

PERMANENT BUILDING SOCIETIES ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 18, 1967.

An Act to make further provision with respect to the registration, administration and powers of permanent building societies and related bodies; to amend the Co-operation Act, 1923-1965, the Stamp Duties Act, 1920-1966, the Moratorium Act, 1932-1965, the Government Guarantees Act, 1934-1966, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

BE

Permanent Building Societies.

No. 18, 1967 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and commencement. 1. (1) This Act may be cited as the "Permanent Building Societies Act, 1967".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division into Parts.

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

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—SOCIETIES—OBJECTS AND POWERS—*ss.* 4–26.

PART III.—INCORPORATION—*ss.* 27–46.

DIVISION 1.—*Incorporation and Rules.*

DIVISION 2.—*Name and Office.*

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DIVISION 4.—*Transfer to Companies Act or Co-operation Acts.*

DIVISION 5.—*General.*

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DIVISION 1.—*Directors and Officers.*DIVISION 2.—*Meetings.*DIVISION 3.—*Registers, Accounts and Audit.*DIVISION 4.—*Returns.*

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DIVISION 1.—*Evidence.*DIVISION 2.—*Offences.*

PART X.—ADMINISTRATION—ss. 107–117.

DIVISION 1.—*Registrar.*DIVISION 2.—*Permanent Building Societies Advisory Committee.*

PART XI.—MISCELLANEOUS—ss. 118–123.

DIVISION 1.—*Civil Remedies.*DIVISION 2.—*Regulations.*DIVISION 3.—*Amendment of various Acts.*

SCHEDULE.

3. (1) In this Act, unless the context or subject-matter otherwise indicates or requires—

“Advertisement” means an advertisement in any medium inviting business or making known the activities of a society, or proposed society, and includes a circular or handbill inviting business or making known the activities of a society or proposed society and “advertise” has a corresponding meaning.

Interpretation.
cf. Act No.
1, 1924, s. 5.

“Advisory

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—

“Advisory Committee” means the Permanent Building Societies Advisory Committee constituted pursuant to this Act.

“Association” means association of permanent building societies registered under this Act.

“Board” means the board of directors of a society.

“Bond” includes debenture.

“Co-operation Acts” means the Co-operation, Community Settlement, and Credit Act, 1923.

“Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any other Act relating to the disposition and holding of lands of the Crown.

“Mortgage” includes lien, charge or other security over property.

“Officer” includes director, secretary, treasurer, official manager, deputy official manager or other person empowered under the rules of a society, or by this or any other Act or the regulations, to give directions in regard to the business of a society.

“Permanent building society” means a building society which has not by its rules any fixed date at which, or specified result on the attainment of which, it is to terminate.

“Prescribed” means prescribed by this Act or by regulation.

“Registrar” means the Registrar of Permanent Building Societies under this Act.

“Regulation” means regulation made under this Act.

“Rule” means registered rule of a society for the time being in force.

“Society” means a permanent building society registered under this Act and includes an association.

“Share” means share in the share capital of a society.

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(2) In this Act—

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- (a) a reference to an Act includes all amendments of that Act, whether by subsequent Acts or otherwise, and any Act passed in substitution for the Act referred to or incorporating any of its provisions; and
- (b) the description of an Act as an Act of the Commonwealth means an Act of the Parliament of the Commonwealth of Australia and all amendments of that Act, whether by subsequent Acts of that Parliament or otherwise and any Act of that Parliament passed in substitution for that Act or incorporating any of its provisions.

PART II.

SOCIETIES—OBJECTS AND POWERS.

4. (1) The objects of a society (other than an association) registered under this Act shall be the raising by the subscriptions of its members and as otherwise authorised by this Act, of a fund for making loans to its members, subject to the provisions of this Act and the regulations—

Objects.
cf. 10 & 11
Eliz. 2 c. 37,
s. 1 and
Act No.
1, 1924,
s. 16.

- (a) upon the security of a mortgage over freehold or leasehold land; or
- (b) upon the security of a mortgage over land of any tenure under the Crown Lands Acts.

(2) A society shall not, without the approval of the Advisory Committee, make any loan on the security of a mortgage over land of such tenure as may be prescribed by the regulations as a tenure not acceptable for the purposes of this section.

(3) Nothing in this section shall be construed as precluding a society from accepting such collateral security for further securing the money so lent as the board shall determine, including security of a class prescribed by subsection three of section five of this Act.

(4)

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(4) The Minister may, by order published in the Gazette upon the recommendation of the Advisory Committee and with the concurrence of the Treasurer, fix a rate of interest for the purposes of this subsection and a society shall not, in respect of any loans made by it, charge a rate of interest in excess of the rate so fixed by the Minister under an order for the time being in force.

Approval
or
additional
security
required in
certain
cases.

5. (1) Subject to subsection two of this section, a society shall not lend money on the security of a first mortgage over land unless—

- (a) where the amount of the loan exceeds twenty thousand dollars, it does not exceed seventy-five per centum of the valuation of the land over which security is to be taken; or
- (b) where the amount of the loan does not exceed twenty thousand dollars, it does not exceed eighty per centum of the value of the land over which security is to be taken.

(2) A society may make a loan exceeding the amount authorised by paragraph (a) or (b), as the case may be, of subsection one of this section if—

- (a) the society has first obtained the approval of the Advisory Committee; or
- (b) the society takes additional security as provided by subsection three of this section.

(3) The additional security that a society may take to comply with paragraph (b) of subsection two of this section shall comprise—

- (a) an indemnity issued pursuant to the Housing Indemnities Act, 1962;
- (b) an indemnity or guarantee by—
 - (i) the Housing Loans Insurance Corporation constituted under the Housing Loans Insurance Act 1965 of the Commonwealth;
 - or

(ii)

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- (ii) an insurance company carrying on business No. 18, 1967
in conformity with the Insurance Act 1932
of the Commonwealth,

securing the repayment to the society of an amount equivalent to the amount by which the loan exceeds the amount of the maximum loan the society is authorised to make pursuant to paragraph (a) or (b), as the case may require, of subsection one of this section;

- (c) a charge upon, and appropriate assignment of, a life insurance policy issued by a company registered under the Life Insurance Act 1945 of the Commonwealth, being a life insurance policy the surrender value of which, at the time the charge and assignment thereof becomes effective, is not less than the amount by which the loan exceeds the amount of the maximum loan the society is authorised to make pursuant to paragraph (a) or (b), as the case may require, of subsection one of this section; or
- (d) such form of additional security as may be prescribed.

(4) Approvals of the Advisory Committee pursuant to subsection two of this section may be given subject to such terms and conditions as the Advisory Committee thinks fit.

(5) If any loan is made in contravention of this section or any terms or conditions imposed by the Advisory Committee pursuant to subsection four of this section, 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.

6. (1) A society shall not lend money on the security of a mortgage over land that is subject to a prior mortgage or mortgages unless the provisions of this section are complied with. Second or subsequent mortgage.

(2) A society may lend money on the security of a mortgage over land that is subject to a prior mortgage or prior mortgages, or such security with additional security as provided

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No. 18, 1967 provided in section five of this Act, if, where the prior mortgage or mortgages is or are to the society, the aggregate of—

- (a) the amount owing under the prior mortgage or mortgages at the time the loan is made; and
- (b) the amount of the loan,

does not exceed the amount of the maximum loan the society would be authorised to make on the security of a first mortgage over the land or, where the additional security is taken, on the security of a first mortgage and that additional security.

(3) A society may lend money on the security of a mortgage over land that is subject to a prior mortgage or prior mortgages if, where the prior mortgage or mortgages is or are not to the society—

- (a) the aggregate of—
 - (i) the amount owing under all prior mortgages (including any to the society) at the time the loan is made; and
 - (ii) the amount of the loan,

does not exceed seventy per centum, or such higher percentage as may in a particular case be approved by the Advisory Committee, of the valuation of the land over which security is to be taken; or

- (b) the society has obtained an indemnity or guarantee by the Housing Loans Insurance Corporation, or an insurance company, referred to in paragraph (b) of subsection three of section five of this Act securing the repayment to the society of an amount being the lesser of the amount of the loan and an amount equivalent to the amount by which the aggregate of—

- (i) the amount owing under all prior mortgages (including any to the society) at the time the loan is made; and
- (ii) the amount of the loan,

exceeds the amount of the maximum loan the society would be authorised to make under paragraph (a) of this subsection.

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(4) If any loan is made in contravention of this section, 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. **No. 18, 1967**

7. (1) Nothing in this Act shall preclude a society from lending to a member on such security as is mentioned in subsection one of section four of this Act the whole or part of a sum necessary to meet a single premium payable in respect of an appropriate policy of life assurance. Any sum so lent shall not be taken into account for the purposes of section five or six of this Act. Loan to cover single premium life policy. cf. 10 & 11 Eliz. 2 c. 37, s. 33.

(2) A policy of life assurance is for the purposes of subsection one of this section an appropriate policy if—

- (a) issued by an insurance company registered under the Life Insurance Act 1945 of the Commonwealth or a friendly society registered under the Friendly Societies Act, 1912;
- (b) it is a policy of life assurance on the life of the member or the spouse or son or daughter of that member; and
- (c) it provides, in the event of the death before the loan has been repaid, of the person on whose life the policy is effected, for payment of a sum not exceeding the amount sufficient to defray the sums which are, at and after the time of the death, payable to the society in respect of the loan as increased by the amount of the additional loan made by the society under the power conferred by this section.

8. (1) Where a member of a society, being a member under the age of twenty-one years, executes a mortgage in favour of the society to secure the repayment of moneys lent by the society to such member, and such member— Mortgages by minors. cf. Act No. 1, 1924, s. 17B.

- (a) is married; or
- (b) being unmarried, is of the age of eighteen years or over at the time he executes the mortgage,

such

No. 18, 1967 such member shall be subject to the same liabilities and obligations and have the same rights, in respect of the mortgage and any contract entered into by such member for the purchase of the land the subject of the mortgage or for the erection thereon of any dwelling, as if he had been of the full age of twenty-one years at the time of the execution of the mortgage and at the time of the execution of the contract.

(2) Any guarantee or surety given by any person in respect of any mortgage or contract referred to in subsection one of this section shall be as binding and effectual as if the person who executed the mortgage or contract was of the full age of twenty-one years at the time when the mortgage or contract, as the case may be, was executed and at the time the guarantee or surety was given.

**Meaning of
"special
loan".**
cf. 10 & 11
Eliz. 2 c. 37,
s. 21.

9. (1) In this Act "special loan" means a loan made by a society on the security of a mortgage over land, being a loan of one of the following descriptions, that is to say—

- (a) a loan of any amount to a body corporate;
- (b) a loan to a person other than a body corporate of a sum exceeding thirty thousand dollars or, where some other sum is prescribed, the prescribed sum;
- (c) a loan of a sum exceeding ten thousand dollars or, where some other sum is prescribed, the prescribed sum, secured by mortgage over vacant land; or
- (d) a loan of any amount to a person other than a body corporate, being a person who, after the loan is made, is indebted to the society in respect of such loan and any other moneys whatsoever, whether immediately repayable or not, in an aggregate sum of not less than thirty thousand dollars, or, where a sum has been prescribed pursuant to paragraph (b) of this subsection, the prescribed sum.

(2) Where a member transfers or conveys to another person his interest in any property which is the subject of a mortgage to the society such transfer or conveyance shall for the purposes of this Act relating to special loans be treated as a loan made by the society to that other person of an amount
equal

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equal to the amount of the mortgage debt remaining unpaid immediately after the transfer or conveyance together with any arrears of interest then outstanding. No. 18, 1967

(3) A loan made jointly to two or more persons shall, for the purposes of this Act, be taken to be a special loan if a loan of the like amount made under the like conditions to any one of those persons would be a special loan.

10. (1) Subject to this Part of this Act, a society shall so conduct its business as to ensure that special loans are not made by it except as authorised by this section. Ordinary
limitation
on special
loans.

(2) At the end of each financial year a society shall review the loans made by it which are outstanding at the end of that year, and shall ascertain— cf. 10 & 11
Eliz. 2 c. 37,
s. 22.

- (a) the total amount of those loans which at that time has not been repaid to the society, together with any arrears of interest in respect of those loans; and
- (b) the proportion of that amount not repaid which is in respect of special loans and any arrears of interest thereon.

(3) If the proportion ascertained at the end of a financial year in accordance with paragraph (b) of subsection two of this section (in this section referred to, in relation to that year, as “the ascertained proportion” for that year) does not exceed ten per centum, the society may make special loans in the next following financial year, but so that the total amount of special loans made by it in that following financial year does not exceed ten per centum of the total amount of all loans made by the society during that following financial year.

(4) If the ascertained proportion for a financial year exceeds ten per centum but does not exceed twenty-five per centum the society may make special loans in the next following financial year, but so that the total amount of special loans made by it in that following financial year does not exceed two and one-half per centum of the total amount of all loans made by the society in that following financial year.

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(5) If the ascertained proportion for a financial year exceeds twenty-five per centum the society shall not make any special loans in the next following financial year.

(6) After the commencement of this Act a society shall not make any special loans in its first financial year.

(7) If loans are made by a society in contravention of this section, the society and every officer in default shall be guilty of an offence and shall be liable to a penalty not exceeding five hundred dollars.

Permission to make special loan to purchaser of a mortgaged property. cf. 10 & 11 Eliz. 2 c. 37, s. 24.

11. (1) The provisions of this section shall have effect where a society, in the exercise of its powers as mortgagee, proposes to sell any land, or estate or interest therein, mortgaged to the society, or any such land, estate or interest in respect of which the equity of redemption has been foreclosed, and to make to the purchaser a loan upon the security of that land, or estate or interest therein, which will constitute a special loan.

