society.

**57.** A society shall have a charge upon the share or interest in the capital and on the credit balance of a member or past member and upon any dividend bonus or rebate payable to a member or past member in respect of any debt due from the member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of the debt.

Death of  
member.56 & 57 Vic.,  
c. 39, ss. 25-  
27; 3 & 4  
Geo. V, c. 31,  
s. 5.

**58.** (1) On the death of a member the board shall, except as otherwise provided in subsection two of this section, transfer his share or interest to one of the following persons, provided that the proposed transferee is qualified to be a member of the society, and provided also that the transfer would not increase his holding in the society beyond the proportion or value allowed by this Act, that is to say—

- (a) to the nominee of the member nominated as prescribed by regulation; or
- (b) if there is no such nominee, then to the executor or administrator of the member; or
- (c) to such person as the nominee, or if there is no such nominee, then as the executor or administrator may specify in an application made to the society within three months after the death of the member.

(2) If there is no such transferee willing to have the share or interest transferred to him, the board shall pay the value thereof to the nominee, or if there is no such nominee, then to the executor or administrator, provided that the board shall not be bound to make such payment until all moneys due from the deceased member or his estate have been repaid to the society.

(3) The share or interest shall for the purposes of this section include any credit balance due to the member, and the value of the share or interest shall be ascertained in accordance with the rules.

(4)

(4) No transfer or payment shall be made under this section to a nominee or person specified by him unless a certificate of the Commissioner of Stamp Duties in accordance with section one hundred and twenty-two of the Stamp Duties Act, 1920, has been produced to the society.

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No. 1.

(5) The nominee nominated by the member shall not be an officer or employee of the society unless the officer or employee is the husband, wife, father, mother, child, brother, sister, nephew or niece of the member.

(6) The nomination shall not be valid or effectual if at the date of the nomination the member is under the age of sixteen years, or if at the death of the member the value of his share or interest exceeds two hundred pounds.

(7) The nomination may be revoked or varied in the prescribed manner, but shall not be revocable or variable by will or codicil.

(8) The nomination shall be revoked by the marriage of the member, unless expressed to be made in contemplation of marriage and in favour of the intended wife, provided that where the board makes any transfer or payment to a nominee in ignorance of a marriage contracted by the member after the date of the nomination, the receipt of the nominee shall be a valid discharge to the society, and the society shall be under no liability to any other person claiming the share or interest.

(9) Any transfer or payment made by the board in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

**59.** (1) If any member or person entitled in respect of any share loan or deposit to a sum of money not exceeding one hundred pounds dies intestate, the board may, upon such evidence as it deems sufficient, pay the money to any person who appears to the board to be entitled to obtain a grant of administration of the estate of the deceased, and such person shall hold the money on the same trusts as if he had obtained such grant.

Death of  
intestate.  
37 & 38 Vic,  
c. 42, s. 29.

(2)

George V,  
No. 1.  
W. A. 1920,  
No. 20, s. 32.

(2) The provisions of this section shall extend to any surplus, not exceeding one hundred pounds, arising on the sale by the society as mortgagee of any property mortgaged by the deceased to the society.

(3) Nothing in this section shall affect the rights of a nominee under any nomination made by a member and then subsisting.

(4) No payment shall be made under this section unless the written consent of the Commissioner of Stamp Duties to such payment has been produced to the society.

(5) Any payment made by the board in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

### DIVISION 3.—*Privileges powers and duties.*

Body  
corporate.  
1902, No. 17,  
s. 35.  
56 & 57 Vic.,  
c. 39, s. 21.

**60.** A society shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and shall have power to enter into contracts, to institute and defend actions suits and legal proceedings, and to do all things necessary for the purpose of its constitution.

Use of word  
co-operative.  
S. Af. 1922,  
No. 28, s. 57.

**61.** (1) No person other than a society shall trade or carry on business under any name or title of which the word "co-operative" or any other word importing a similar meaning is part, or in any manner hold out that the trade or business is co-operative.

(2) If at the commencement of this Act any person, other than an incorporated company, is trading or carrying on business under any such name or title, the provisions of subsection one of this section shall not apply to him until one month after the commencement of this Act, but at or before the expiration of the month he shall cease to use as part of his name or title the word "co-operative" or any other word importing a similar meaning, and shall cease in any manner to hold out that the trade or business is co-operative.

(3) If at the commencement of this Act any company, whether incorporated in the State or elsewhere, is trading or carrying on business under any such

such name or title, the provisions of subsection one of this section shall not apply to the company until one year after the commencement of this Act, but at or before the expiration of that year the company shall, unless it is registered as a society under this Act, cease to use as part of its name or title the word "co-operative" or any word importing a similar meaning, and shall cease in any manner to hold out that the trade or business is co-operative.

George V,  
No. 1.

(4) If, on application made in the prescribed manner within one year after the commencement of this Act, the Governor is satisfied that any company which is registered or deemed to be registered under the Companies Act, 1899, is trading or carrying on business for the purpose of promoting the economic interests of its members substantially in accordance with co-operative principles, the Governor shall exempt the company from the provisions of this section for such period and upon such conditions as he may deem proper.

(5) If any person contravenes this section, he shall be guilty of an offence and shall be liable to a penalty not exceeding five pounds for every day during which the offence continues.

(6) Where the contravention is by any company, firm, association or body of persons, every director manager or other officer thereof who knowingly or wilfully authorises or permits the contravention shall be guilty of an offence and shall be liable to a penalty not exceeding five pounds for every day during which the offence continues.

**62.** (1) No fee shall be chargeable for the registration of a society or of its rules or of any alteration of its rules.

Exemption  
from fees and  
stamp duty.  
S. Af. 1922,  
No. 28, s. 62.

(2) No stamp duty shall be chargeable upon the certificate of incorporation of a society or upon any share certificate or any instrument or document issued in connection with its capital by a society.

(3) A community settlement society shall be entitled to a refund from the Commissioner of Stamp Duties of any stamp duty paid by the society after the commencement

**George V,  
No. 1.** commencement of this Act on any conveyance or contract for the purchase of any land acquired for the purposes of the society.

Exemption  
from income  
tax.

**63.** (1) The taxable income of a society shall not include—

56 & 57 Vic.,  
c. 39, s. 24.

- (a) any undistributed profits of the society ;
- (b) any profits paid by a society to a member by way of rebate or bonus based on the business done by him with the society where ninety per centum of its business is done with its own members.

(2) Notwithstanding any other provision of this section any profits distributed in the event of winding-up shall be taxable income of the year in which the society is wound up.

(3) The taxable income of an investment society shall not include any dividends received by the society in respect of shares in any other society or any incorporated company, or any interest received by the society in respect of bonds of any other society, and the taxable income of a member of the society shall not include any dividends paid to him out of the non-taxable income of the society.

1918, No. 27,  
s. 6.

(4) The income of a Starr-Bowkett society shall not be taxable income.

(5) In this section taxable income means taxable income within the meaning of the Income Tax (Management) Act, 1912.

Property.

**64.** A society may acquire by lease purchase donation devise bequest or otherwise any real and personal property for any objects of the society.

Borrowing  
powers.

**65.** (1) Where a society is authorised by its rules to raise money on loan, the society, unless it is also expressly authorised to receive money on deposit, shall not be deemed to be authorised to receive money on deposit, but may raise the money by mortgage of any of its real or personal property, or by the issue of bonds, or otherwise.

(2) The bonds shall be in or to the effect of the prescribed form and may be issued and transferred in the prescribed manner, and in case of loss or destruction  
of

of a bond a new bond may be issued in lieu thereof on such conditions and in such manner as may be prescribed by regulation. George V,  
No. 1.

(3) The provisions of the Companies (Registration of Securities) Act, 1918, shall mutatis mutandis, and with such modifications, if any, as may be prescribed by regulation, be deemed to extend to any mortgage or charge created or bond issued by a society, provided that no fee shall be chargeable for the registration of any mortgage or charge created before the commencement of this Act.