(2) If, on an application to the registrar, the society shows to his satisfaction—

(a) that the person who is, or was immediately before foreclosure, entitled to redeem the mortgage is a body corporate, or a person who is, or was immediately before foreclosure, indebted to the society (taking into account the loan secured by the mortgage and all other debts to the society of any description, whether immediately repayable or not) in an amount exceeding that prescribed by or pursuant to paragraph (b) of subsection one of section nine of this Act; and

(b) that the amount of the mortgage debt which, at the time of the application, has not been repaid to the society, together with any arrears of interest in respect of the loan secured by the mortgage, exceeds the amount of the loan which the society proposes to make to the purchaser of the land, estate or interest,

the registrar may, if he thinks fit, grant to the society permission in writing to make the special loan to which the application relates.

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12. Where it appears to the Advisory Committee that a society is in financial difficulties it may authorise any society to lend money to the firstmentioned society and the latter society shall have power to do so accordingly.

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Assistance
by societies
to other
societies.

The Advisory Committee may in giving any authority pursuant to this section make any stipulations as to the terms or amounts of any such loan and the security to be taken therefor.

cf. 10 & 11
Eliz. 2 c. 37,
s. 44.

A society that fails to comply with any such stipulations shall be deemed to have failed to comply with a provision of this Act.

13. (1) A society shall not make a loan to a member unless there has first been obtained a valuation of the land proposed to be mortgaged by the member and any buildings erected or to be erected thereon.

Valuers.

cf. Act No.
1, 1924,
s. 18A and
10 & 11
Eliz. 2 c. 37,
s. 25.

(2) Such valuation shall—

- (a) in the case of a loan to erect a building, be made by a valuer approved by the registrar; or
- (b) in the case of a loan to be secured by mortgage over land on which a building is already erected, or over vacant land, be made by—
 - (i) the Valuer-General;
 - (ii) a valuer approved by the registrar;
 - (iii) a person who holds the Diploma of Qualified Real Estate Valuer of the Real Estate Institute of New South Wales;
 - (iv) a Fellow or Associate of the Commonwealth Institute of Valuers (Incorporated); or
 - (v) a person having such other qualifications as a valuer as may be prescribed.

(3) The registrar may, in approving any person as a valuer for the purposes of this section, impose such conditions and limitations on such approval as he may think fit.

14. A society shall not cause or permit applicants for loans to ballot for precedence, or in any way make the granting of a loan dependent on any chance or lot.

Prohibition
of balloting
for loans.

cf. *ibid.*
s. 35.

15.

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No. 18, 1967 **15.** 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.

Body
corporate.
cf. Act No.
1, 1924,
s. 60.

16. (1) A society may acquire by lease, purchase, donation, devise, bequest or otherwise any real and personal property necessary for the carrying out of any objects of the society and may sell or lease any such real or personal property.

Property.
cf. *Ibid.*
ss. 64, 68.

The acquisition by a society of real or personal property primarily or mainly required for business or office accommodation of the society or of the society and other building societies shall be and shall be deemed always to have been a valid exercise of its powers.

(2) A society may acquire shares in any company registered under the Companies Act, 1961, or any company or body corporate registered or incorporated under any other Act, that has agreed to render special services to such society in the furtherance of its objects :

Provided that a society shall not without the prior approval of the Advisory Committee apply funds in excess of two thousand dollars in the acquisition of shares pursuant to this subsection, in any one such company or body corporate.

17. 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.

Disposal
of certain
securities.
cf. *Ibid.*
s. 68 (4).

18. A society shall have power to create, operate and maintain or join with any other person or bodies of persons in the creation, operation and maintenance of a fund for the purpose of providing pension and superannuation benefits for officers and employees of the society and for their dependants.

Staff
super-
annuation.

19.

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19. (1) Contracts on behalf of a society may be made, varied or discharged as provided in this section. **No. 18, 1967**

Contracts.

(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.

cf. Act No. 1, 1924, s. 71.

(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) 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.

(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.

20. (1) A society may, if authorised by its rules, borrow money and receive deposits or loans at interest to be applied for the purposes of the society but the total amount so received and not repaid by the society shall not at any time exceed four-fifths of the unpaid principal secured to the society by mortgage from its members.

Borrowing powers.
cf. *Ibid.* ss. 17, 65, 66 and 10 & 11 Eliz. 2 c. 37, s. 39.

(2) Where a society is authorised by its rules to raise money on loan the society may raise the money in such manner as the society may think fit, and in particular by legal or equitable mortgage charged upon the undertaking of the society or upon all or any part of the property and rights (both present and future) of the society, including its uncalled or unpaid capital, subscriptions, loan payments and other moneys, or by the issue of bonds.

(3)

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(3) The provisions of sections seventy and seventy-three and of Division 7 of Part IV of the Companies Act, 1961, shall, mutatis mutandis, and with such modifications, if any, as may be prescribed, extend to any mortgage or charge created or bond issued by a society not being a mortgage, charge or incumbrance of specific lands duly registered under the Real Property Act, 1900, or the Registration of Deeds Act, 1897, or of a specific lease, claim or tenement under and subject to the laws relating to mining.

For the purposes of that extension, a reference in any of those provisions to the Registrar shall be construed as a reference to the registrar under this Act.

(4) The provisions of Part VIII of the Companies Act, 1961, shall, mutatis mutandis, and with such modifications, if any, as may be prescribed, extend to and in respect of the appointment of a receiver or manager of the property of a society, and to and in respect of a society of whose property a receiver or manager has been appointed.

For the purposes of that extension, a reference in any of those provisions to the Registrar shall be construed as a reference to the registrar under this Act.

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

(6) Every acknowledgement 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 every such acknowledgement or security shall have printed or written therein or thereon a statement that the society is not entitled to receive money on deposit except upon the terms that not less than one month's notice may be required by the board before repayment.

(7) No member or other person lending money to or depositing money with a society shall be bound to see to the application thereof or be in any way affected or prejudiced
by

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by the fact that such society, in borrowing such money or receiving such deposit, has contravened the provisions of this or any other section of this Act or the rules of the society. **No. 18, 1967**

21. (1) Notwithstanding anything contained in section four of this Act, a society may invest any of its funds not immediately required for any of its objects, or purposes incidental thereto, in any of the following securities :—

- (a) securities authorised by law for the investment of trust funds otherwise than by way of loan secured by mortgage over land;
- (b) deposit in any prescribed bank;
- (c) shares not exceeding a total nominal value of ten thousand dollars or, where some other amount is prescribed, the prescribed amount, in any co-operative insurance society registered under the Co-operation Acts; or
- (d) any prescribed securities.

(2) A society shall not pursuant to paragraph (a) of subsection one of this section invest in any securities which are not redeemable within ten years of their acquisition by the society or, where some other period is prescribed, within the prescribed period.

(3) Nothing in this section shall affect the validity of any investment made by a society prior to its registration under this Act if, immediately before that registration it was registered under the Co-operation Acts, but any re-investment of such investments shall be made only in conformity with this section.

22. Any receipt or acknowledgement given to a society by a person under the age of twenty-one years, in respect of the payment to him of any sum due in respect of the principal of, or interest on, sums deposited by him with the society or in respect of any dividend on or repayment of capital in the society shall not be invalid on the ground that he is under that age. **Investment.**
Depositor under age of 21 years.
 cf. 10 & 11 Eliz. 2 c. 37, s. 47.

23.

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No. 18, 1967 **23.** (1) Subject to this section, a society, or any two or more societies, may enter into arrangements with any person carrying on the business of insurance, or with an association of which it is a member for the purpose of making funds available to meet losses incurred by persons investing in, or lending money to, a society which is a party to any such arrangements or for the purpose of guaranteeing the liquidity of any such society; and any two or more societies may enter into any other kind of arrangements for any such purpose.

Guarantee
fund.
cf. 10 & 11
Eliz. 2 c. 37,
s. 43.

(2) Subject to this section, a society shall have power to make contributions or deposits under arrangements made in accordance with this section.

(3) Arrangements under this section may in particular provide for the vesting of a fund in trustees appointed under the arrangements.

(4) Arrangements under this section and any variation thereof shall not come into force, and no contributions or deposits shall be made thereunder by a society, until they have been approved by the registrar.

Society
as collect-
ing agent.

24. (1) A society may act as a collecting agent on behalf of any company, society, person or body of persons for the collection and payment to such company, society, person or body of persons, of any premiums payable by a member in respect of any policy of insurance covering any property held by the society as security for a loan to the member or in respect of any life, endowment, sickness or accident policy taken out by a member as a result of any terms and conditions imposed upon the granting of a loan or under any arrangement entered into by the member whereby the proceeds of the policy would be payable to the society in repayment of the whole or part of the member's liability under any mortgage to the society.

(2) A society may act as collecting agent for any other society in respect of any moneys due to that society by its members.

25.

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25. (1) A society may, if so authorised by its rules, join an association or federation of building societies of whatsoever kind, whether incorporated or unincorporated, and whether or not it is registered under this Act.

Power to
join asso-
ciation.

cf. Act No.
1, 1924,
s. 34.

(2) Nothing in subsection one of this section shall authorise a society to subscribe by any means to the funds of any such association or federation a sum which, together with all sums so subscribed before its registration under this Act exceeds the amount of the funds it is authorised, by subsection two of section sixteen of this Act, to apply in the acquisition of shares.

(3) Subsection two of this section shall not apply to and in respect of contributions or deposits made pursuant to section twenty-three of this Act.

26. (1) A society shall not, without the approval in writing of the Advisory Committee, commence to advertise after its registration under this Act.

Commence-
ment of
advertising.

cf. *ibid.*
s. 18b and
10 & 11
Eliz. 2
c. 37, s. 14.

(2) The provisions of this section shall not apply to any society which, immediately prior to its registration under this Act, was registered under the Co-operation Acts and had obtained permission to commence advertising as provided by those Acts.

(3) No person shall, by advertisement in any form seek members, capital or deposits in or for a proposed society unless the contents of such advertisement shall have first been approved by the registrar.

(4) Any person who contravenes subsection three of this section and any person named in any advertisement published in contravention of that subsection as being a proposed or prospective member of the board of the proposed society shall, unless he proves that such contravention was without his knowledge and consent and that he took all reasonable steps to prevent such contravention, be guilty of an offence and liable to a penalty not exceeding six hundred dollars.

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PART III.

INCORPORATION.

DIVISION 1.—*Incorporation and Rules.*

Formation.
cf. Act No.
1, 1924,
s. 39.

27. (1) Subject to this Part, a society other than an association may be formed by any fifty or more adult persons who are by the rules of the proposed society qualified to be members.

(2) No such society formed after the commencement of this Act shall be registered unless there has been a meeting for the purpose of forming the society (in this Part called the formation meeting) at which there have been present fifty or more such persons.

(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; and
- (b) a copy of the rules which it is proposed shall be tendered for registration.

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

(5) The expense of and incidental to the formation of the society may be paid either out of capital or income.

Registration. **28.** (1) A society formed under section twenty-seven of this Act shall not be registered under this Act unless within two months after the election of the first directors referred to in section twenty-seven of this Act, or within such further period

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period as the registrar may allow, application in the prescribed manner is made to the registrar for the registration of the society, accompanied by— No. 18, 1967

- (a) a statutory declaration by the chairman and secretary of the formation meeting as to compliance with the requirements of section twenty-seven of this Act;
- (b) a copy of the statement presented to the formation meeting, signed by the chairman and secretary of the meeting;
- (c) such evidence as the registrar may require that the society will upon registration have available to it funds of not less than six hundred thousand dollars of which four hundred thousand dollars shall be members' share capital and that the funds, other than members' share capital, are available on terms which would not require repayment thereof within a period less than ten years from the date of receipt by the society;
- (d) two copies of the proposed rules signed by the chairman and secretary of the formation meeting and certified by them as being the rules approved in accordance with subsection four of section twenty-seven of this Act;
- (e) a list containing the full name and the occupation and address of each director; and
- (f) a list containing the full name and the occupation and address of fifty persons who attended the formation meeting and applied for membership and shares, and stating the number of shares applied for by each of them.

(2) The statutory declaration mentioned in subsection one of this section may be accepted by the registrar as sufficient evidence of compliance with the requirements of section twenty-seven of this Act.

(3) If the registrar is satisfied—

- (a) that the society has complied with the provisions of this Act and the regulations; (b)

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- (b) that the proposed rules of the society are not contrary to this Act or the regulations and are such as may reasonably be approved by him;
 - (c) that there are reasonable grounds for believing that the society, if registered, will be able to carry out its objects successfully; and
 - (d) that there is no reasonable cause why the society and its rules should not be registered,

the registrar shall register the society and its rules and shall issue a certificate that the society is incorporated under this Act.

Certificate of incorporation.
cf. Act No. 1, 1924, s. 45.

29. (1) A certificate of incorporation under this Act shall be in or to the effect of the prescribed form.

(2) The certificate shall be conclusive evidence that all the requirements of this Act in respect of registration have been complied with, but 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.

Societies registered under Co-operation Acts, etc.
cf. *Ibid.* s. 42.

30. (1) Application to the registrar for registration under this Act may be made, in the manner prescribed, by—

- (a) a non-terminating building society registered under the Co-operation Acts;
- (b) an association of building societies registered under the Co-operation Acts, where the component societies are registered under this Act; or
- (c) a society to which Part I of the Building and Co-operative Societies Act, 1901, applies,

if the society or association, as the case may be, is so authorised by special resolution.