**66.** (1) Where a society is authorised by its rules to raise money on loan or to receive money on deposit, the society may raise loans or receive deposits at interest, within the limits provided in this section, from its members or other persons, to be applied to the purposes of the society. Loans and  
deposits.  
37 & 38 Vic.,  
c. 42, s. 15.  
57 & 58 Vic.,  
c. 47, s. 15.

(2) In the case of a rural society, a trading society, a community settlement society, a community advancement society, a rural credit or an urban credit society the total amount so raised or received, and not repaid by the society, shall not at any time exceed the sum ascertained by deducting one-half the amount of the debts owing by the society from the aggregate of the following amounts, that is to say—

- (a) one-half of the capital for the time being unpaid of the society, inclusive of the contingent liability, if any, attached to the shares ;
- (b) four-fifths of the amount for the time being secured to the society by mortgages from its members or other persons ;
- (c) one-half of the amount shown in the last audited balance-sheet as the value of any other assets of the society exclusive of any goodwill.

(3) Notwithstanding the provisions of subsection two of this section, the total amount raised on loan by any of the societies therein mentioned during the first financial year of the society, or within four months after the expiration of that year, may be such sum as the society deems proper, if the society shall not have received deposits during such period.

(4)

George V,  
No. 1.

(4) Notwithstanding the provisions of subsection two of this section, the total amount raised on loan otherwise than by the issue of bonds, by any of the societies therein mentioned, may be such sum as the society deems proper, if the society shall not have issued bonds or received deposits, or if all bonds issued and deposits received have been repaid.

(5) In the case of a permanent building society the total amount so raised or received, and not repaid by the society, shall not at any time exceed four-fifths of the amount for the time being secured to the society by mortgages from its members.

(6) In the case of a terminating building society the total amount raised on loan, and not repaid by the society, shall not at any time exceed the following sums, whichever is the larger, that is to say, the total amount may be either—

- (a) a sum not exceeding two-thirds of the amount for the time being secured to the society by mortgages from its members; or
- (b) a sum not exceeding twelve months' subscriptions on the shares for the time being in force.

57 & 58 Vic.,  
c. 47, s. 14.

(7) In calculating the amount for the time being secured to a society by mortgages from its members, the following amounts shall be disregarded, that is to say—

- (a) the amounts secured on any property in respect of which the payments were upwards of twelve months in arrear at the date of the last annual account and statement of the society; and
- (b) the amount secured on any property of which the society had been twelve months in possession at the date of that account and statement.

(8) A society shall not raise money on loan to an aggregate amount exceeding one hundred pounds, unless a higher aggregate amount has been approved by special resolution of the society.

(9) A society shall not accept money on deposit except upon the terms that not less than one month's notice may be required by the board before repayment.

(10) Any loan to or deposit with a society made before the commencement of this Act in accordance with its registered rules is hereby declared to be valid and binding.

(11)



(11) Every deposit book and every acknowledgment or security of any kind given by a society for a loan or deposit shall have printed or written therein or thereon a statement that the society is only entitled to receive loans or deposits within the limits provided in this section, and that repayment is subject to such notice as may be required by the board.

George V,  
No. 1.

(12) Any member or other person lending money to or depositing money with the society shall not be bound to see to the application thereof, or that the society has not exceeded its borrowing limit.

W.A. 1920,  
No. 20,  
s. 21 (2).

**67.** (1) A society may out of its funds subscribe for shares in any co-operative bank or co-operative insurance society incorporated by any Act hereafter passed for the purpose.

Banking and  
insurance.

(2) A society shall not carry on the business of banking or insurance, provided that this subsection shall not affect the receipt of deposits where the society is authorised to receive deposits.

**68.** (1) A society may invest any of its funds in any of the following, that is to say—

Investment.

- (a) any securities authorised by law for the investment of trust funds;
- (b) deposit in the Government Savings Bank of New South Wales or in any prescribed bank or in any society which is authorised to receive deposits;
- (c) any securities prescribed by regulation.

(2) A society shall not acquire by purchase or otherwise shares in any society with unlimited liability.

(3) A rural or trading society may, if authorised by its rules, make an advance out of its reserve fund to a member upon the security of his shares in the society, provided that the amount advanced shall not exceed one-half of the amount paid up on the shares.

(4) Any property to which a society may become absolutely entitled by foreclosure surrender or other extinguishment of the right of redemption shall as soon afterwards as may be conveniently practicable be sold or converted into money.

37 & 38 Vic.,  
c. 42, s. 13.

**69.**

**George V,**  
**No. 1.**  
Transfer of  
engagements.  
56 & 57 Vic.,  
c. 39, ss. 53,  
57.

**69.** (1) Any society may by special resolution transfer its engagements to any other society which may undertake to fulfil the engagements of the society.

(2) A transfer of engagements in pursuance of this section shall not prejudice any right of a creditor of any society which is a party to the transfer.

Registration  
as a company.  
1902, No. 17,  
s. 62.

**70.** (1) Any society may, by special resolution, apply to be registered as a company under the Companies Act, 1899, and upon being so registered shall cease to be registered as a society under this Act.

(2) The society shall not be so registered under a name which includes the word "co-operative."

(3) The registrar of joint stock companies shall give notice to the registrar of the issue of the certificate of incorporation under the Companies Act, 1899.

(4) The incorporation of the society under that Act shall not prejudice any right of a member in respect of any shares held by him at the time when the society is so registered.

56 & 57 Vic.,  
c. 39, s. 54.

(5) Nothing in this section shall be deemed to affect the identity of the society, and in particular any right or claim for the time being subsisting against the society, and any penalty for the time being incurred by the society, may be enforced against the society either by its former name or by its name as a company in the same manner as if it had not been registered as a company.

Contracts.  
56 & 57 Vic.,  
c. 39, s. 35.

**71.** (1) Contracts on behalf of a society may be made varied or discharged as provided in this section.

(2) Any contract which, if made between private persons, would be by law required to be in writing, and under seal, may be made on behalf of the society in writing under the common seal of the society, and the contract may be in the same manner varied or discharged.

(3) Any contract which, if made between private persons, would be by law required to be in writing and signed by the party to be charged therewith, may be made on behalf of the society in writing, signed by any person acting under the express or implied authority of the society, and the contract may in the same manner be varied or discharged.

(4)

(4) Any contract which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the society by any person acting under the express or implied authority of the society, and the contract may in the same way be varied or discharged.

George V,  
No. 1.

(5) Any contract made according to the provisions of this section shall be effectual in law and shall be binding upon the society and all other parties thereto.

**72.** (1) The name of a society shall include the word "co-operative" as part of the name.

Name and  
address.

(2) In the case of a society with limited liability the word "limited" shall be the last word of the name, and in the case of a society with unlimited liability the word "unlimited" shall be the last word of the name.

1902, No. 17,  
s. 40 : 56 &  
57 Vic., c. 39,  
ss. 11, 12 ;  
S. Af. 1922,  
No. 8, s. 58.

(3) The name of a society shall be inscribed in legible characters on its seal, and shall be stated in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, cheques, promissory notes, endorsements, orders for money or goods, waybills, invoices, receipts, and other documents required in the business of the society.

(4) The name of the society with a statement that the society is registered under this Act shall be painted or affixed, and kept painted or affixed, on the outside of its office in a conspicuous place and in letters which are clearly legible.

(5) The office of the society shall be registered as prescribed, and notice of any change of address shall be transmitted to the registrar within fourteen days after the change.

**73.** The rules of a society shall bind the society and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name and affixed his seal thereto, and there

Rules.

56 & 57 Vic.,  
c. 39, s. 22.

**George V, No. 1.** there were contained in the rules a covenant on the part of each member and his legal representatives to observe all the provisions of the rules, subject to the provisions of this Act.

Registers and accounts.

**74.** (1) A society shall keep such registers and accounts as may be prescribed by regulation.

(2) The registers shall include the following, that is to say—

- (a) a register of the directors members and shares ;
- (b) a register of any loans raised, securities given, bonds issued, and deposits received by the society ;
- (c) a register of any loans made or guaranteed by the society, and of any securities taken by the society ;
- (d) a register of any nominees to whom any share or interest is to be transferred or the value thereof paid on the death of a member.

(3) The registers shall be kept in such manner and shall contain such particulars as may be prescribed by regulation.

1899, No. 40,  
s. 237.

(4) No notice of any trust, expressed implied or constructive, shall be entered in any register, or be received by the registrar.

Inspection.  
S. Af. 1922,  
No. 23,  
ss. 33, 34 ;  
56 & 57 Vic.,  
c. 39, s. 16.

**75.** A society shall have at its office and open at all reasonable hours to inspection by any member or creditor without fee—

- (a) a copy of this Act and the regulations ;
- (b) a copy of the rules of the society ;
- (c) a copy of the last balance-sheet and profit and loss account for the time being, together with the report of the auditor ;
- (d) the prescribed register of directors members and shares ;
- (e) the prescribed register of loans raised, securities given and bonds issued by the society.

1913, No. 37,  
s. 12.

**76.**

**76.** (1) A society shall, within fourteen days after any change in the membership of the board, transmit to the registrar information of the change.

George V,  
No. 1.

Returns,  
1902, No. 17,  
s. 50.

(2) A society shall, before the thirtieth day of September in each year or before such later date as the registrar may authorise, transmit to the registrar the following returns, that is to say—

S. Af. 1922,  
No. 28, ss. 31,  
32.

- (a) a list of the directors for the year then current ;
- (b) a list of the members of the society at the thirtieth day of June then last past ;
- (c) a statement of the assets and liabilities of the society at such thirtieth day of June, and of the accounts of the society for the year ending on that date ;
- (d) a copy of any report by the auditor on such accounts ;
- (e) such other particulars as may be prescribed by regulation.

(3) The list to be transmitted of the members of the society need not include the holders of borrowers' shares only, and as regards such list it shall be a compliance with this section if the society transmits information of any change in the membership since the date of the previous list.

(4) Every society which at the commencement of this Act is established or registered or deemed to be established or registered under the Building and Co-operative Societies Act, 1901, shall, before the thirty-first day of March, one thousand nine hundred and twenty-four, or before such later date as the registrar may authorise, transmit to the registrar the following particulars, that is to say—

- (a) a list of the directors and members of the society ;
- (b) a list of the charges payable by a member to the society ;
- (c) such other particulars as may be prescribed by regulation.

(5)

**George V,**  
**No. 1.** (5) Any information or return to be transmitted to the registrar under this section shall be in such form as may be prescribed by regulation.

**Dealings with members and applicants.** **77.** (1) A society may, if authorised by its rules, make a contract with a member requiring him to have any specified dealings with the society for a fixed period, and in particular requiring him to sell products through or to the society, or to obtain supplies or services through or from the society, with provision for the payment by him to the society of specified sums as liquidated damages for the breach of any term of the contract, and the contract shall be binding upon the society and all other parties, notwithstanding that but for this Act the contract would be invalid as being in restraint of trade.

(2) Where a society is authorised by its rules to have any dealings with a member, the society shall, unless the rules otherwise provide, be deemed to be authorised to have similar dealings with any person who applies and is qualified to be a member.

**Charges.**  
**1902, No. 17,**  
**s. 22.** **78.** (1) A society shall furnish to any person intending to become a member a list of the charges payable by a member to the society.

(2) A person who becomes a member of the society shall be liable to pay only the charges mentioned in the list, and any charges which may be imposed by any subsequent registered alteration of the rules.

(3) The charges may be altered by special resolution.

(4) The charges, and any alteration of the charges, shall be subject to the approval of the registrar.

**Fines.**  
**S. Af. 1922,**  
**No. 23, s. 59.** **79.** (1) A society may impose a fine on a member for any infringement of its rules, provided that no fine exceeding ten shillings shall be imposed until written notice of intention to impose the fine and of the reason therefor has been transmitted to the member, and he has had an opportunity of appearing before the board in person with or without witnesses, or of sending to the board a written statement for the purpose of showing cause against the imposition of the fine.

(2)

(2) The society may set off the whole or any part of the fine against any moneys due to the member in respect of any produce delivered by him to the society, but no part of the fine shall be set off against any advance due to him by the society in accordance with the rules against produce so delivered.

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(3) The member shall not be deemed to have infringed the rules of the society by a failure to deliver produce to the society, if the failure was due to the fact that under the rules of another society he had bound himself before he became a member of the first-mentioned society to deliver the produce to the other society and had actually delivered the produce to that society.

**80.** (1) For the purposes of this Act a special resolution shall mean a resolution which is passed by a majority of not less than two-thirds of such members of the society entitled under the rules to vote as may be present in person or by proxy, where the rules allow proxies, at any general meeting of which notice specifying the intention to propose the resolution has been duly given according to the rules.

Special  
resolution.  
1912, No. 46,  
s. 108.

(2) At any meeting mentioned in this section, unless a poll is demanded, a declaration by the chairman that the resolution has been carried shall be conclusive evidence of the fact.

(3) A copy of the special resolution, signed by the chairman of the meeting and countersigned by the secretary, shall be sent to the registrar and registered by him, and until the copy is so registered the special resolution shall not take effect.

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## PART IV.

## RULES MANAGEMENT AND DISPUTES.

DIVISION 1.—*Rules.*

Model rules,  
S. Af. 1922,  
No. 28, s. 8.

**81.** (1) Model rules shall be prescribed by regulation for each kind of society, and in this section the model rules in relation to any society shall mean the model rules prescribed for that kind of society.

(2) A society which is to be registered under this Act, or which is registered thereunder, may adopt as its rules all or any of the model rules.

(3) Where a society is formed under this Act, in so far as any rules tendered for registration are not inconsistent with or do not exclude or modify the model rules, the model rules shall be deemed to form part of the rules of the society in the same manner and to the same extent as if they were contained in the rules tendered.

(4) No alteration of the model rules shall apply to any society which is established before the alteration is published in the Gazette, unless the society by rule adopts the alteration.

Rules,  
56 & 57 Vic.,  
c. 39, s. 10 ;  
W.A. 1920,  
No. 20, s. 9 ;  
S. Af. 1922,  
No. 28, s. 9.

**82.** (1) The rules of a society shall be divided into paragraphs numbered consecutively, and shall set forth—

- (a) the name of the society with the word “co-operative” as part of the name, and with the word “limited,” in the case of a society with limited liability, as the last word of the name, or with the word “unlimited,” in the case of a society with unlimited liability, as the last word of the name ;
- (b) whether the liability of members is limited or unlimited ;
- (c) where the office of the society is to be situated ;
- (d) the objects of the society ;
- (e) whether the society intends to avail itself of any powers authorised by this Act as incidental to its objects, and in the case of the borrowing powers, within what limits not exceeding the limits prescribed by this Act ;

(f)



- (f) the manner in which the capital of the society is to be raised;
- (g) the manner in which the funds of the society are to be managed, and in particular the mode of drawing and signing cheques, drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the society;
- (h) the purposes to which the funds of the society are to be applied, and the manner in which they are to be invested;
- (i) in the case of any society which is authorised to make an advance, the manner in which an application for an advance is to be made; the conditions with which an applicant is to comply; the manner in which an advance is to be made and repaid; the deduction, if any, for premium; the conditions upon which a borrower may redeem the amount due from him before the expiration of the period for which the advance is made; and the terms upon which a mortgage may be redeemed;
- (j) the manner in which any gain or surplus which may result from the transactions of the society is to be distributed amongst members;
- (k) the manner in which any loss which may result from the transactions of the society is to be provided for;
- (l) the mode and conditions of admission to membership, and the payment to be made or the share or interest to be acquired before the exercise of the rights of membership;
- (m) the rights and liabilities of members, and of the estates of deceased members and of members whose estates have been sequestrated or assigned;
- (n) the manner in which the share or interest of members may be transferred;
- (o) the circumstances in which members may be expelled, and the rights and liabilities of expelled members;

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(p)