(2) Before any such application is granted the society or association shall make such alterations if any, to its rules as in the opinion of the registrar are necessary to bring

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bring them into conformity with the provisions of this Act No. 18, 1967 applicable to societies or, as the case may be, associations formed and registered thereunder.

(3) The society or association may make the alterations if any, by virtue of this Act and in accordance with this Part.

(4) Upon the alterations being made and, where the society or association is a corporation, upon the surrender to the registrar of the certificate of incorporation of the society or production of such evidence as to its loss as the registrar may require, and if the registrar is satisfied—

- (a) as to the matters set out in subsection three of section twenty-eight of this Act;
- (b) that, in the case of a society, it has funds of not less than six hundred thousand dollars, of which four hundred thousand dollars is members' paid up share capital, and has not borrowed, including amounts received on deposit, more than four-fifths of the amount due to the society under mortgages given to it by its members; and
- (c) that, in the case of a society, it has liquid funds, as defined in section sixty-three of this Act, equal to seven and one-half per centum of the total of its paid up share capital and its deposits,

the registrar shall register the society or association and its rules, issue a certificate that the society or association is incorporated under this Act, and notify the issue in the Gazette.

(5) If a society to which Part I of the Building and Co-operative Societies Act, 1901, applies is granted registration under this Act, the following shall apply :—

- (a) Upon the issue of the certificate of incorporation the property of the society shall as from the date of such certificate and by virtue of this Act, without any conveyance, transfer or assignment, except as otherwise provided in this section, vest in the society named in the certificate of incorporation.

(b)

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- (b) 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 certificate of incorporation 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.
- (c) 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—
- (i) any land subject to the provisions of the Real Property Act, 1900;
 - (ii) any property a transfer of which is required to be registered by any other Act.
- (d) 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.
- (e) If any property does not vest under this section until transfer or registration, the society shall, 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 society may direct, and to sue for or recover the property and, in the case of a memorandum of mortgage under the Real Property Act, 1900, may exercise any power conferred on the mortgagee by any Act or by the mortgage or may discharge the mortgage as if the society were the registered proprietor thereof.
- (f) 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.

(g)

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(g) 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 certificate of incorporation, liable or charged, shall by virtue of this Act become and be the debts and liabilities of the society so registered. No. 18, 1967

(6) For the purposes of this section, a special resolution shall mean—

- (a) in the case of a society or association registered under the Co-operation Acts, a special resolution within the meaning of those Acts; and
- (b) in the case of a building society to which Part I of the Building and Co-operative Societies Act, 1901, applies, a resolution verified in such manner as the Registrar under that Act may require, that would be a special resolution if it had been passed and registered by a society registered under this Act.

31. The rules of a society shall include rules relating to the matters set forth in the Schedule to this Act.

Contents
of rules.
cf. Act No.
1, 1924,
s. 82.

32. (1) 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 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.

Rules.
cf. *Ibid.*
ss. 73, 78
(4), 82 (8).

(2) A society shall furnish any person with a copy of its rules upon application and payment of a sum not exceeding, where a sum is provided for in the rules of the society, the sum so provided for, or where there is no sum so provided for, the sum of fifty cents or, where some other sum is prescribed, such other sum.

33.

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No. 18, 1967 33. (1) The rules of a society shall not be altered unless the alteration has been approved by a special resolution.

Alteration
of rules.
cf. Act
No. 1,
1924, s. 83.

(2) A society that alters its rules shall, within the prescribed time and in the prescribed manner, apply to the registrar to have the alteration registered.

(3) If the registrar is satisfied that the alteration is not contrary to this Act or to the regulations and is such as may reasonably be approved by him and that there is no reasonable cause why the alteration should not be registered, the registrar shall register the alteration as prescribed and, until the alteration is so registered, the alteration shall not take effect.

(4) In this Act alteration of a rule includes addition to, or rescission of, a rule or any part thereof.

DIVISION 2.—Name and Office.

Name.
cf. *Ibid.*
s. 40 and
Act No.
71, 1961,
ss. 22, 23.

34. (1) Except with the consent of the Minister a society shall not be registered by a name that, in the opinion of the registrar, is undesirable or is a name, or a name of a kind, that the Minister has directed the registrar not to accept for registration.

(2) The Minister shall cause a direction given by him under subsection one of this section to be published in the Gazette.

(3) A society shall have "Limited" or the abbreviation "Ltd." as part of and at the end of its name and shall include in its name, where it is not an association, the words "permanent building society" or, where it is an association, the words "permanent building societies", in consecutive form or otherwise. No description of a society shall be deemed inadequate, incorrect or in contravention of this Act by reason of the use of the abbreviation "Ltd." in lieu of the word "Limited" contained in the name of the society.

(4) If a society through inadvertence or otherwise is registered by a name by which the society could not be registered without contravention of subsection one of this section

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section the society shall, if the registrar, with the approval of No. 18, 1967 the Minister, so directs, change its name.

(5) Subject to the provisions of this section, a society may, by an alteration of its rules in the manner provided for in this Act, change its name to a name by which it could be registered without contravening this Act.

(6) Upon registration of an alteration of the rules of a society pursuant to subsection five of this section the registrar shall register the change of name and either note the change of name on the certificate of incorporation of the society or, upon surrender to the registrar of the certificate of incorporation of the society or production of such evidence as to its loss as the registrar may require, issue a new certificate of incorporation in lieu thereof.

(7) A change of name of a society shall be published, at the expense of the society, in the manner prescribed.

(8) The change of name of a society 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.

(9) After a society has changed its name, 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.

35. (1) Subject to this section, no person or body of persons, whether incorporated or unincorporated other than a society registered under this Act shall—

- (a) trade or carry on business (which expression shall include advertising for share capital, deposits or loan funds) under any name or title of which the words "permanent building society" or "permanent building societies" (either in consecutive form or otherwise), or any other words importing a similar meaning, form part; or

Use of words "permanent building society".
cf. Act No. 1, 1924, s. 61.

(b)

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(b) in any other manner hold out that its trade or business is that of a permanent building society or an association of permanent building societies registered under this Act.

(2) Any society or company formed or incorporated outside New South Wales that desires to trade or carry on business in New South Wales may apply to the registrar for exemption from the provisions of subsection one of this section and that subsection shall not apply to any such society or company in respect of which the registrar has granted exemption.

(3) The registrar may grant any exemption referred to in subsection two of this section for such time and upon such conditions as he thinks fit and may, upon non-compliance with any such conditions, revoke any such exemption, but the registrar shall not grant any such exemption unless he is satisfied that the society or company would be able to trade or carry on business in New South Wales in accordance with the principles contained in this Act for the carrying on of the business of a society and, if he does grant any such exemption, he shall notify the Registrar of Companies accordingly.

(4) Subsection one of this section shall not apply until the expiration of three years from the commencement of this Act to any person or body of persons that, immediately before that commencement, traded or carried on business as referred to in that subsection or held out that it was trading or carrying on business as so referred to.

(5) Every person or body corporate contravening this section and every director or other person having the control and management of any unincorporated body of persons contravening this section shall be guilty of an offence and be liable to a penalty not exceeding one hundred dollars. Default penalty.

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36. (1) Every society shall have a registered office. The first registered office of a society shall be that appearing in the rules of the society at the time of registration. Notice of any change of address of its registered office shall be transmitted to the registrar within fourteen days after the change and be thereupon registered as the address of the registered office of the society. **No. 18, 1967**
Office and service.
cf. Act No. 1, 1924, s. 72.

(2) A document may be served on a society or an officer of the society other than a director by leaving it at the registered office of the society with some person apparently in the service of the society or by post enclosed in a prepaid registered letter addressed to the society at its registered office.

A document may be served on a director of a society by post enclosed in a prepaid registered letter addressed to the last address of the director as disclosed in returns transmitted to the registrar pursuant to this Act.

Service by post shall be deemed to be effected at the time at which the letter would be delivered in the ordinary course of post.

37. (1) A society shall cause its name to appear in legible characters on its seal and in legible characters on all business letters, notices, advertisements and other official publications of the society and on all bills of exchange, cheques, promissory notes, endorsements, orders for money or goods, invoices, receipts and other documents required in the business of the society. **Publication of name.**
cf. *Ibid.*, Act No. 71, 1961, s. 113 and N.Z. Act No. 22, 1965, s. 22.

(2) A society shall not use any name or title other than its registered name: Provided that the registrar may from time to time by writing authorise any society to use for any specified purpose or purposes any abbreviation of that name approved by him in that behalf.

(3) Every society shall paint or affix and keep painted or affixed on the outside of every office or place in which its business is carried on in a conspicuous position in letters easily legible its name and also, in the case of the registered office, the words "Registered Office".

(4)

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No. 18, 1967 (4) Any society which contravenes the provisions of this section and any officer in default shall be guilty of an offence and be liable to a penalty not exceeding one hundred dollars. Default penalty.

Appeal
from
registrar.
cf. Act No.
1, 1924,
s. 122.

38. (1) Where the registrar refuses to register a society or any of its rules, or any alteration of its rules 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.

(2) The society may, unless the grounds of the registrar's refusal or direction are that the society would be, or is, registered by a name, or a name of a kind, that the Minister has directed the registrar not to accept for registration, 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.

DIVISION 3.—*Amalgamation and Transfer of Engagements.*

Amalgama-
tion.
cf. *Ibid.*
s. 43 and
10 & 11
Eliz. 2
c.37, s. 18.

39. (1) (a) Any two or more societies registered under this Act may 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.

(b) No such application shall be made unless—

- (i) the terms of amalgamation are approved by a special resolution of each of the societies; and
- (ii)

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- (ii) the amalgamation is approved in writing by the holders of not less than two-thirds of the whole number of shares in each society, or the amalgamation is confirmed under subsection three of section forty-one of this Act. No. 18, 1967

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

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

(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, upon the surrender to him of the certificates of incorporation of the amalgamating societies or production of such evidence as to the loss of any of them as the registrar may require, register the amalgamated society and its rules, issue a certificate that the society is incorporated as an amalgamated society under this Act and notify the issue of the certificate in the Gazette.

The registrar may, following the issue of such certificate remove from the register the name of any of the societies which have so amalgamated.

(4) The amalgamation shall not prejudice any right of a creditor of any society which is a party to the amalgamation.

(5) Upon the issue of the certificate of incorporation the property of each society that is a party to the amalgamation shall on and from the date thereof and by virtue of this Act without any conveyance, transfer or assignment, except as otherwise provided in this section, vest in the amalgamated society.

(6) For the purposes of this section the property of the societies that are parties to the amalgamation shall include all estates and interests in property, whether real or personal, vested or contingent.

(7)

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(7) 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.

(8) 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.

(9) If any property does not vest under this section until transfer or registration, the amalgamated society shall, by virtue of this Act, have the right to call for a transfer of the property to the amalgamated society or to such person as the board may direct, and to sue for or recover the property, and in the case of a memorandum of mortgage under the Real Property Act, 1900, may exercise any power conferred on the mortgagee by any Act, or by the mortgage or may discharge the mortgage as if the amalgamated society were the registered proprietor thereof.

(10) Any property which is vested in or transferred to the amalgamated 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.

(11) All debts and liabilities, whether certain or contingent, and whether then existing or capable of arising at a future time, to or with which any society that is a party to the amalgamation is, at the date of the certificate of incorporation of the amalgamated society liable or charged, shall by virtue of this Act become and be the debts and liabilities of the amalgamated society.

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40. (1) Subject to this section a society may by special resolution transfer its engagements to another society which undertakes to fulfil those engagements; and a society may—

- (a) by special resolution; or
- (b) with the consent of the registrar, by resolution of a general meeting or of the board,

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 Transfer of engagements.
 cf. 10 & 11 Eliz. 2 c. 37, s. 19 and Act No. 1, 1924, s. 69.

undertake to fulfil the engagements of another society.

(2) A transfer of engagements between societies under this section shall not have effect unless—

- (a) the holders of not less than two-thirds of the whole number of shares of each of the societies have consented in writing to the transfer, or the transfer has been confirmed under subsection three of section forty-one of this Act; and
- (b) the special resolution of the transferor society has been registered.

(3) The registrar, before registering the special resolution referred to in paragraph (b) of subsection two of this section may require such evidence as he deems necessary to ensure—

- (a) that the transferee society has by means authorised in this section undertaken to fulfil the engagements of the transferor society;
- (b) that the statements referred to in section forty-one of this Act have (unless exemption has been granted by the registrar pursuant to subsection one of that section) been issued; and
- (c) that the necessary consent to the transfer has been given under subsection two of this section (unless the registrar has, pursuant to the provisions of subsection three of section forty-one of this Act confirmed the transfer).

(4) Within one month of the passing of a resolution under paragraph (b) of subsection one of this section, the society shall notify the registrar that the resolution has been

passed

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No. 18, 1967 passed and if the society fails so to notify the registrar, the society and every officer of the society who is in default, shall be guilty of an offence and be liable to a penalty not exceeding five hundred dollars.

(5) The provisions of subsections four to eleven inclusive of section thirty-nine of this Act shall apply, mutatis mutandis, to a transfer of engagements where a society transfers the whole of its engagements to another society, and for the purpose of that application—

- (a) a reference to amalgamation shall be construed as a reference to transfer of engagements;
- (b) a reference to the amalgamated society shall be construed as a reference to the society to which the engagements are transferred;
- (c) a reference to a society that is a party to the amalgamation shall be construed as a reference to the society transferring its engagements; and
- (d) a reference to the issue of the certificate of incorporation shall be construed as a reference to the registration of the special resolution of the transferor society referred to in subsection one of this section.