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- (p) the number of directors, the qualification of directors, and the manner of electing, remunerating, and removing directors and filling a vacancy, whether directors are to be elected annually or half-yearly, the period for which directors are to hold office, and whether directors are to retire by rotation or otherwise ;
- (q) the powers and duties of the board, the requisite notice of meetings, the quorum for meetings, and the procedure at meetings, of the board ;
- (r) the intervals between general meetings of the society, the manner of calling general and special meetings, the requisite notices of meetings, and the quorum for meetings, of the society ;
- (s) the procedure at meetings of the society, including the rights of members in voting thereat, the manner of voting, and the majority necessary for carrying resolutions ;
- (t) the manner of appointing remunerating and removing officers of the society, the powers and duties of officers, and the security to be given by any officer having the receipt or charge of any moneys belonging to the society ;
- (u) whether the accounts of the society are to be audited annually or more frequently ;
- (v) the manner of appointing remunerating and removing auditors, the powers and duties of auditors, and in particular their powers and duties with respect to the inspection of securities belonging to the society ;
- (w) provision for the custody of securities belonging to the society ;
- (x) the charges, including any charges on admission or for working expenses or otherwise, which are to be payable by a member to the society ;
- (y) the circumstances in which fines and forfeitures may be imposed on members of the society, and the amount of the fines not exceeding the maximum allowed by this Act ;
- (z)

- (z) whether disputes between the society and any of its members, or any person claiming by or through any member, under the rules, are to be settled by reference to arbitration or how otherwise ;
- (aa) the manner of altering and rescinding the rules, and of making additional rules ;
- (bb) provision for the device, custody and use of the seal of the society ;
- (cc) the manner in which the society may be wound-up ;
- (dd) such other matters as may be prescribed by regulation.

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(2) The rules of a society with limited liability shall, in addition to the matters mentioned in subsection one of this section, set forth—

- (a) the nominal value of each share in the society ;
- (b) the maximum proportion of the shares which may be held by a member, not exceeding the proportion allowed by this Act ;
- (c) the maximum nominal value to which a member may have or claim an interest in the shares, not exceeding the amount allowed by this Act ;
- (d) whether the shares are to be of one or more classes within the limits allowed by this Act, and if so, what rights each class is to have ;
- (e) the amount of the contingent liability, if any, attaching to shares ;
- (f) the ratio which borrowers' shares, if any, are to bear to the amount of the loan made to a borrower ;
- (g) the terms upon which shares, including shares, if any, with a contingent liability attached thereto, and including borrowers' shares, if any, are to be issued ;
- (h) the periodic subscriptions by which or the manner in which shares are to be paid for ;
- (i) the maximum amount which may be paid to a member in the form of dividend in respect of the shares held by him, not exceeding the amount allowed by this Act ;

(j)

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- (j) provision for the forfeiture of shares on expulsion or on failure to pay any subscription or call, the extent to which members whose shares have been forfeited shall remain liable for any amount still unpaid in respect thereof, and the sale or cancellation of forfeited shares;
- (k) the manner in which shares may be transferred;
- (l) such other matters as may be prescribed by regulation.

Building  
society.

(3) The rules of a building society shall, in addition to the matters mentioned in subsections one and two of this section, set forth—

- (a) whether the society is a permanent society or a Starr-Bowkett or other terminating society;
- (b) in the case of a terminating society, the fixed date or the result upon the attainment of which the society is to terminate;
- (c) whether or not shares may be withdrawn, and if so, upon what terms;
- (d) the manner in which the value of shares is to be ascertained for repayment;
- (e) such other matters as may be prescribed by regulation.

W.A. 1920,  
No. 20, s. 9.

- (c) whether or not shares may be withdrawn, and if so, upon what terms;
- (d) the manner in which the value of shares is to be ascertained for repayment;
- (e) such other matters as may be prescribed by regulation.

Rural and  
urban credit  
societies.

(4) The rules of a rural credit society with limited liability, and of an urban credit society, shall, in addition to the matters mentioned in subsections one and two of this section, set forth the district, with limits not exceeding the limits allowed by this Act, for the purpose of loans to be made or guaranteed by the society.

(5) The rules of a rural credit society with unlimited liability shall, in addition to the matters mentioned in subsections one and two of this section so far as applicable to such a society, set forth—

- (a) the district, with limits not exceeding the limits allowed by this Act, for the purpose of loans to be made or guaranteed by the society;
- (b) the manner in which any loss arising during any financial year from the transactions of the society shall be made good by its members at the end of that year.

(6)

(6) The rules of a society may provide for the imposition of a fine on a member for any infringement of the rules, provided that the fine shall not exceed such amount as may be prescribed by regulation. George V,  
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Fines.

(7) The rules of a society may require a member to have any specified dealings with the society for a fixed period, and to enter into a contract for that purpose, notwithstanding that but for this Act the rule might be invalid as being in restraint of trade. Specified  
dealings.

(8) Any person shall be entitled to obtain from a society a copy of its rules on payment of a sum not exceeding two shillings and sixpence. Copy of rules.

**83.** (1) The rules of a society shall not be altered unless the alteration has been approved by a special resolution. Alteration of  
rules.  
S. Af. 1922,  
No. 28, s. 13.

(2) The society shall within one month apply to the registrar to have the alteration registered and the application shall be made as prescribed by regulation, and be accompanied by—

- (a) a statutory declaration from the chairman and secretary of the meeting as to the compliance with the requirements of this section ;
- (b) two copies of the alteration signed by the secretary and not less than three members.

(3) Where the alteration is of part only of a rule, a copy of the alteration shall mean a copy of the rule as altered.

(4) If the registrar is satisfied that the alteration is not contrary to this Act or to the regulations, the registrar shall register and certify the alteration as prescribed, and until the alteration is so registered and certified the alteration shall not take effect.

(5) The rules of the society shall be read subject to any alteration so registered and certified.

(6) In this Act alteration of a rule includes addition to a rule, and rescission of a rule.

#### DIVISION 2.—*Management.*

**84.** (1) The business and operations of a society shall be managed and controlled by a board of directors, and for that purpose the board, except as provided in this Board of  
directors.  
S. Af. 1922,  
No. 28, ss. 18,  
19.

**George V,** this section, shall have and may exercise the powers of  
**No. 1.** the society as if they had been expressly conferred on the board by a general meeting of the society.

(2) The powers of the board shall be subject to any restrictions imposed thereon by this Act or by the rules of the society.

(3) Every director acting in the business or operations of the society in pursuance of a resolution duly passed by the board, shall be deemed to be the agent of the society for all purposes within the objects of the society.

(4) The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

(5) A director shall not be held liable to the society for any loss that the society may sustain, unless the loss was due to his wilful misconduct or gross negligence or to his failure to comply with any of the provisions of this Act or of the regulations or of the rules of the society.

(6) The directors shall be elected at a general meeting of the society in accordance with the rules, provided that—

- (a) in the case of a society which is formed under this Act, the first directors shall be elected at the meeting for its formation ;
- (b) in the case of a society under the Building and Co-operative Societies Act, 1901, which is registered under this Act, the members of the board then in office shall be the first directors ;
- (c) in the case of a company which is registered under this Act, the directors in office at the date of the registration shall be the first directors.

(7) The number of directors shall not be less than three, and no person shall be qualified to be a director unless he is a member of the society, provided that in the case of an association or union a member of a society which is a member of the association or union shall be qualified to be a director.

(8)

(8) Meetings of the board shall be held as often as may be necessary for properly conducting the business and operations of the society, but shall be held at least quarterly, and a quorum of a meeting of the board shall be as prescribed by the rules of the society, but shall not in any case be less than half the number of directors.

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(9) The chairman of the board may be elected either by the board or at a general meeting of the society, and shall be elected, hold office, and retire, and may be removed from office, as prescribed by the rules of the society.

(10) The directors shall hold office and retire, and may be removed from office, as prescribed by the rules of the society.