Supplemen-
tary provi-
sions as to
amalgama-
tion or
transfer of
engagements.
cf. 10 & 11
Eliz. 2 c. 37,
s. 20.

41. (1) A society desiring to amalgamate with one or more other societies or to transfer its engagements to another society, or to undertake to fulfil the engagements of another society, shall unless exempted in writing by the registrar, send to each of its members a statement the contents of which have been approved by the registrar concerning—

- (a) the financial position of the society sending the statement and that of the other society or societies concerned;
- (b) the interest of the directors of the society sending the statement in the amalgamation or transfer of engagements and that of the directors of the other society or societies concerned;

(c)

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- (c) the compensation or other consideration proposed to be paid to the directors or other officers of the society sending the statement and of the other society or societies concerned;
- (d) the payments to be made to members of the society sending the statement and of the other society or societies concerned in consideration of the amalgamation or transfer of engagements; and
- (e) such other matters as the registrar may direct.

(2) A statement under subsection one of this section shall be sent so that it will in due course of post reach each member not later than the time at which he would receive notice of the meeting called to pass the special resolution referred to in subsection one of section thirty-nine or subsection one of section forty of this Act, as the case may require.

(3) (a) A society may apply to the registrar to confirm an amalgamation or transfer of engagements notwithstanding that the consents in writing of the holders of two-thirds of the whole number of shares of that society have not been obtained. Where any such application is made the society shall give notice of the application in such manner, at such times and in such newspapers as the registrar may direct.

(b) The registrar may, after hearing the society and any other person whom he may consider entitled to be heard, confirm the amalgamation or transfer of engagements accordingly.

DIVISION 4.—*Transfer to Companies Act or
Co-operation Acts.*

42. (1) Any society may, by special resolution, determine that the society shall, pursuant to this Division, apply to be registered as a company under the Companies Act, 1961.

Registration
of society
as a
company.
cf. Act No.
1, 1924,
s. 70.

(2)

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(2) Before any such application is made the society shall, by special resolution—

- (a) determine under what name the society shall apply to be registered as a company and may determine that such name shall be different from the name of the society; and
- (b) adopt a memorandum of association for the proposed company and also articles of association where articles of association are necessary or deemed desirable.

(3) A society shall not be so registered under a name which includes the words “permanent building society” or “permanent building societies” in consecutive form or otherwise or any other words importing a similar meaning.

(4) Every such memorandum of association—

- (a) shall contain the particulars prescribed by and otherwise be in accordance with the provisions of the Companies Act, 1961;
- (b) shall state as the objects of the company the objects of the society; and
- (c) when delivered for registration shall have as signatories at least seven persons who are members of the society.

(5) The provisions of the Companies Act, 1961, shall apply with respect to—

- (a) the necessity for articles of association;
- (b) the applicability of the regulations contained in the table marked A in the Fourth Schedule to that Act; and
- (c) any articles of association adopted.

(6) In the case of a society the liability of whose members is limited by shares the memorandum of association and articles of association (if any) as so adopted shall not impose upon the members of the company who were members of the society at the date of its registration as a company any greater or different liability to contribute to the assets
of

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of the company than the liability to which they were subject No. 18, 1967
as members of the society and in no case shall such memorandum of association or articles of association as so adopted deprive any member of the company of any rights with respect to dividend or capital to which he was entitled as a member of the society immediately before its registration as a company.

(7) A society may apply to be registered as a company under the Companies Act, 1961, in the manner following :—

- (a) The society shall register with the Registrar of Permanent Building Societies a copy of the special resolutions passed by the society pursuant to subsections one and two of this section.
- (b) The society shall deliver to the Registrar of Companies—
 - (i) an application by the society under its common seal to be registered under the Companies Act, 1961 ;
 - (ii) a copy of the special resolutions referred to in paragraph (a) of this subsection, verified under the hand of the registrar ;
 - (iii) the memorandum of association adopted for the said company and the articles of association (if any) ; and
 - (iv) a list, verified by the statutory declaration of a director, showing the names, addresses and occupations of all persons who, on a day named in such list (being not more than six clear days before the day of such delivery) were members of the society, and also showing with respect to each such person the number, the nominal amount and amount credited as paid up of any shares held by such person in the society.

(8) The Registrar of Companies shall, upon surrender to him of the certificate of incorporation of the society, or production of such evidence of the loss thereof as he may require,

No. 18, 1967 require, retain and register such memorandum of association and articles of association (if any), and shall certify under his hand that the company is incorporated, and in the case of a limited company that the company is limited and such registration, certificate and memorandum of association and articles of association (if any) shall have the same operation and effect, and the provisions of the Companies Act, 1961, shall apply to the said company and the members, contributories and creditors thereof, as if the said company had been registered in the manner prescribed by the said Act.

(9) (a) Upon the registration of a society as a company all persons who were members of the society at the date of such registration shall be deemed to become members of the company and their names shall be entered upon the register of members of the company.

(b) Every member of the society at the date of such registration who held shares in the society shall be deemed to be the holder of shares in the capital of the company equal in number and nominal value to the shares whereof he was then registered as the holder in the register of members of the society and entry shall be made in the register of members of the company accordingly and he shall thereupon be liable for the amount, if any, unpaid on his shares, of which the register of the company shall be prima facie evidence.

(10) If no persons are named as directors of the company in the articles of association of the company when a society is registered as a company under this section the persons who were directors of the society immediately before such registration shall be the first directors of the company.

(11) A certificate of incorporation of a society as a company given by the Registrar of Companies or by any Deputy Registrar of Companies shall be conclusive evidence that all the requirements of this section and of the Companies Act, 1961, in respect of registration under that Act have been complied with.

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43. (1) Any society may by special resolution— **No. 18, 1967**

(a) resolve to apply to be registered as a building society under the Co-operation Acts; and **Transfer to Co-operation Acts.**

(b) alter its rules to bring them into conformity with the provisions of that Act.

(2) Any society passing a special resolution in accordance with subsection one of this section shall make application in the manner prescribed to the Registrar of Co-operative Societies for registration under the Co-operation Acts, and upon registration of the alteration of rules and the surrender to him of the certificate of incorporation of the society, or production of such evidence as to the loss thereof as he may require, that registrar shall register the society and issue a certificate of incorporation under the Co-operation Acts.

DIVISION 5.—*General.*

44. (1) Where a society or an association is registered pursuant to an application made under section thirty of this Act, the registrar shall give notice of such registration to the registrar under the Building and Co-operative Societies Act, 1901, or the Registrar of Co-operative Societies, as the case may require, and the registrar to whom notice is so given shall thereupon remove the name of the society or association from the register kept by him. **Transfer of registration.**

(2) Where a society is registered as a company pursuant to an application made under section forty-two of this Act, the Registrar of Companies shall give notice of such registration to the registrar who shall thereupon remove the name of the society from the register kept by him.

(3) Where a society is registered pursuant to an application made under section forty-three of this Act, the Registrar of Co-operative Societies shall give notice of such registration to the registrar who shall thereupon remove the name of the society from the register kept by him.

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No. 18, 1967 **45.** Where a corporation applies under section thirty, forty-two or forty-three of this Act and, pursuant to the application, becomes registered and incorporated under this or any other Act, the identity of the corporation shall not be affected and it shall continue as the same entity.

Identity of
corporation
not
affected.

Rights and liabilities. **46.** Without affecting the generality of section forty-five of this Act, upon registration pursuant to an application by a corporation referred to in that section—

- (a) all property and proprietary and other rights of the applicant corporation shall become vested in and exercisable by the corporation so registered;
- (b) all liabilities and obligations of the applicant corporation, whether certain or contingent and whether then existing or capable of arising at a future time, and whether contractual or other, and all rights against the applicant corporation and all penalties (including default penalties) incurred by the applicant corporation shall be enforceable and recoverable against the corporation so registered; and
- (c) all persons who would incur any liability for anything done or omitted by, or for any money if lent or credit if given to, or for any loss incurred by, or for any transaction if had with the applicant corporation, shall incur the same liability as would have been incurred if such thing had been done or omitted by, or money lent or credit given to, or loss incurred by, or transaction had with the corporation so registered.

PART IV.

ASSOCIATIONS.

Associations. **47.** (1) An association of permanent building societies may be formed by two or more societies in accordance with the provisions of section forty-eight of this Act.

cf. Act No.
1, 1924,
s. 34.

(2)

Permanent Building Societies.

(2) The objects of such an association shall be such **No. 18, 1967** of the following as may be authorised by the rules of the association :—

- (a) To promote the interests of and co-operation among societies.
- (b) To formulate and to promote the adoption and observance by societies of conditions governing the carrying on of their business.
- (c) To encourage the practices of saving and investing, to promote home ownership and to assist in raising housing standards.
- (d) To render services to and act on behalf of its component societies in such ways as may be specified in or authorised by the rules of the association and approved by the registrar.
- (e) To advocate and promote such legislation, practices and reforms as may be conducive to any of the objects of the association.
- (f) To co-operate with other bodies with similar objects.
- (g) To promote the formation of permanent building societies and to assist and advise building societies that are seeking to arrange their affairs so that they may be eligible to apply for registration under this Act.
- (h) To do all such other things as may be incidental or conducive to the attainment of all or any of the foregoing objects.

(3) An association may—

- (a) raise money on loan for any of its objects ;
- (b) receive, subject to the prior approval of the registrar, money on deposit.

Permanent Building Societies.

No. 18, 1967 48. (1) For the purposes of the formation of an association—

Formation
of
association.
cf. Act No.
1, 1924,
s. 39 (8).

- (a) there shall be a meeting at which there shall be at least two representatives of each of two or more societies;
- (b) at such meeting there shall be—
 - (i) read by the chairman a written statement setting forth the objects of the proposed association and the reasons for believing that if registered, it will be able to carry out its objects successfully;
 - (ii) presented a copy of the rules of the proposed association;
- (c) if at the same or any subsequent or adjourned meeting, two representatives of each of two or more societies agree to the formation of the association and to the adoption of rules to be tendered for registration and sign an application on behalf of the society of which they are the representatives and an application for the minimum number of shares necessary for membership of the association, they shall proceed to elect the first directors of the association in accordance with the rules so adopted.

(2) (a) Within two calendar months after the election of directors application shall be made to the registrar for registration of the association. Application shall be made by the two representatives of each society which agreed to form the association and shall be made in the manner prescribed.

- (b) The application shall be accompanied by—
 - (i) a statutory declaration by the chairman and the secretary of the meeting as to compliance with the requirements of this section;
 - (ii) a copy of the statement referred to in subsection one of this section signed by the chairman and secretary of the meeting;

(iii)

Permanent Building Societies.

- (iii) two copies of the rules adopted for registration No. 18, 1967 signed on behalf of each society agreeing to form the association by at least one representative who has agreed to their adoption;
- (iv) a list containing the full name and the occupation and address of each director and the name of the component society of which he is a member; and
- (v) a list containing the names of each component society and the number of shares applied for by it.

(3) If the registrar is satisfied—

- (a) that the association has been formed in accordance with this section;
- (b) that the rules as submitted are not contrary to the provisions of the Act or regulations and are such as may be reasonably approved by him;
- (c) that there are reasonable grounds for believing that the association if registered will be able to carry out its objects successfully; and
- (d) that there is no reasonable cause why the association and its rules should not be registered,

the registrar shall register the association and its rules and shall issue a certificate that such association is incorporated under this Act.

(4) The provisions of subsection two of section twenty-five of this Act shall apply, *mutatis mutandis*, to and in respect of societies forming an association pursuant to this section.

PART V.

CAPITAL AND MEMBERS.

DIVISION 1.—*Membership.*

49. (1) The members of a society (other than an asso- Members.
 ciation) which is formed under this Act shall be the persons cf. Act No.
 who signed the application for membership on the formation 1, 1924,
 of the society and any other persons who are admitted to s. 46.
 membership in accordance with its rules.

(2)

Permanent Building Societies.

No. 18, 1967

(2) The members of a society that, immediately before its registration under this Act, was registered under the Co-operation Acts or the Building and Co-operative Societies Act, 1901, shall be the persons who were members of the society immediately before its registration under this Act and any other persons who are admitted to membership in accordance with the rules of the society.

(3) The members of an amalgamated society shall be the persons who, immediately before the amalgamation, were members of the societies that were parties to the amalgamation, and any other persons who are admitted to membership in accordance with the rules of the amalgamated society.

(4) The members of an association which is formed under this Act 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.

(5) The members of an amalgamated association shall be the societies that, immediately before the amalgamation were members of the associations that were parties to the amalgamation, and any other societies which are admitted to membership in accordance with the rules of the amalgamated association.

(6) No rights of membership shall be exercised unless or until the member has made such payments in respect of membership, or acquired such share or interest, as may be provided in the rules.

Minor members.
cf. Act No. 1, 1924, s. 38.

50. Unless otherwise provided by the rules, a person under the age of twenty-one years may be a member of a society. A person under the age of twenty-one years who is a member of a society may, to the extent required by reason of his membership, execute all instruments and give all necessary acquittances but shall not be competent to hold any office in the society. Notwithstanding the provisions of section seventy-five of this Act, a member of a society who is under the age of eighteen years shall not be entitled to vote.

Corporate body as member.
cf. *Ibid.* s. 46 (7).

51. (1) Subject to subsection three of this section, where a body corporate is a member of a society it may appoint a person to represent it in respect of the shares held by it.

(2)

Permanent Building Societies.

(2) Such appointee—

No. 18, 1967

- (a) shall be entitled to receive notice of all meetings in like manner as the members and shall be entitled to exercise the same rights to vote, whether in person or by proxy, as a member;
- (b) shall be eligible to be elected to the board of directors if the body corporate shall hold such qualifications, other than those relating to age, as may be requisite for the holding of such office.

(3) A body corporate, being a society which is a member of an association, may appoint such number of its members not exceeding three as may be provided for in the rules of the association to represent it on such association and the provisions of subsection two of this section shall apply to any such appointees.

DIVISION 2.—Share Capital and Funds.

52. (1) (a) A society may from time to time raise funds by the issue of shares of one or more denominations, either as shares paid up in full or as shares to be paid for by periodical or other subscriptions.

Share capital.
cf. 10 & 11
Eliz. 2 c. 37,
ss. 6, 11 and
Act No.
1, 1924.

(b) The rules of a society may provide—

- (i) for the withdrawal by a member of his share capital;
- (ii) for rights entitling the holder of any class of shares to receive, instead of a dividend, interest on the shares of that class which are fully paid up at such rate as may be determined by the board but not exceeding the maximum rate of dividend which by subsection four of section sixty-two of this Act may be paid by a society in respect of its paid up share capital; and
- (iii) for the payment of a greater rate of dividend in respect of paid up shares than in respect of shares that are not paid up shares :

Provided that, subject to the right of a member to withdraw his share in accordance with the rules of the society or the rights of a member upon a winding up of the society, the rules

Permanent Building Societies.

No. 18, 1967 rules shall not provide for the holder of any such class of shares to be repaid his share capital at any specified date or time.

(2) (a) A society may cancel the shares issued in respect of any funds so raised that are no longer required for the purposes of the society. Upon any such cancellation the society shall pay to the member the amount paid up on the cancelled shares together with any other moneys to which the member may be entitled in respect thereof.

(b) Where the rules of a society provide for the withdrawal of share capital they shall authorise the board to regulate the withdrawal in such manner as shall be specified in the rules. The registrar shall not register any such rules unless he approves the manner of regulating withdrawals set forth therein.

(3) (a) The capital of a society shall vary in amount according to the nominal value of shares from time to time allotted.

(b) No application for shares made prior to registration of the society may be withdrawn and every person making such an application shall, upon registration of the society, be liable to the society for the amount of share capital applied for or the amount of share capital represented by the minimum number of shares referred to in paragraph (c) of this subsection, whichever is the greater.

(c) A member shall subscribe for such minimum number of shares as are specified in the rules.

(d) A society shall, in the case of a society which has made application pursuant to section thirty of this Act, from the date of its registration, and in any other case on and from the expiration of two years from the date of its registration, have at all times funds of not less than six hundred thousand dollars of which four hundred thousand dollars shall be members' paid up share capital.

(4)

Permanent Building Societies.

(4) A society may, to the extent authorised by its rules, issue shares of various classes. Each such class shall be entitled to such rights and be subject to such conditions not inconsistent with the provisions of this Act as shall be set forth in such rules : Provided however, that no one class of share shall have priority in respect of the payment of dividend or upon winding up. No. 18, 1967

(5) (a) The liability of a member of a society in respect of a share on which no loan has been made shall be limited to the amount in arrear on the share.

(b) The liability of a member of a society in respect of a share on which a loan has been made shall be limited to the amount payable thereon under any mortgage or other security or under the rules of the society.

(6) 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.

(7) No member shall, in his own right or through nominees, hold more than one-fifth of the shares or, where any lesser proportion is specified in the rules, more than such lesser proportion.

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

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

53. (1) The provisions of this section shall have effect where shares in a society are held by two or more persons jointly; and in this section "primary joint holder" in relation to any shares so held, means that one of the joint holders who is named first in the register of shares. Provisions as to shares held jointly. cf. 10 & 11 Eliz. 2 c. 37, s. 116.

(2) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint holders by being given or sent to the primary joint holder :

Provided that this subsection shall not prevent any of the joint holders from exercising the right under this Act of a member of a society to obtain from the society on demand a copy of the balance sheet. (3)

No. 18, 1967

(3) For the purpose—

- (a) of determining who is qualified to vote, whether in person or by proxy, on a resolution at a meeting of the society;
- (b) of determining (where relevant) the number of votes any person may then give; and
- (c) of determining the number or proportion of any members required to give effect to any provisions of this Act or the rules of a society,

the shares shall be treated as being held by the primary joint holder alone.

(4) The register of members and shares shall indicate whether a person is a joint holder and whether or not he is the primary joint holder.

(5) The joint holders shall be entitled to choose the order in which they are named in the register of shares, but failing any such choice the society may enter their names in such order as it thinks fit.

Minimum
subscription
by founding
members of
societies.
cf. Act No.
1, 1924,
s. 18B.

54. (1) A society, other than an association or a society that, immediately before its registration under this Act was registered under the Co-operation Acts or the Building and Co-operative Societies Act, 1901, shall not borrow any money by loan or by way of deposit or otherwise carry on business, unless the registrar has issued his certificate that there has been produced to him evidence satisfying him that at least ten members of the society—

- (a) have each been issued with shares in the society, the shares issued to each such member—
 - (i) being of a nominal value of at least one thousand dollars or such lesser sum as the Minister may, after considering a report obtained from the Advisory Committee, determine in respect of a particular society or member;

(ii)

Permanent Building Societies.

- (ii) having been issued in accordance with rules No. 18, 1967 of the society containing provisions in relation to such shares in or to the effect of the provisions contained in section fifty-five of this Act; and
- (iii) being solely owned by such member; and
- (b) have each paid to the society in cash for such shares the nominal value thereof.
- (2) The ten persons referred to in subsection one of this section shall—
- (a) where the number of directors of the society elected at the formation meeting of the society did not exceed ten, include all of the directors of the society;
or
- (b) where the number of directors of the society so elected exceeded ten, be any ten of the directors of the society.

55. The rules of a society shall contain provisions in or to the effect that shares referred to in subsection one of section fifty-four of this Act shall not be transferable without the consent in writing of the Advisory Committee, or until the expiration of seven years from the date of allotment of the shares.

Terms of issue of minimum shares. cf. Act No. 1, 1924, s. 18B.

Nothing in any such rules shall prevent the transmission of any such shares by operation of law.

The society shall not give effect to or recognise any transfer of such shares in contravention of any such rule.

Until the expiration of the said period of seven years the society shall not without the consent in writing of the Advisory Committee, repay the sum subscribed for the shares or any part of that sum :

Provided that nothing in this section shall prevent the repayment of any such sum or part within the said period of seven years if the society is in liquidation.

No. 18, 1967 **56.** A society shall cancel any share forfeited to the society in accordance with the rules of the society.

Cancellation
of shares.
cf. Act No.
1, 1924,
s. 53.

**Cancellation
of
borrowers'
shares.** **57.** Any society which has pursuant to its rules issued borrowers' shares and ordinary shares may, if authorised by its rules—

cf. *Ibid.*
s. 54B.

(a) apply the amount paid up on any such borrowers' shares—

(i) in reduction of the member's loan liability;
and

(ii) in payment of any sum not exceeding twenty dollars as may be necessary to allot fully paid ordinary shares to such member to the extent required to provide the member with the minimum share qualification in the society; and

(b) cancel any borrowers' shares in respect of which the amount paid up thereon has been dealt with under paragraph (a) of this section and issue to such member fully paid ordinary shares to the extent required to provide him with the minimum share qualification in the society.

**Charge and
set off.**
cf. *Ibid.*
s. 57.

58. 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, interest, 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.

The

Permanent Building Societies.

The charge created by this section may be enforced by the appropriation by the society of the capital or interest subject to such charge. Any share in respect of which the whole of the capital has been so appropriated shall be cancelled. No. 18, 1967

59. Nothing in this Act shall affect the validity of any nomination made in accordance with the provisions of section fifty-eight of the Co-operation Acts or of any action properly taken in accordance with such nomination. Death of member.
cf. Act No. 1, 1924,
s. 58.

60. (1) If any member or person entitled, in respect of any share in, loan to or deposit with a society, to a sum of money not exceeding four hundred dollars dies intestate, the board may, upon such evidence as it deems sufficient, pay the money or transfer such shares to any person who appears to the board to be entitled to obtain a grant of letters of administration of the estate of the deceased, and such person shall hold the money or shares on the same trusts as if he had obtained such grant. Small estates.
cf. *Ibid.*
s. 59.

(2) If any member or person so entitled dies testate the board may upon such evidence as it deems sufficient pay the money or transfer the shares to the person appearing to the board to be entitled thereto under the will of the deceased member or person.

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

(4) The provisions of this section are subject to section one hundred and twenty-two of the Stamp Duties Act, 1920.

(5) Any payment or transfer 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.

(6)

Permanent Building Societies.

No. 18, 1967

(6) No payment or transfer pursuant to this section shall be made after evidence has been produced to the society that letters of administration of the estate, or probate of the will, of the deceased member have or has been granted.

Contributions.
cf. Act No. 1, 1924, ss. 48, 48A.

61. A society may if authorised by its rules make contributions out of its funds for any charitable purpose but such contributions shall not without the approval of the Advisory Committee exceed ten per centum of the surplus which has arisen in the preceding financial year of the society.

Surplus from operations.
cf. *ibid.* s. 48.

62. (1) Subject to this section and section sixty-four of this Act, any part of the surplus arising from the operations of the society may, if authorised by the rules—

(a) be paid to a member by way of dividend in respect of the shares held by him if such shares have not been issued on or become subject to terms entitling the holder to receive interest thereon;

(b) be paid to a member by way of bonus or rebate based on the business done by him with the society :

Provided however that, if authorised by the rules of the society, any dividend, bonus or rebate may be credited to the account of any member who has borrowed money from the society and has not fully repaid any moneys so borrowed by him.

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

(3) 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, bonus or rebate becomes payable, be due by him and unpaid.

(4)

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(4) The maximum rate of dividend in respect of No. 18, 1967 any share shall not exceed six per centum per annum or, where some other rate has been fixed by the Minister by order published in the Gazette on the recommendation of the Advisory Committee, such other rate.

(5) Notwithstanding any other provision of this section, cumulative dividends may be paid by a society if the surplus from which any cumulative dividend is paid arose within a period not exceeding five years prior to the declaration of the dividend and if such declaration would not result in any dividend exceeding an effective rate of six per centum per annum or, where some other rate has been fixed by the Minister by order published in the Gazette on the recommendation of the Advisory Committee, such other rate, in respect of each year in respect of which the cumulative dividend is paid.

(6) For the purpose of this section the surplus shall not include any funds which have been appropriated to any reserve or reserve fund.

63. (1) A society shall not approve of a loan unless, at Liquidity. the time such approval is given, the society holds liquid funds equal to not less than seven and one-half per centum, or, where some other proportion is prescribed, that proportion, of the total of members' paid up share capital and deposits held by the society.

(2) In this Act "liquid funds" means funds held in any of the following—

- (a) cash at the bank or in hand;
- (b) investments made in the manner authorised by paragraph (a) of subsection one of section twenty-one of this Act, as qualified by subsection two of that section;
- (c) moneys deposited in any manner authorised by paragraph (b) of subsection one of section twenty-one of this Act.

(3)

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No. 18, 1967 (3) For the purpose of calculating the proportion referred to in subsection one of this section, investments referred to in paragraph (b) of subsection two of this section shall be taken at their cost or market value, whichever is the lesser.

Reserve.
cf. Act No.
1, 1924,
s. 48.

64. (1) A society shall, at the end of its financial year, transfer to reserve five per centum or, where some other proportion has been prescribed, that proportion, of the sum of the surplus arising in that year and the interest paid or payable on share capital in respect of that year less the total amount of interest and dividend paid or payable on shares which have been issued by the society on conditions contained in the rules of the society requiring a member to subscribe for shares of a number and value depending on the amount of any loan obtained by him from the society.

Such transfers shall be made until such time as the reserve so created is equal to seven and one-half per centum or, where some other proportion has been prescribed, such other proportion, of the total of members' paid up share capital and deposits held by the society.

(2) Moneys appropriated to reserve pursuant to subsection one of this section shall—

- (i) not be distributed amongst members of the society except in the event of winding up;
- (ii) be applicable to any purpose to which the capital of the society is applicable.

(3) In arriving at the amount of the surplus referred to in subsection one of this section the society may make proper allowance for depreciation in value of the property of the society and for contingent liability for loss.

PART

PART VI.

No. 18, 1967

MANAGEMENT.

DIVISION 1.—*Directors and Officers.*

65. (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 section, shall have and may exercise the powers of the society as if they had been expressly conferred on the board by a general meeting of the society. Board of directors, cf. Act No. 1, 1924, s. 84.

(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) 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.

(7) A director shall not vote upon any question in which he, or any body corporate of which he is the appointee, has any direct or indirect pecuniary interest and if he does so vote his vote shall not be counted.

Permanent Building Societies.

- No. 18, 1967** **66.** (1) Subject to the provisions of this section no person of or over the age of seventy-two years shall be appointed a director of a society.
- Age limit for directors.
cf. Act No. 1, 1974, s. 84 and Act No. 71, 1961, s. 121.
- (2) The office of a director of a society shall become vacant at the conclusion of the annual general meeting commencing next following the day on which he attains the age of seventy-two years.
- (3) Any act done by a person as director shall be valid notwithstanding that it is afterwards discovered that his office had become vacant by virtue of subsection two of this section.
- (4) Where the office of a director has become vacant by virtue of subsection two of this section no provision for the automatic re-appointment of retiring directors in default of another appointment shall apply in relation to that director.
- (5) If any such vacancy has not been filled at the meeting at which the office became vacant the office may be filled as a casual vacancy.
- (6) Notwithstanding anything in this section a person of or over the age of seventy-two years may be appointed or re-appointed as a director of a society to hold office until the next annual general meeting of the society or be authorised to continue in office as a director until the next annual general meeting of the society if—
- (a) the appointment or re-appointment is made by not less than two-thirds of the members who lodged valid voting papers pursuant to a postal ballot; or
 - (b) at a meeting of the society a special resolution is passed authorising that director to remain in office until the next annual general meeting.
- (7) Nothing in this section shall limit or affect the operation of any provision of the rules of the society preventing any person from being appointed a director, or requiring any director to vacate his office, at any age less than seventy-two.