(11) The office of a director shall be vacated in such circumstances, if any, as may be prescribed by the rules of the society, and in any of the following cases, that is to say—

- (a) if he becomes bankrupt or assigns his estate for the benefit of or compounds with his creditors;
- (b) if he becomes an insane patient or insane or incapable person within the meaning of the Lunacy Act of 1898;
- (c) if he is convicted of any offence under this Act, or if he is convicted of any offence and sentenced to any period of imprisonment without the option of a fine;
- (d) if he absents himself from three consecutive ordinary meetings of the board without its leave;
- (e) if within one month after any money becomes due from him to the society he does not pay the same;
- (f) if he ceases to be a member of the society, or if in the case of an association or union he ceases to be a member of a society which is a member of the association or union;

(g)

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- (g) if he gives one month's notice in writing to the board of his intention to resign office and his resignation is accepted by the board;
- (h) if he is removed from office by resolution of a general meeting of the society;
- (i) if he has, except as provided in this section, a direct or indirect pecuniary interest in any agreement with the society otherwise than as a member and in common with the other members of another society or of an incorporated company consisting in either case of more than twenty-five persons.

(12) The provisions of paragraph (i) of subsection eleven of this section shall not be deemed to extend to any loan to the director made or guaranteed by the society in accordance with a special resolution, or to any purchase by the director from the society in accordance with a special resolution, or to any of the following dealings, if made in good faith, in the ordinary course of the business of the society, and on such terms as are usual and proper in similar dealings between the society and its members, that is to say—

- (a) a purchase of any goods by the director from the society;
- (b) a sale of any agricultural products or live stock by the director to the society;
- (c) a loan, whether by deposit or otherwise, by the director to the society;
- (d) an advance made to a director of a Starr-Bowkett society in accordance with its rules.

(13) A director shall not vote upon any question in which he has any direct or indirect pecuniary interest otherwise than as a member and in common with the other members of the society, and if he votes, his vote shall not be counted.

(14) Any vacancy occurring on the board shall be filled as prescribed by the rules of the society.

(15) Notwithstanding any other provision of this section the directors of an association or union may be elected as prescribed by regulation.



**85.** (1) The annual general meeting of the society shall be held within three months after the close of the financial year, or within such further time as may be allowed by the registrar or prescribed by regulation.

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Meetings of  
the society.  
S. Af. 1922,  
No. 28, ss. 23,  
24.

(2) Any other meetings of the society shall be held or may be called as prescribed by the rules of the society.

(3) At any meeting of the society no item of business shall be transacted, unless a quorum of members is present during the time when the meeting is considering that item, and the quorum shall be as prescribed by the rules of the society.

**86.** (1) Except as is otherwise provided in this Act or by the rules of the society, every question for decision by a meeting of the society shall be determined by a majority of members present in person thereat, and unless a poll is demanded by at least five members the question shall be determined on a show of hands, provided that—

Votes of  
members.  
S. Af. 1922,  
No. 28,  
ss. 25, 26.

(a) in the case of an association the members shall mean the persons appointed to represent the component societies in accordance with the rules of the association ;

(b) in the case of a union the members shall mean the persons appointed to represent the component associations or societies in accordance with the rules of the union.

(2) Every member of a society shall have one vote, provided that, if so authorised by the rules and except as otherwise provided in this section, every member shall on a poll be entitled to an additional vote or votes, not exceeding two, allotted in accordance with this section.

(3) In the case of a rural society or of a trading society any additional vote shall be allotted on the basis of the quantity or value of produce delivered to or the value of goods purchased from the society by the member during the preceding financial year, provided that where under the rules it is obligatory for the member to subscribe for shares in proportion to the use made by him of the society, any additional vote may be allotted on the basis of the shares held by the member.

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(4)

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(4) In the case of a terminating building society or of a rural credit or an urban credit society a member shall not be entitled to any additional vote.

(5) Except as otherwise provided in subsections three and four of this section, any additional vote may be allotted on the basis of the shares held by the member.

(6) Any additional vote may be allotted in such ratio to quantity or value of products delivered, goods purchased, or shares held, as may be prescribed by the rules of the society.

(7) The allotment of any additional vote shall be determined in such manner and at such times as may be prescribed by the rules of the society.

(8) Notwithstanding any other provision of this section a member who has borrowed from the society any money which is still unpaid shall not be entitled to vote upon any question in respect of which his right to vote is excluded by the rules of the society, and if he votes on any such question, his vote shall not be counted.

(9) If a poll is held, any member within the meaning of subsection one of this section may vote either personally, or, if so authorised by the rules of the society, by proxy, provided that—

- (a) no person may act as a proxy unless he is a member of the society or of a component society or association ;
- (b) no person may at any meeting act as proxy for more than five persons ;
- (c) in the case of a rural credit society with unlimited liability no member may vote by proxy.

Minutes.  
S. Af. 1922,  
No. 23, s. 27.

**87.** Minutes of every meeting of the board, and of every meeting of the society, shall be kept and confirmed as prescribed by regulation.

Officers.  
N.Z., 1922,  
No. 55, ss.  
8, 9.

**88.** (1) A director or other officer shall not borrow from the society, and the society shall not lend to a director or other officer, except by special resolution of the society, and if any loan is made in contravention of this

this subsection the members of the board who authorised the loan shall be jointly and severally liable for any loss on the loan occasioned to the society, provided that this subsection shall not affect an advance made to a director of a Starr-Bowkett society in accordance with its rules.

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(2) A director or other officer of a rural credit or an urban credit society shall not be paid any remuneration for his services, save that—

- (a) there may be paid to the chairman of the board an annual or other allowance to be approved at a general meeting of the society, and a refund of his travelling expenses actually and reasonably incurred in connection with the business of the society;
- (b) there may be paid to not more than one member of the society in respect of his services as secretary or treasurer, or as both secretary and treasurer, such sum as may be determined by the board in accordance with the rules.

(3) Every officer having the receipt or charge of any money of the society shall give security as prescribed by regulation for rendering a just and true account of all money received and paid by him for the society, and for payment of all money due from him to the society.

**89.** (1) The accounts of the society shall be audited annually or more frequently as may be prescribed by the rules of the society.

**Accounts and  
audit.  
37 & 38 Vic.,  
c. 42, ss. 23,  
24.  
56 & 57 Vic.,  
c. 39, s. 13.**

(2) The auditor shall be some competent person approved by the registrar, but an officer of the society shall not be capable of being appointed its auditor.

(3) Every auditor shall have a right of access to the books accounts vouchers and documents of the society, and may require from the directors and other officers such information and explanation as may be necessary for the performance of his duties as auditor.

(4) In making his report to the members of the society and in signing any statement of assets and liabilities

**George V,** liabilities or of accounts to be presented to the members  
**No. 1.** or transmitted to the registrar, the auditor shall state—

- (a) whether he has obtained the information and explanation required by him ;
- (b) whether in his opinion the statements are properly drawn up so as to exhibit a true and correct view of the financial position of the society according to the information at his disposal and explanation given to him and as shown by the books of the society ;
- (c) whether the rules relating to the administration of the funds of the society have been observed.

(5) A copy of the balance-sheet and profit and loss account duly audited, together with a copy of the auditor's report to the members of the society, shall be transmitted to each member with the notice of the annual general meeting, or in the alternative, if the rules of the society so provide, the notice of the annual general meeting may include a notice that the balance-sheet and profit and loss account and auditor's report may be inspected by members at the office of the society for such period before the meeting as may be prescribed by the rules.

(6) Any member may inspect his own account in the books of the society at any reasonable time on payment of a fee not exceeding two shillings.

**Financial  
year.**

**90.** (1) The financial year of a society shall end on the thirtieth day of June, or with the written consent of the registrar on any date between the thirty-first day of May and the thirty-first day of July.

(2) Where a society is registered in any year on any date between the first day of July and the thirty-first day of December, the first financial year of the society shall be deemed to be from that date to the thirtieth day of June in the year next ensuing.

(3) Where a society is registered in any year on any date between the first day of January and the thirtieth day of June, the first financial year of the society shall be deemed to be from that date to the thirtieth day of June in the year next ensuing.

DIVISION

DIVISION 3.—*Disputes.*

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**91.** (1) Every dispute between a member, in his capacity of a member, and the society shall, except as otherwise provided in this section, be determined in the manner prescribed by the rules of the society.

Settlement,  
1902, No. 17,  
ss. 58, 59 ;  
1912, No. 46,  
ss. 72, 73 ;  
47 & 48 Vic.,  
c. 41, s. 2.