Permanent Building Societies.

67. (1) The number of directors shall not be less than five. **No. 18, 1967**

(2) The directors shall be appointed in such manner as may be specified in the rules of the society.

Appoint-
ment of
directors.
cf. Act No.
1, 1924,
s. 84 and
Act No. 71,
1961, s. 118.

The registrar shall not register such a rule or any alteration of such a rule unless he approves of the manner of appointing directors specified in the rule or in the rule as altered, as the case may be.

(3) (a) At a meeting of a society, a motion for the appointment of two or more persons as directors by a single resolution shall not be made unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.

(b) A resolution passed in pursuance of a motion made in contravention of this section shall be void, whether or not its being so moved was objected to at the time.

(c) Where a resolution pursuant to a motion made in contravention of this section is passed no provision for the automatic re-appointment of retiring directors in default of another appointment shall apply.

(d) For the purposes of this section, a motion for approving a person's appointment or for nominating a person for appointment shall be treated as a motion for his appointment.

(e) Nothing in this section shall apply to a resolution altering the rules of the society.

(f) Nothing in this section shall prevent the election of two or more directors by ballot or poll.

(4) The chairman of the board may be elected from among the directors and shall be elected, hold office and retire and may be removed from office as prescribed by the rules of the society.

(5) Notwithstanding anything in this Act, the rules of a society may provide for the appointment as a director of not more than one employee of the society.

68.

Permanent Building Societies.

No. 18, 1967 **68.** (1) Unless the Advisory Committee upon application made to it for the purpose otherwise approves no person shall, except as provided in section fifty-one, and in subsection five of section sixty-seven, of this Act, be qualified to be a director of a society unless he is a member of that society or, in the case of an association, unless he is a member of a society which is a member of that association.

Directors—
qualifica-
tion and
vacation
of office.

(2) In the absence of a director from a meeting of the board a person appointed by the board in accordance with the rules of the society to act as deputy for that director may act in the place of that director. Such rules may include provisions regulating the term of office, vacation of or removal from office, and remuneration of any such deputy.

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

(4) 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 a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (c) 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, except in the case of an employee of the society or the appointee of a corporation, he ceases to be a member of the society or if in the case of an association he ceases to be a member of a society which is a member of the association;
- (f) 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;

(g)

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- (g) if he is removed from office by resolution of a No. 18, 1967 general meeting of the society;
- (h) if his partner or a person in his employment or his employer acts as solicitor, valuer, auditor or accountant to the society or if he so acts except as an employee of the society;
- (i) if within two months after any money becomes due from him to the society, he does not pay the same;
- (j) if, being the appointee of a body corporate, his appointor ceases to be a member of the society or revokes his appointment by writing under its seal addressed to the board; or
- (k) if, being an employee of the society, he ceases to be employed by the society.

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

69. (1) Subject to the provisions of this section, a director of a society who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the society shall declare the nature of his interest to the board in accordance with this section. Disclosure of interest by directors. cf. 10 & 11 Eliz. 2 c. 37, s. 73.

(2) In the case of a proposed contract, the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract at the next meeting of the directors held after he becomes interested in the proposed contract.

(3) Where the director becomes interested in a contract with the society after it is made, the declaration required by this section shall be made at the first meeting of the directors held after he becomes interested in the contract.

(4) For the purposes of this section, a general notice in writing given by a director to the effect that he is a member of a specified company or firm, and is to be regarded as interested

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No. 18, 1967 interested in any contract which may, after the date of the notice, be made with that company or firm is a sufficient declaration to a director to whom it is given of the interest of the director by whom it is given in any contract made after that date with that company or firm.

(5) A director need not make a declaration or give a notice under this section by attending in person at a meeting of the directors, if he takes reasonable steps to secure that the declaration or notice is brought up and read at the meeting.

(6) A director who fails to comply with the provisions of subsection one of this section shall be liable to a penalty not exceeding five hundred dollars.

(7) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a society from having any interest in contracts with the society.

Certain
prohibited
dealings.
cf. Act No.
1, 1924,
ss. 88, 88A.

70. (1) A director or other officer, whether on his own account or in partnership with any other person or body of persons whether incorporated or unincorporated shall not, without the approval of all the directors present and voting (such directors not being less in number than would constitute a quorum of the board) at any meeting of the board—

- (a) sell any land to or act as agent for the sale of any land to a member of the society who proposes to pay for the same, in whole or in part, out of a loan made by the society; or
- (b) undertake the erection of any building for a member of the society who proposes to pay for the same, in whole or in part, out of a loan made by the society; or
- (c) accept as payment in whole or in part of any moneys due to him by a member of the society the whole or part of any loan made by the society to such member; or
- (d) borrow from the society.

(2)

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(2) For the purposes of this section, any thing done No. 18, 1967 by a proprietary company of which a director or other officer is a member shall be deemed to have been done by that director or other officer, as the case may be.

(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence and be liable to a penalty not exceeding five hundred dollars.

71. (1) A director (other than an employee) of any society shall not be paid any remuneration for his services as a director other than such fees as may be approved at a general meeting of the society. Directors—remuneration. cf. Act No. 1, 1924, s. 88 (2A).

(2) The total amount payable by way of fees in accordance with subsection one of this section in any one year shall not exceed such amount as may be determined by the Advisory Committee.

72. No officer or other person shall be employed by a society to have the receipt or charge of any money of the society unless security as prescribed for rendering a just and true account of all money received and paid by such officer or person for the society and for payment of all money due from him to the society has first been obtained. Fidelity guarantee. cf. *Ibid.* s. 88 (3).

DIVISION 2.—*Meetings.*

73. (1) The annual general meeting of a society shall be held within three months after the close of its financial year, or within such further time as may be allowed by the registrar. Meetings of society.

(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, as prescribed by the rules of the society, is present during the time when the meeting is considering that item.

(4)

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(4) Written notice of every meeting of a society shall be given in accordance with subsection six of this section to all persons who at the date of the calling of the meeting, would be qualified to vote at such meeting, and to the auditors of the society, in such manner as shall be provided for in the rules of the society.

(5) Subject to subsection six of this section and except in the case of—

- (a) the annual general meeting of a society;
- (b) a meeting of a society called as a result of a requisition of members or by such requisitionists;
- (c) a meeting of a society called for the purpose of passing a special resolution,

it shall be a sufficient compliance with the provisions of subsection four of this section if the notice is given by advertisement in accordance with the rules of the society.

(6) Not less than ten days' notice shall be given of every meeting of the society.

Minutes.

74. (1) A society shall cause minutes of every meeting of the board and of every meeting of the society to be kept and confirmed as prescribed.

(2) A society that fails to comply with the provisions of subsection one of this section and every officer in default shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

Voting.
cf. Act No.
1, 1924,
s. 86.

75. (1) Except as is otherwise provided in this Act or by the rules of the society, every question for decision by a meeting of a society shall be determined by a majority of those persons entitled to vote as are present in person thereat or, where proxies are allowed, by proxy, and unless a poll is demanded by at least five of such persons the question shall be determined on a show of hands.

(2)

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(2) Except as otherwise provided in this section and **No. 18, 1967** in section fifty of this Act, every member or representative, or appointee pursuant to section fifty-one of this Act, shall have one vote.

(3) The rules of a society may provide for a minimum amount of paid-up capital which shall be held by a member in order to entitle him to exercise a vote at any meeting of the society, or by way of ballot or to receive notice of meetings.

The registrar shall not register such a rule or any alteration of such a rule unless he approves of the minimum sum set forth therein.

(4) If a poll is held any member entitled to vote may, if authorised by the rules of the society, vote by proxy provided that no person shall be entitled to act as proxy for more than three members.

(5) At any meeting of the board or of the society the chairman shall, in the event of an equality in voting, be entitled to exercise a casting vote in addition to any other vote to which he may be entitled.

(6) 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 :

Provided that the registrar shall not register a rule, or an alteration of a rule, specifying any exclusion of the right to vote unless he approves of the exclusion.

76. (1) Every question for decision by a meeting of an association shall be decided by a majority of the representatives of the component societies appointed pursuant to section fifty-one of this Act present in person thereat and unless a poll is demanded by one-fifth of the representatives the question shall be determined on a show of hands.

Voting at
association
meeting.

(2)

Permanent Building Societies.

No. 18, 1967 (2) At any meeting of the association or board of the association the chairman shall, in the event of an equality in voting be entitled to exercise a casting vote.

Special resolutions. cf. Act No. 1, 1924, s. 80.

77. (1) For the purposes of this Act a special resolution shall, except as provided by subsection six of section thirty of this Act, mean a resolution which is passed by a majority of not less than two-thirds of such persons as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at any general meeting of which notice specifying the intention to propose the resolution as a special resolution has been duly given in accordance with the provisions of this Act and of the rules of the society.

(2) At any meeting referred to 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) The society shall within the prescribed time and in the prescribed manner apply to the registrar to have the resolution registered. A special resolution shall not take effect until so registered.

(4) A certificate of registration of any special resolution or of any alteration of the rules of a society given by the registrar shall, in favour of any person lending money to the society on the faith of such certificate or in favour of any guarantor of any such loan be conclusive evidence that such resolution was duly passed or such alteration in the rules was duly made as the case may be.

DIVISION 3.—Registers, Accounts and Audit.

Registers and accounts. cf. *Ibid.* s. 74.

78. (1) A society shall keep such registers and accounts as may be prescribed.

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

(a) registers of directors, members and shares ;

(b)

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- (b) a register of any loans raised, securities given, No. 18, 1967 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, in accordance with nominations made under the provisions of section fifty-eight of the Co-operation Acts.

(3) The registers shall, except as provided in this section, be kept at the registered office of the society and be kept in such manner and shall contain such particulars as may be prescribed.

(4) With the consent in writing of the registrar the registers referred to in subsection one or two of this section or any part thereof, except the register of directors, may be kept in any office of the society other than its registered office.

The register of directors shall be kept at the registered office of the society and the society shall cause a copy thereof to be kept at each of its offices.

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

79. (1) A society shall keep at its registered office and at each branch office and open at all reasonable hours to inspection by any member 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 income and expenditure account for the time being, together with a copy of the report of the auditor thereon;
- (d) the prescribed register of directors or copy thereof,

and

Inspection.
cf. Act No.
1, 1924,
s. 75 and
10 & 11
Eliz. 2 c. 37,
s. 63.

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No. 18, 1967 and shall, in the same manner and for the same purpose, at all times keep at its registered office the prescribed register of loans raised, securities given and bonds issued by the society or a copy thereof.

(2) Subject to this section, at any time—

- (a) when a written request to withdraw any share in a society has been given to the society more than six months previously, and the society has (whether in reliance on a provision in the rules of the society or otherwise) not complied with the request; or
- (b) in the twelve months following a financial year in which the holders of shares in a society did not become entitled to any interest or dividend on their shares,

a member of the society shall have the right to obtain, from the register kept under section seventy-eight of this Act the names and addresses of members of the society, for the purpose of communicating with them on a subject relating to the affairs of the society.

(3) A member of a society may make a written application to the registrar for the right to obtain the names and addresses from the register and the registrar, if satisfied that the applicant requires that right for the purpose of communicating with members of the society on a subject relating to the affairs of the society and having regard to the interests of the members as a whole and to all the other circumstances, may direct that the applicant shall have the right to obtain from the register the names and addresses of the members for the purpose of communicating with them on such a subject.

(4) Any direction under subsection three of this section may be given subject to such limitations or conditions as the registrar may think fit.

(5) Before giving a direction under this section, the registrar shall give particulars of the application to the society, and shall afford the society an opportunity of making representations with respect to the application; and the registrar shall, if the applicant or the society so requests, afford to the applicant and to the society an opportunity of being heard by him.

(6)

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(6) A member entitled under this section to obtain No. 18, 1967 the names of members of a society may apply in writing to the society, describing in the application the subject on which he proposes to communicate with other members of the society; and the society shall give him all necessary information as to the place or places where the register or part of it is kept and reasonable facilities for inspecting the register and taking a copy of any names and addresses in the register.

(7) A society shall not be obliged to disclose to a member making an application under this section any particulars contained in the register other than the names of the members and their addresses and may construct the register in such a way that it is possible to open the names and addresses to inspection without exposing any such other particulars.

80. The financial year of a society shall end on such day Financial year. in each calendar year as is provided for by the rules of the society: Provided that— cf. Act No. 1, 1924, s. 90.

- (a) the first financial year of a society may extend from the date of its registration to a date not later than eighteen months from the date of its registration;
- (b) on an alteration of the rules of a society altering its financial year, the alteration may provide either that the financial year current at the date of alteration shall be extended for a period not exceeding six months or that the financial year next following the financial year that is so current shall be a period exceeding twelve months but not exceeding eighteen months.

81. (1) The accounts of a society shall be audited Accounts and audit. annually or more frequently as may be prescribed by the rules of the society. cf. Ibid. s. 89.

(2) None of the following persons shall be qualified for appointment or to act as auditor of a society :—

- (a) an officer or servant of the society;

(b)

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- (b) a person who is a partner of or in the employment of or the employer of an officer or servant of the society; or
- (c) a body corporate.

References in this subsection to an officer or servant shall be construed as not including references to an auditor.

(3) Appointment as the public officer of a society for the purposes of any law relating to taxation shall not be a disqualification for appointment as the auditor of a society.

(4) The auditors shall make a report to the members on the accounts examined by them and on the register of members and other records which the society is required to keep by law or by its rules, and on every balance-sheet and every income and expenditure account laid before the society in general meeting during their tenure of office, and the report shall state—

- (a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit;
- (b) whether, in their opinion, proper books of account have been kept by the society so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them;
- (c) whether the society's balance-sheet and the income and expenditure account dealt with by the report are in agreement with the books of account and returns;
- (d) whether, in their opinion, and to the best of their information and according to the explanations given to them, the said accounts give the information required by or under this Act in the manner so required and give a true and fair view—
 - (i) in the case of the balance-sheet, of the state of the society's affairs as at the end of its financial year;

(ii)

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(ii) in the case of the income and expenditure account, of the surplus or deficit for its financial year; No. 18, 1967

- (e) whether in their opinion, the register of members and other records, which the society is required to keep by or under this Act or by its rules, have been properly kept; and
- (f) whether the rules relating to the administration of the funds of the society have been observed.

(5) Every auditor of a society shall have a right of access at all times to the books, accounts, vouchers, securities and documents of the society and shall be entitled to require from the directors and other officers of the society such information and explanation as he thinks necessary for the performance of the duties of the auditors.

(6) The auditors of a society shall be entitled to attend any general meeting of the society and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(7) A copy of the balance-sheet and income and expenditure account duly audited, together with a copy of the auditors' 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 income and expenditure account and auditors' report may be inspected by members at any office of the society for such period before the meeting as may be prescribed by the rules.

(8) (a) Subject to paragraph (b) of this subsection, any provisions, whether contained in the rules of a society or in any contract with a society or otherwise, for exempting any auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach

to

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No. 18, 1967 to him in respect of any negligence, default or breach of duty of which he may be guilty in relation to the society shall be void.

(b) A society may, in pursuance of any provision referred to in paragraph (a) of this subsection, indemnify any auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under subsection nine of this section in which relief is granted to him by the court.

(9) (a) If in any proceedings for negligence, default or breach of duty against an auditor of a society it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default or breach of duty but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach of duty, that court may relieve him, either wholly or partly, from his liability on such terms as the court thinks fit.

(b) Where any auditor of a society has reason to apprehend that any claim will or might be made against him in respect of any negligence, default or breach of duty, he may apply to the Supreme Court in its equitable jurisdiction for relief, and that court on any such application shall have the same power to relieve him as under this subsection it would have had if it had been a court before which proceedings against that auditor for negligence, default or breach of duty had been brought.

(c) Where any case to which paragraph (a) of this subsection applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that paragraph to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

DIVISION

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DIVISION 4.—Returns.

No. 18, 1967

82. (1) A society shall, within fourteen days after any change in the membership of the board, inform the registrar in writing of the change.

Returns.
cf. Act No.
1, 1924,
s. 76.

(2) A society shall, within three months after the close of each of its financial years or within such further time as the registrar may authorise, transmit to the registrar the following returns, that is to say—

- (a) a list of the directors for the financial year then current;
- (b) a statement of the assets and liabilities of the society at the close of its financial year then last past and of the accounts of the society for that financial year;
- (c) a copy of the report by the auditors on such accounts;
- (d) a list in the prescribed form of all special loans made during the financial year then last past;
- (e) a return containing such other particulars as may be prescribed.

(3) A society shall, if so directed by the registrar, transmit to him within such time and in such manner as may be prescribed a list of the members of the society, together with such particulars with regard thereto as may be prescribed.

(4) A society shall in respect of any loan approved or made by it furnish to the registrar in the prescribed manner and within the prescribed time such returns as may be prescribed.

(5) Any information or return to be transmitted to the registrar under this section shall be in such form as may be prescribed.

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Annual
return to
disclose
loans to
directors or
officers or
to companies
in which
they are
interested.
cf. 10 & 11
Eliz. 2 c. 37,
s. 89.

83. (1) A society shall when transmitting to the registrar the returns referred to in subsection two of section eighty-two of this Act include a statement showing the amount of any loans made by the society during the financial year then last past—

- (a) to any director or the manager or secretary of the society;
- (b) to any person who, after the making of the loan, became a director or the manager or secretary of the society in that year;
- (c) to a company or other body corporate in which, when the loan was made, or at any later time in that year, a director or the manager or secretary of the society held (either directly or through a nominee) shares the nominal value of which exceeded two and one-half per centum of the total paid up share capital of the company or other body corporate; or
- (d) to a company or other body corporate of which, when the loan was made, or at any later time in that year, a director or the manager or secretary of the society was a director, general manager, secretary or other similar officer,

and also, in the case of a loan falling within paragraph (c) of this subsection, particulars of the shareholding of the director, manager or secretary.

(2) Every director, manager and secretary of a society shall, not later than fourteen days after the end of each financial year of the society, give notice in writing to the society of such matters relating to his employment by, or other interest in, any company or other body corporate as may be necessary for the purposes of subsection one of this section; and, subject to subsection three of this section, a person failing to comply with this subsection shall be guilty of an offence and be liable to a penalty not exceeding five hundred dollars.

(3) In any proceedings against a person in respect of an offence under subsection two of this section, it shall be a defence to prove that at the time of the alleged offence he did

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did not know that the society had made the loan to the company or other body corporate in question, and that at that time reasonable arrangements were in operation, to bring to his notice any loan made by the society to any company or other body corporate. No. 18, 1967

(4) If the requirements of subsection one of this section are not complied with, the auditors of the society shall, so far as they are reasonably able to do so, include in their report a statement giving the required particulars.

84. (1) A society shall, when transmitting to the registrar the returns referred to in subsection two of section eighty-two of this Act, furnish a return in the form and manner prescribed with respect to—

- Return of securities sold and mortgages transferred.
cf. 10 & 11 Eliz. 2 c. 37, s. 89.
- (a) every property which has during the financial year then last past, been sold by the society in the exercise of its powers as mortgagee or after foreclosure; and
 - (b) every mortgage which has been transferred by the society during that financial year.

(2) If a society fails to send to the registrar a return which it is required to send to him under subsection one of this section the society and every officer of the society who is in default, shall be guilty of an offence and be liable to a penalty not exceeding two hundred and fifty dollars.

PART VII.

DISPUTES.

85. (1) Subject to this section every dispute between a member, in his capacity as a member, and the society shall be determined in the manner prescribed by the rules of the society. Disputes.
cf. Act No. 1, 1924,
s. 91.

(2)

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(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) Any party to a dispute referred to in this section may refer the dispute to the registrar, if it has not been referred to arbitration in accordance with the rules of the society or, in the case of such a dispute that has been so referred to arbitration, if one month has elapsed without an award being made.

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

(b) Where the registrar decides not to hear or depute the hearing of the dispute, he shall, within one month of receipt of the reference, notify the parties in writing of his decision.

(c) If the registrar decides not to hear or depute the hearing of the dispute, the dispute shall be determined in the manner (other than by reference to the registrar under this section) prescribed by the rules of the society but where the only manner prescribed by those rules for the determination of the dispute is by reference to the registrar the dispute shall be determined by arbitration in accordance with the Arbitration Act, 1902, in which case subsections seven, eight, nine and ten of this section shall not apply.

(5) Where the dispute is so referred and the registrar decides to hear or depute the hearing of the dispute, the registrar or person deputed by him may administer an oath, and may, by a notice in writing served in the manner provided by

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by section one hundred and fifteen of this Act, require the attendance of any party or witness, and the production of any book or document relating to the matter in question. No. 18, 1967

(6) The registrar or person deputed by him to hear a dispute may, at any stage of the hearing of the dispute, and shall, if so directed by the Supreme Court or a Judge thereof, state a case for the opinion of the Supreme Court on any question of law arising on the hearing by him of the dispute.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

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

(13) Any person who fails, without lawful excuse, to comply with a requirement of the registrar, or person deputed by him, pursuant to subsection five of this section shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

PART

No. 18, 1967

PART VIII.

OFFICIAL MANAGEMENT AND WINDING UP.

Official
manage-
ment.
cf. Act No.
1, 1924,
s. 91A.

86. The provisions of Part IX of the Companies Act, 1961, shall mutatis mutandis and with such modifications, if any, as may be prescribed, extend to a society.

For the purposes of that extension, a reference in any of those provisions to the Registrar shall be construed as a reference to the Registrar of Permanent Building Societies under this Act and have the same meaning and effect as the word "registrar" has under this Act.

Winding
up.
cf. *Ibid.*
s. 92.

87. (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 voluntarily, or by the court, the society may, subject to the provisions of this Part of this Act, be wound up in the same manner and in the same circumstances in which a company formed and registered under the Companies Act, 1961, may be so wound up.

(3) In the case of a winding up upon a certificate of the registrar, the society may be wound up if the registrar certifies—

- (a) that the number of members of the society is reduced to less than fifty or, in the case of an association, to less than two;
- (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 registration of the society has been obtained by mistake or fraud;
- (d) that the society has ceased to hold the minimum funds referred to in paragraph (d) of subsection three of section fifty-two of this Act and has not within a period of three months of being so requested by the registrar made application for registration under either the Co-operation Acts or the Companies Act, 1961;

(e)

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- (e) that the society has, after notice by the registrar **No. 18, 1967** of any breach or non-compliance with this Act, the regulations or the rules of the society failed, within the time referred to in the notice, to remedy the breach or has committed any further breach specified in the notice;
- (f) that there are, and have been for a period of one month immediately before the date of the registrar's certificate, insufficient directors of the society to constitute a quorum as provided by the rules of the society; or
- (g) following an inquiry pursuant to the provisions of this Act into the affairs of a society or the working and financial condition of a society, that in the interests of members or creditors of the society, the society should be wound up.

(4) The registrar shall not so certify unless the event has been proved to his satisfaction, and unless in the case of paragraphs (c), (e), (f) and (g) of subsection three 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 as may be prescribed and be entitled to receive such fees as shall be fixed by the Advisory Committee. Any vacancy occurring in the office of the liquidator so appointed shall be filled by a person appointed by the registrar for the purpose.

(6) A winding up upon a certificate of the registrar shall be deemed to commence at the time the certificate is given and the liquidator shall within ten days after his appointment give notice thereof by advertisement in the Gazette.

(7) (a) In the case of any winding up or dissolution of a society the provisions of Part X of the Companies Act, 1961, with respect to the winding up or dissolution of a company formed and registered under that Act shall, subject to this Part of this Act, apply to the winding up or dissolution of the society.

(b)

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(b) In the application of the provisions of Part X of the Companies Act, 1961, to the winding up or dissolution of a society—

- (i) a reference in any of those provisions to a special resolution or an extraordinary resolution shall be construed as a reference to a special resolution within the meaning of this Act;
- (ii) a reference in any of those provisions to the Registrar shall be construed as a reference to the Registrar of Permanent Building Societies under this Act and have the same meaning and effect as the word “registrar” has under this Act;
- (iii) paragraph (d) of subsection one of section two hundred and eighteen shall be deemed to be amended by inserting after the words “past member” the words “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”;
- (iv) a reference in sections two hundred and twenty-one and two hundred and twenty-two to a proprietary company shall be construed as a reference to an association;
- (v) a winding up of a society upon the certificate of the registrar shall be deemed to be a voluntary winding up and, without prejudice to the generality of this or any other provision of this Part of this Act, the provisions of sections two hundred and seventy, two hundred and seventy-one and two hundred and seventy-two of the Companies Act, 1961, shall apply to and in respect of the winding up of the society as if it were a members’ voluntary winding up within the meaning of that Act.

Liquidator.
cf. Act No.
1, 1924,
s. 92A.

88. Where a society is being wound up voluntarily (otherwise than upon the certificate of the registrar) and a vacancy occurs in the office of liquidator which in the

opinion

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opinion of the registrar is unlikely to be filled in the manner provided by the Companies Act, 1961, the registrar may appoint a person to be liquidator. No. 18, 1967

89. Notwithstanding anything contained in this Act or in the Companies Act, 1961, the remuneration paid to the liquidator of a society wound up voluntarily shall not exceed the amount fixed by the Advisory Committee. Remuneration of liquidator. cf. Act No. 1, 1924, s. 92B.

90. As soon as may be practicable after a society is dissolved, the registrar shall register the dissolution and cancel the registration of the society. Cancellation. cf. *Ibid.* s. 95.

PART IX.

EVIDENCE AND OFFENCES.

DIVISION 1.—Evidence.

91. (1) Any certificate of incorporation given by the registrar shall be received in evidence as if it were the original certificate. Certificate and documents. cf. *Ibid.* s. 96.

(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.

(3) Judicial notice shall be taken of the signature and seal of any person who holds or has held the office of registrar or deputy registrar or of a delegate appointed pursuant to subsection eight of section one hundred and seven of this Act 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, deputy registrar or delegate appointed pursuant to subsection eight of section one hundred and seven of this Act to be a true copy of its registered rules.

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No. 18, 1967 **92.** 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.

Rules.
cf. Act No.
1, 1924,
s. 97.

Registers. **93.** The registers 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.

cf. *Ibid.*
s. 98.

Minutes— **94.** (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.

effect as
evidence.
cf. *Ibid.*
s. 99.