(2) For the purposes of this section, "society" shall include the board or any officer, and "member" shall include—

- (a) any person aggrieved who has not for more than three months ceased to be a member ;
- (b) any person claiming through or under a member, or through or under a person within paragraph (a) of this subsection.

(3) Notwithstanding the provisions of subsection one of this section, any party may refer the dispute to the registrar, provided that the dispute has not been referred to arbitration in accordance with the rules of the society, or provided that, if the dispute has been so referred, one month has elapsed without an award being made.

(4) Where the dispute is referred to the registrar, the registrar or any person deputed by him shall hear and determine the dispute, and may order the expenses to be paid out of the funds of the society, or by such party to the dispute as he may think fit.

(5) Where the dispute is so referred, the registrar or person deputed by him may administer an oath, and may require the attendance of any party or witness, and the production of any book or document relating to the matter in question.

(6) Any determination or order in accordance with this section, whether made on a reference to the registrar or otherwise, shall be binding and conclusive on all parties without appeal, and shall not be removable into any court or be restrainable by injunction.

(7) The determination or order may, on application by any person interested, be enforced by the District Court of the district within which the office of the society is situated.

(8)

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(8) The District Court may give such relief and make such orders, including an order as to costs, and give such directions in relation to the matter as may be necessary.

(9) Any order made or direction given by the District Court under this section may be enforced by any process or procedure which would be applicable if the order had been made upon the hearing of an action in the District Court, or by such process or procedure as the District Court may direct.

(10) The judges of the District Courts or any four of such judges may make rules of court for the practice and procedure in applications to a District Court under this section.

(11) Nothing in this section shall extend to any dispute as to the construction or effect of any mortgage, or of any contract contained in any document other than the rules of the society.

## PART V.

### WINDING-UP AND CANCELLATION.

Winding-up.  
1902, No. 17,  
s. 45;  
S. Af. 1922,  
No. 28, ss. 11,  
41, 45.

**92.** (1) A society may be wound up voluntarily or by the court or upon a certificate of the registrar.

(2) In the case of a winding-up either voluntarily or by the court, the society may be wound up in the same manner and in the same circumstances in which a company formed or registered under Part I of the Companies Act, 1899, may be so wound up:

Provided that where on the application of the registrar or any person interested the court is satisfied that the registration of the society was obtained by fraud, the court may wind up the society.

(3) In the case of a winding-up upon a certificate of the registrar, the society may be wound up if the registrar certifies that any of the following events has occurred, that is to say—

(a) that the number of members is reduced to less than seven, or in the case of an association or union to less than two;

(b)

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- (b) that the society has not commenced business within a year of registration or has suspended business for a period of more than six months;
- (c) that the period, if any, fixed for the duration of the society by its rules has expired;
- (d) that an event (to be specified in the certificate) has occurred upon the occurrence of which the regulations or the rules provide that the society is to be wound up;
- (e) that the registration of the society has been obtained by mistake;
- (f) that the society exists for an illegal purpose;
- (g) that the society has wilfully and after notice from the registrar violated the provisions of this Act or of the regulations or of the rules of the society;
- (h) that the society, being a society under the Building and Co-operative Societies Act, 1901, and not being one of the societies mentioned in the Second Schedule to this Act, has not made and transmitted to the registrar the alterations, if any, in its rules as required by this Act.

(4) The registrar shall not so certify, unless the event has been proved to his satisfaction, and unless in the case of paragraphs (e) (f) and (g) of this section the Governor consents to the issue of the certificate.

(5) Where the registrar so certifies, he may appoint a person to be the liquidator of the society, and the liquidator shall give such security and be entitled to receive such fees as may be prescribed by regulation.

(6) In the case of any winding-up of a society the provisions of the Companies Act, 1899, with respect to the winding-up of a company formed or registered under Part I of that Act shall apply to the winding-up of the society, provided that for the purposes of this section—

- (a) the terms “special resolution” and “extraordinary resolution” shall have the meaning given to a special resolution by this Act;
- (b) the term “registrar” shall have the meaning given to it by this Act;

(c)

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(c) the provisions with respect to the winding-up of a company by the court shall apply to the winding-up of the society, whether the winding-up is by order of the court or upon a certificate of the registrar.

(7) Notwithstanding any other provision of this section the winding-up of a society shall be deemed to commence—

- (a) at the time of passing the resolution to wind-up, if the winding-up is voluntary ;
- (b) at the time of making the order to wind-up, if the winding-up is by the court ;
- (c) at the time of the certificate, if the winding-up is upon a certificate of the registrar.

(8) The liquidator shall cause a notice of the commencement of the winding-up to be advertised in the Gazette and in a newspaper circulating in the district in which the office of the society is situated, and also to be sent to the Commissioner of Taxation.

57 & 58 Vic.,  
c. 47, s. 11.

(9) In the case of a voluntary winding-up the liquidator shall, within one month after the affairs of the society have been fully wound up send to the registrar an account and balance-sheet signed and certified by the liquidator as correct, and showing the assets and liabilities of the society at the commencement of the winding-up and the mode in which those assets and liabilities have been applied and discharged, and in default of so doing the liquidator shall be liable to a penalty not exceeding five pounds for every day during which the default continues.

Liability of  
members in  
winding-up.  
1902, No. 17,  
s. 47.

**93.** (1) Where a society is being wound-up, every present and past member of the society shall be liable to contribute to the assets of the society to an amount sufficient for payment of the debts and liabilities of the society and the costs charges and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories among themselves, with the qualifications set out in this section.

(2)



(2) A past member shall not be liable to contribute to the assets of the society if he has ceased to be a member for one year or upwards before the commencement of the winding-up. George V,  
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(3) A past member shall not be liable in respect of any debt or liability of the society contracted after the time at which he ceased to be a member.

(4) A past member shall not be liable to contribute unless it appears to the court that the existing members are unable to make the contributions required to be made by them in order to satisfy all just demands upon the society.

(5) In the case of a society with limited liability no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member, together with the amount of the contingent liability, if any, attached thereto, and together with any charges payable by him to the society in accordance with the rules.

(6) No sum due to any member of a society in his character of a member by way of dividends profits or otherwise shall be deemed to be a debt of the society payable to the member in a case of competition between himself and any other creditor not being a member of the society, but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

**94.** A society shall not be dissolved and the registration of the society cancelled until a certificate signed by the liquidator or by the secretary or some other officer approved by the registrar has been transmitted to the registrar that all property vested in the society has been duly conveyed or transferred by the society to the persons entitled. Dissolution,  
3 & 4 Geo. V,  
c. 31, s. 8.

**95.** As soon as may be practicable after the society is dissolved or deemed to be dissolved, the registrar shall register the dissolution and cancel the registration of the society. Cancellation,  
1869, No. 40,  
ss. 120, 142.

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## PART VI.

## EVIDENCE AND OFFENCES.

DIVISION 1.—*Evidence.*

Certificates and  
documents.  
1899, No. 40,  
s. 17;

**96.** (1) Any certificate of incorporation given by the registrar shall be received in evidence as if it were the original certificate.

1912, No. 46,  
s. 111.

(2) Every certificate of registration or other official document relating to a society signed by or bearing the seal of the registrar shall be received in evidence without further proof.

1901, No. 5  
(Cwth.), s. 5.

(3) Judicial notice shall be taken of the signature and seal of any person who holds or has held the office of registrar, if the signature or seal purports to be attached to any certificate or other official document.

(4) The provisions of this section shall be deemed to extend to any copy of the rules of a society certified by the registrar to be a true copy of its registered rules.

Rules.  
37 & 38 Vic.,  
c. 42, s. 20.

**97.** A printed copy of the rules of a society certified by the secretary of the society to be a true copy of its registered rules shall be received as evidence of the rules, in the absence of evidence to the contrary.

Registers.  
1899, No. 40,  
s. 226.

**98.** The register of directors members and shares of a society shall be evidence of the particulars directed or authorised by or under this Act to be inserted therein.

Minutes.  
S. Af. 1922,  
No. 28, s. 27.

**99.** (1) Every entry in the minutes purporting to be a minute of the business transacted at a meeting of a society or of the board, and to be signed by the chairman at a subsequent meeting, shall be evidence that the business as therein recorded was transacted at the meeting, and that the meeting was duly convened and held.

(2) An entry in the minutes of a meeting of a society to the effect that a resolution was carried or carried unanimously, or was lost, shall be evidence of the fact without proof of the number or proportion of votes recorded for or against the resolution.

**100.**

**100.** A copy of any entry in a book of a society regularly kept in the course of business shall, if certified by statutory declaration of the secretary to be a true copy of the entry, be received in evidence in any case where and to the same extent as the original entry itself is admissible.

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No. 1.  
Entries.

DIVISION 2.—*Offences.*

**101.** (1) A society shall be guilty of an offence, if it fails—

Defaults by  
society.  
1902, No. 17,  
s. 40.

- (a) to paint affix or to keep painted or affixed the name of the society on the outside of its office as required by this Act;
- (b) to keep any register or account, or to make any entry therein, as required by this Act;
- (c) to have at its office and open to inspection a copy of this Act and the regulations, or of the rules, or of the last balance-sheet or profit and loss account, together with the report of the auditor, or any register, as required by this Act;
- (d) to transmit to the registrar any notice or return as required by this Act.

(2) A society shall be guilty of an offence, if it refuses or wilfully neglects to furnish any information lawfully required by the registrar or by any other person authorised under this Act.

1912, No. 46,  
s. 93.

(3) Where the society is guilty of any offence within subsection one or subsection two of this section, every director or officer of the society who knowingly and wilfully authorises or permits the default shall be guilty of an offence.

56 & 57 Vic.  
c. 39, s. 63.

(4) A society director or officer guilty of any offence within this section shall be liable to a penalty not exceeding five pounds, or in the case of a continuing default, not exceeding five pounds for every day during which the default continues.

1902, No. 17,  
s. 40.

**102.** (1) A society shall be guilty of an offence, if it contravenes any restriction imposed by this Act on its power to carry on business, and in particular—

Restrictions  
on powers.  
S. Af. 1922,  
No. 23, s. 61.

- (a) in the case of a trading society, if the society disposes of the agricultural products or live stock of any of its members in any manner prohibited by this Act;
- (b)

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(b) in the case of a rural credit or an urban credit society, if it makes or guarantees a loan in any case where the member to whom the loan is made does not reside within the limits of the district specified in the rules for that purpose;

(c) in the case of any society, if it raises money on loan or receives deposits except as authorised by its rules and within the limits provided in this Act.

(2) Where the society is guilty of any offence within subsection one of this section, the society shall be liable to a penalty not exceeding fifty pounds for every such offence, and every director or officer who knowingly and wilfully authorises or permits such contravention of this Act shall be guilty of an offence, and shall be liable to a penalty not exceeding ten pounds for every such offence.

Too few  
members.  
*Ibid.* s. 63.

**103.** (1) If a society continues to carry on business where the number of its members is reduced below seven, or in the case of an association or union where the number of its members is reduced below two, for a period of one month after the number is so reduced, every person who is a director of the society association or union during the time that it continues to carry on business after such period, and is aware that it is so carrying on with less than seven or two members, as the case may be, shall be guilty of an offence, and shall be liable to a penalty not exceeding five pounds for every day during which the offence continues.

(2) Every person who is guilty of any offence within subsection one of this section shall further be liable to satisfy all obligations of the society association or union incurred during such time, and may be sued for the same without any other member being joined in the action.

Name.  
57 & 58 Vic.,  
c. 47, s. 15.

**104.** (1) If a society uses any name other than its registered name, it shall be guilty of an offence, and shall be liable to a penalty not exceeding five pounds for every day during which the offence continues.

(2)

(2) If an officer of a society or a person on its behalf issues or authorises the issue of any notice advertisement or other official publication of the society, or signs or authorises to be signed on behalf of the society any bill of exchange, cheque, promissory note, endorsement, order for money or goods, waybill, invoice, receipt, or other document required in the business of the society, wherein its name does not appear in legible characters, he shall be guilty of an offence, and shall be liable to a penalty not exceeding fifty pounds.

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1902, No. 17,  
s. 41.

(3) Any officer or person who so signs or authorises to be signed any such bill of exchange, cheque, promissory note or order for money or goods, shall further be personally liable for the amount to the holder thereof, unless the same is duly paid by the society.

**105.** If any officer of a society or any person on its behalf uses any seal purporting to be the seal of the society, wherein its name does not appear in legible characters, he shall be guilty of an offence, and shall be liable to a penalty not exceeding fifty pounds.

Seal.  
1902, No. 17,  
s. 41.

**106.** If before a society is registered any person takes any money in consideration of the allotment of any share or interest in the society, he shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds.

Allotment of  
shares.  
*Ibid.* s. 51.

**107.** If any person gives to any member of a society or to any person intending or applying to become a member of a society a copy of any rules or any alterations of the same other than those which have been duly registered representing that the same are binding on the members of the society, or if any person makes any alteration in any of the rules or tables of the society after they have been registered, and circulates the same representing that they have been duly registered, when they have not been so registered, he shall be guilty of a misdemeanour.

False copies  
of rules.  
*Ibid.* s. 55.

**108.** If any person wilfully makes, orders, or allows to be made any entry or erasure in, or omission from, any balance-sheet of a society or any contribution or collecting book or any return or document required to

Falsification.  
£6 & 57 Vic.,  
c. 39, s. 15.

be

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**Fraud or  
misappropriation.  
1902, No. 17,  
s. 57.**

**109.** (1) If any person, by false representation or imposition, obtains possession of any property of the society, or having the same in his possession, withholds or misapplies the same or wilfully applies any part thereof to purposes other than those specified or authorised in the rules of the society or by this Act, he shall be guilty of an offence, and shall be liable to a penalty not exceeding one hundred pounds.

(2) Every person who is guilty of an offence within subsection one of this section shall, if so ordered by the court, deliver up all such property and repay all money improperly applied, and in default of delivery or repayment or of payment of the penalty, be liable to imprisonment for any term not exceeding three months.

(3) Nothing in this section shall prevent any person from being proceeded against by way of indictment, if he has not been previously convicted of the same offence under this Act.

**Commission.  
S. Af. 1922,  
No. 28, s. 65.**

**110.** (1) If any officer of a society accepts any commission fee or reward, whether pecuniary or otherwise, from any person for or in connection with a transaction of such person with the society, he shall be guilty of an offence, and shall be liable on summary conviction to imprisonment for any term not exceeding six months or to a penalty not exceeding one hundred pounds.

(2) Every officer who is guilty of any offence within subsection one of this section shall further be liable to make good to the society double the value or amount of such commission fee or reward.

**Contraven-  
tion of Act.  
S. Af. 1922,  
No. 28, s. 66.**

**111.** Any society or person who fails to comply with any requirements of this Act within the time or in the manner thereby prescribed or commits any other contravention thereof shall, where no penalty is expressly provided, be liable to a penalty not exceeding twenty-five pounds.

**112.**

**112.** (1) Every penalty or fine imposed by this Act or by any regulation or rule shall be recoverable summarily.

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Recovery of  
penalties.

56 & 57 Vic.,  
c. 39, s. 69.

(2) Any such penalty or fine, if imposed by this Act or by any regulation shall be recoverable at the suit of the registrar or of any person aggrieved, and if imposed by any rule shall be recoverable at the suit of the society.

**113.** If a society in making guaranteeing or raising any loan or receiving any deposit contravenes any provision of this Act, the civil rights and liabilities of the society or any other person in respect of the recovery of the loan or deposit shall not be affected or prejudiced by the contravention, save that the money shall become immediately payable, and the same remedies may be had for the recovery of the loan or deposit and for the enforcement of any security therefor as if there had not been a contravention of this Act.

Civil  
remedies.

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## PART VII.

### ADVISORY COUNCIL.

**114.** (1) There shall be an advisory council consisting of not less than five nor more than nine members, including the registrar ex officio.

Advisory  
council.

(2) The Minister may attend any meeting, and if he attends, shall preside and may take part in the deliberations of the council.

(3) The members other than the registrar shall be appointed by the Governor, and shall be representative of such different forms of co-operation as he may deem proper, and shall hold office for such period, and may be removed from office, as may be prescribed by regulation.

(4) It shall be the duty of the council to submit recommendations to the Minister with respect to—

(a) the regulations and model rules to be made under this Act ;

(b)

## Co-operation, Community Settlement, and Credit Act.

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- (b) any action to be taken by the Minister, including the appointment of committees, for promoting co-operation and for encouraging and assisting in the formation of co-operative societies ;
  - (c) such other matters as may be referred to the council by the Minister or as may be prescribed by regulation.
- (5) Meetings of the council shall be held and conducted, and members shall be paid fees, as may be prescribed by regulation.

## PART VIII.

## ADMINISTRATION.

Registrar.  
1902, No. 17,  
s. 4.

**115.** (1) There shall be a registrar of co-operative societies, and an office of the registrar.

(2) Until the Governor otherwise directs the Registrar of Friendly Societies shall be the registrar, and the office of the Registrar of Friendly Societies shall be the office of the registrar.

(3) All certificates rules and documents now in the custody of the Registrar of Friendly Societies under the enactment hereby repealed shall be kept in the office of the registrar.

(4) All certificates rules and documents required to be registered under this Act or to be transmitted to the registrar for record shall be kept in the office of the registrar.

(5) The registrar shall have such duties powers and authorities as are prescribed by this Act or by regulation.

(6) During the absence from duty of the registrar by reason of illness leave of absence or other cause the duties powers and authorities of the registrar may be performed and exercised by a deputy to be appointed by the Governor.

(7) The registrar shall have a seal of office.

**116.**



**116.** (1) On any application for registration of a society or of any rule or document under this Act the registrar may require from the applicant such information and evidence as may be reasonable in order to show that the application should be granted.

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Information  
and evidence,  
1902, No. 17,  
s. 50.

(2) The registrar may require from any society such information and evidence as may be reasonable in order to show that the society is bona fide carrying on business in accordance with the provisions of this Act.

(3) The registrar may require from a society such evidence as he thinks proper of all matters required to be done and of the entries in any document required to be transmitted to him under this Act.

**117.** (1) The registrar may inspect, or may authorise in writing any public servant or any accountant or actuary to inspect any minutes or books, or to examine into and report upon the affairs, of the society.

Inspection by  
registrar.  
57 & 58 Vic.,  
c. 47, s. 4.

(2) Any person so authorised shall have the same power and authority as an inspector appointed for the purpose of an inquiry into the affairs of the society.

**118.** (1) The registrar shall, on the application of a majority of the board, or of not less than one-third of the members—

Special  
meeting and  
inquiry.  
*Ibid.*, s. 5.

(a) call a special meeting of the society ;

(b) hold an inquiry into the affairs of the society.

(2) The application shall be supported by such evidence as the registrar directs for the purpose of showing that the applicants have good reason for requiring the meeting or inquiry, and that the application is made without malicious motive.

(3) Such notice of the application shall be given to the society as the registrar directs.

(4) The applicants shall give such security for the expenses of the meeting or inquiry as the registrar directs.

(5) The registrar may direct at what time and place the meeting is to be held, and what matters are to be discussed and determined at the meeting.

(6) The meeting shall have all the powers of a meeting called in accordance with the rules of the society,

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No. 1. society, and shall have power to appoint its own chairman, any rule of the society to the contrary notwithstanding.

(7) The registrar may appoint an inspector for the purpose of the inquiry.

(8) All expenses of and incidental to the meeting or inquiry shall be defrayed by the applicants or out of the funds of the society, or by any officer or member or former officer or member, in such proportion as the registrar directs, and may be recovered as a debt in any competent court.

(9) The registrar may without any application hold an inquiry into the working and financial condition of the society, and for that purpose may appoint an inspector to examine into and report to him upon the affairs of the society.

(10) Any inspector appointed under this section may require the production of all or any of the books or documents of the society, and may examine on oath any officer member agent or employee in relation to the business of the society, and may administer an oath accordingly.

Inspection  
for creditor.

§ 119. (1) The registrar shall, on the application of a creditor of the society, inspect or direct some person authorised in writing by the registrar to inspect the books of the society, if the creditor—

(a) satisfies the registrar that the debt is then due, and that the creditor has demanded payment thereof and has not within a reasonable time received satisfaction; and

(b) deposits with the registrar such security for the expenses of the inspection as the registrar may require.

(2) The registrar shall communicate the results of the inspection to the creditor.

(3) The registrar or person authorised to inspect shall have the same power and authority as an inspector appointed for the purpose of an inquiry.

(4) All expenses of and incidental to the inspection shall be defrayed by the creditor or out of the funds of the society, or by any officer or member or former

former officer or member, in such proportion as the registrar directs, and may be recovered as a debt in any court of competent jurisdiction.

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**120.** Any person may, on payment of the prescribed fee—

Inspection of documents.

W.A. 1920,  
No. 20, s. 50.

- (a) inspect at the office of the registrar the registration and rules of a society and any return required to be transmitted by a society ;
- (b) obtain from the registrar a certificate of the registration of a society and a certified copy of the rules of a society or of any such return, or of any part thereof ;
- (c) with the permission of the registrar, inspect at his office and obtain from him a certified copy of any other document, or of any part thereof.

**121.** The registrar may for the purposes of any inquiry or inspection under this Act administer an oath, and may require the attendance of any witness, and the production of any book relating to the matter in question.

Evidence.

1912, No. 46,  
s. 73.

**122.** (1) Where the registrar refuses to register a society or any of its rules, or refuses to register or directs a change of its name, the registrar shall, if so required by the society, set forth in writing under his hand the grounds of his refusal or the grounds upon which the direction was given.

Appeal from registrar.

W.A. 1920,  
No. 20, s. 33.

(2) The society may summon the registrar to appear before a judge of the Supreme Court to substantiate and uphold the grounds of the refusal or direction.

(3) The judge may direct any question of fact to be determined in such manner as he may deem fit, and may make such order, including an order as to costs, as may be proper in the circumstances, and the registrar shall obey the order.

(4) The judges of the Supreme Court or any three of them may make rules of court for the practice and procedure in applications under this section.

**123.** The registrar shall every year make a report of his proceedings and of the principal matters transacted by him during the preceding year, and the report shall be laid before Parliament.

Report to Parliament.

1902, No. 17,  
s. 31.

**124.**

**Co-operation, Community Settlement, and Credit Act.**

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Regulations.

**124.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and any such regulation may prescribe—

- (a) a penalty for any breach thereof, and also distinct penalties in case of successive breaches thereof, provided that no such penalty shall exceed fifty pounds;
- (b) a daily or weekly penalty, not exceeding two pounds a day or five pounds a week, for any continuing breach thereof.

(2) The regulations shall be published in the Gazette, and shall take effect from the date of publication or from a later date to be specified in the regulations.

(3) The regulations shall be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

(5) The registrar shall notify to a society the publication of any regulation affecting the society.

FIRST SCHEDULE.

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No. of Act.	Title of Act.	Extent of repeal.
1902, No. 17 ...	The Building and Co-operative Societies Act, 1901.	The whole Act, except as otherwise provided by sections 41 (6) and 42 (7) of this Act.

SECOND SCHEDULE.

*Societies referred to in section forty-two.*

- Equitable Permanent Benefit Building, Land, and Savings Institute.
- The Illawarra Mutual Building Society.
- Industrial Building Society.
- Maitland Permanent Building, Investment, and Loan Society, Limited, and Savings Bank.
- Northumberland Permanent Building, Investment, Land, and Loan Society.
- Tamworth Permanent Mutual Benefit Building and Investment Society.
- St. Joseph's Investment and Building Society.

THIRD SCHEDULE.

*Provisions of this Act applicable to the Societies mentioned in the Second Schedule.*

Sections 18 and 54: subsections (1) (5) (7) (8) (9) (10) (11) and (12) of section 66; sections 74, 75, 76, 78, 91, 102, 108, 110, 111, 113, 116, 117, 118, 119, 120, 121, 122, and 124.