(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.

Entries. **95.** 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.

cf. *Ibid.*
s. 100.

DIVISION 2.—*Offences.*

Default by **96.** (1) A society shall be guilty of an offence, if it society.
fails—

cf. *Ibid.*
s. 101.

(a) to keep any register or account, or to make any entry therein, as required by this Act;

(b) to have at any office and open to inspection a copy of this Act and the regulations, or of the rules or of the last balance-sheet or income and expenditure account, together with the report of the auditor, or any register, as required by this Act;

(c)

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(c) to transmit to the registrar any notice or return as No. 18, 1967 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.

(3) Where the society is guilty of any offence within subsection one or subsection two of this section every director or officer shall be guilty of the like offence unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

(4) A director of a society who continues to act as such after his office as a director has been vacated shall be guilty of an offence.

(5) A society, director or officer guilty of an offence within this section shall be liable to a penalty not exceeding one hundred dollars and a default penalty not exceeding fifty dollars.

97. If before a society is registered any person takes any money in consideration of the allotment of any share or interest in, or grant of a loan by, the society, he shall be guilty of an offence and shall be liable to a penalty not exceeding six hundred dollars.

Allotment of shares.
cf. Act No. 1, 1924,
s. 106.

98. (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 if it borrows money whether by way of loan or deposit except as authorised by its rules and within the limits provided in this Act.

Restriction on powers.
cf. *Ibid.*
s. 102.

(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 two hundred dollars 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 twenty dollars for every such offence.

99.

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No. 18, 1967 **99.** (1) If a society continues for a period of one month to carry on business after the number of its members is reduced below the number necessary for the formation of such a society or after it ceases to hold funds as required by subsection three of section fifty-two of this Act, every person who is a director of the society during the time that it continues to carry on business after such period and is aware that it is so carrying on business with less than the number of members required to form such society, or after ceasing to hold funds as required by subsection three of section fifty-two of this Act, shall be guilty of an offence and be liable to a penalty not exceeding one hundred dollars and a default penalty not exceeding fifty dollars.

Too few members.
cf. Act No. 1, 1924, s. 103.

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

False copies of rules.
cf. *Ibid.* s. 107.

100. If a 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 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 an offence and shall be liable to a penalty not exceeding one hundred dollars.

Falsification.
cf. *Ibid.* s. 108.

101. 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 return or document required to be sent, produced or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall be guilty of a misdemeanour.

102.

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102. (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 liable to a penalty not exceeding four hundred dollars.

No. 18, 1967
 Fraud or
 misappropriation.
 cf. Act No.
 1, 1924,
 s. 109.

(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 a 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.

103. (1) If any person—

- (a) seeks, claims or receives any commission, fee or reward, whether pecuniary or otherwise, from any person as a consideration or charge for procuring or obtaining, or offering or attempting to procure or obtain, for any person a loan from any society; or
- (b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any persons through or from any society,

Certain
 acts pro-
 hibited in
 relation
 to loans.
 cf. *Ibid.*
 s. 109A.

he shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred dollars.

(2)

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No. 18, 1967 (2) Any sum received in contravention of this section or section ninety-seven of this Act may be recovered by the person who paid it from the person by whom it was received in an action for debt in any court of competent jurisdiction.

Commission. **104.** (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 two hundred dollars.

(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- **105.** (1) Any society which, or person who, fails to **tion of** comply with any requirements of this Act within the time or **Act.** in the manner thereby prescribed or commits any other **cf. Ibid.** contravention thereof, shall, where no penalty is expressly **s. 111 and** provided, be liable to a penalty not exceeding one hundred **Act No. 71,** dollars. **1961, ss.** **379, 380.**

(2) The penalty or punishment, pecuniary or other, set out in, or at the foot of, any section or part of a section of this Act shall indicate that the offence is punishable upon conviction by a penalty or punishment not exceeding that so set out.

(3) (a) Where in, or at the foot of, any section or part of a section of this Act there appears the expression "Default penalty" it shall indicate that any person who is convicted of an offence against this Act in relation to that section or part shall be guilty of a further offence against this Act if the offence continues after he is so convicted and liable to an additional penalty for each day during which the offence

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so continues of not more than the amount expressed in the section or part as the amount of the default penalty or, if an amount is not so expressed, of not more than twenty dollars. No. 18, 1967

(b) Where any offence is committed by a person by reason of his failure to comply with any provision of this Act by or under which he is required or directed to do anything within a particular period, that offence for the purposes of paragraph (a) of this subsection shall be deemed to continue so long as the thing so required or directed to be done by him remains undone, notwithstanding that such period has elapsed.

(c) For the purposes of any provision of this Act which provides that an officer of a society who is in default is guilty of an offence against this Act or is liable to a penalty or punishment the phrase "officer who is in default" or any like phrase means any officer of the society who knowingly and wilfully—

- (i) is guilty of the offence; or
- (ii) authorises or permits the commission of the offence.

106. (1) Every penalty or fine imposed by this Act or by any regulation or rule shall, except where otherwise expressly provided by this Act, be recoverable summarily. Recovery of penalties.
cf. Act No. 1, 1924,
s. 112.

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

PART X.

ADMINISTRATION.

DIVISION 1.—Registrar.

107. (1) There shall be a Registrar of Permanent Building Societies who shall be the person for the time being holding the office of Registrar of Co-operative Societies and there shall be an office of the registrar. Registrar.
cf. *Ibid.*
s. 115.

(2) All certificates, rules and documents relating to any society registered under this Act (including those in the custody of the Registrar of Co-operative Societies before its registration) shall be kept in the office of the registrar.

(3)

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(3) 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.

(4) The registrar shall have such duties, powers and authorities as are prescribed.

(5) The duties, powers and authorities of the registrar may be performed and exercised by a deputy who shall be the person for the time being holding the office of Deputy Registrar of Co-operative Societies.

(6) The deputy registrar shall exercise his office subject to such conditions and restrictions (if any) as the registrar may impose—

- (a) generally;
- (b) in relation to any specified matter or class of matters; or
- (c) in relation to all matters other than any specified matter or class of matters.

(7) No person shall be concerned to see or inquire whether, in the case of any dealing or transaction with the deputy registrar, any condition or restriction has been imposed upon the exercise of the powers of the deputy registrar, or as to his authority; and all acts or things done or omitted by the deputy registrar shall be as valid and effectual and shall have the same consequences as if the acts or things had been done or omitted by the registrar.

(8) With the approval of the Minister first obtained, the registrar may delegate any of his duties, powers and authorities to any other officer of the registry and that officer while he exercises or discharges such delegated duties, powers and authorities shall have all the powers, rights, discretions, duties and obligations of the registrar (other than this power of delegation) and the Minister or the registrar may at any time revoke any such delegation.

No delegation under this subsection shall prevent the exercise or discharge by the registrar of any of his duties, powers or authorities.

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

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108. (1) Any person may, except as otherwise provided No. 18, 1967
by this Act, on payment of the prescribed fee—

- (a) inspect any document registered by, or filed or lodged with the registrar pursuant to this Act; or Inspection of documents. cf. Act No. 1, 1924, s. 120.
- (b) obtain from the registrar a certificate of the registration of a society; or
- (c) obtain from the registrar a certified copy of any such document registered by or filed or lodged with the registrar or any part thereof.

(2) A copy of or extract from any document registered by the registrar or filed or lodged at the office of the registrar so certified under the hand and seal of the registrar shall in any proceedings be admissible in evidence as of equal validity with the original documents.

109. (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. Information and evidence. cf. *Ibid.* s. 116.

(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.

110. (1) If with respect to any society the registrar considers it expedient so to do in the interests of persons who may become members of, or invest in, or deposit money with the society he may, with the approval of the Minister, by notice served on the society give a direction— Power to control advertising by a society. cf. *Ibid.* s. 18E.

- (a) prohibiting the issue by the society of advertisements of all descriptions; or

(b)

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- No. 18, 1967**
- (b) prohibiting the issue by the society of advertisements of any description specified in the direction; or
 - (c) prohibiting the issue by the society of any advertisements which are, or are substantially repetitions of an advertisement which had been issued and which is specified in the direction; or
 - (d) requiring the society to take all practicable steps to withdraw any advertisement, or any description of advertisement, which is specified in the direction and is displayed in any place,

or a direction as to any two or more of the matters referred to in paragraphs (a), (b), (c) and (d) of this subsection.

The Minister's approval under this subsection shall not, where the society has made representations pursuant to subsection three of this section with respect to the proposal of the registrar set out in the notice served on the society under that subsection, be given until he has obtained and considered the report of the Advisory Committee with respect to such proposal.

(2) Directions under this section may be varied or revoked at any time by a subsequent direction under this section.

(3) Not less than one week before giving a direction under this section (other than a direction revoking a previous direction) with respect to any society, the registrar shall serve on the society a notice in writing stating that he proposes to seek the Minister's approval to issue a direction pursuant to subsection one of this section. The society may within a period of one week after the date on which the society is served with the notice make representations to the Advisory Committee with respect to any such proposal and the Advisory Committee shall report thereon to the Minister.

(4) A society shall not issue any shares, or lend or borrow any money whether by way of loan or on deposit during the period after the service upon it of a notice under
 subsection

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subsection three of this section and before the society is notified by the registrar that the proposal has been dealt with by the Minister. No. 18, 1967

(5) Any society that fails to comply with any direction given to it under subsection one of this section or that contravenes subsection four of this section shall be guilty of an offence and liable to a penalty not exceeding four hundred dollars and every director and the secretary or manager of the society shall be guilty of the same offence and liable to the same penalty unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

111. (1) If, with respect to any society, the registrar considers it expedient to do so in the interests of persons who may become members of or invest in or deposit money with the society, he may, by notice in writing served on the society with the approval of the Minister, direct that subsection two of this section shall apply to the society and that subsection shall thereupon apply accordingly. Power to suspend raising of funds. cf. 10 & 11 Eliz. 2 c. 37, s. 48.

(2) Subject to the provisions of this section, while this subsection applies to a society, the society shall not—

- (a) accept the deposit of, or otherwise borrow, any money; or
- (b) accept any payment representing the whole or any part of the amount due by way of subscription for a share in the society, other than a payment which fell due before the giving of the direction applying this subsection to the society.

(3) This section shall not make it unlawful for a society to borrow money pursuant to section twelve of this Act or, with the consent in writing of the registrar, to borrow money from a banking or finance company, or from a director or other officer of the society.

(4) Where the registrar gives a direction pursuant to subsection one of this section, the society may make representations to the Advisory Committee with respect to the direction and the Advisory Committee shall report thereon to the Minister. (5)

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(5) The Minister may, at any time, direct that subsection two of this section shall cease to apply to the society and that subsection shall cease to apply accordingly.

(6) If a society contravenes the provisions of subsection two of this section it shall be guilty of an offence and be liable to a penalty not exceeding six hundred dollars; and every officer of the society who knowingly and wilfully authorises or permits a contravention of subsection two of this section shall be liable on conviction on indictment to a penalty not exceeding six hundred dollars or to a term of imprisonment not exceeding two years or to both or, on summary conviction, to a penalty not exceeding four hundred dollars or to a term of imprisonment not exceeding three months or to both.

(7) References in this section to the amount due by way of subscription for a share in a society do not include amounts due in respect of a share which represented interest on, or the repayment of, an advance made to the holder of the share.

Inspection by registrar.
cf. Act No. 1, 1924, s. 117.

112. (1) The registrar and any inspector appointed under section one hundred and fourteen of this Act and authorised in writing by the registrar either generally or specially to do so may inspect any minutes or books or examine the affairs, of a society whether or not it is in the course of being wound up and in the case of a society that is being wound up, any minutes, books, records or documents kept by the liquidator in respect of the society.

(2) The registrar or any such inspector so authorised may, at his discretion, obtain from any bank in which the funds of a society are deposited or invested a statement of the amount of such deposit or investment and any other particulars required by him to be furnished.

113.

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113. (1) The registrar shall, on the application of a majority of the board or of not less than one-third of the members, or may, of his own volition—

- (a) call a special meeting of a society;
- (b) hold an inquiry into the affairs including the working and financial conditions of a society.

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Special meeting and inquiry.
cf. Act No. 1, 1924, s. 118.

(2) An application under subsection one of this section 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 and shall give such notice to members of the holding of such meeting as he deems fit notwithstanding any provision in the rules of the society as to the giving of such notice.

(6) The meeting shall have all the powers of a meeting called in accordance with the rules of a society and shall have power to appoint its own chairman, any rule of the society to the contrary notwithstanding. The registrar or any person nominated by him may attend and address any such meeting.

(7) 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.

114. (1) The Governor may appoint inspectors for the purposes of this Act.

Inspectors.
cf. *Ibid.*
s. 118A.

(2)

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No. 18, 1967 (2) The provisions of the Public Service Act, 1902, shall not apply to the appointment of any such inspector who is not a public servant.

Powers of registrar and inspectors. cf. Act No. 1, 1924, s. 121.

115. (1) The registrar and any inspector appointed under section one hundred and fourteen of this Act may, for the purpose of any inquiry or inspection under this Act—

- (a) administer an oath;
- (b) by notice in writing require the attendance of any person at the time, and at any place specified in the notice and require such person then and there to answer any question put to him by the registrar or such inspector, as the case may be, in relation to the matter of any such inquiry or inspection; and to produce all or any of the books or documents of the society;
- (c) require any director or other officer of a society to furnish to the registrar or such inspector, as the case may be, any information relating to the affairs of the society or the matter of any inquiry into the working and financial condition of the society and to produce to the registrar or such inspector all or any of the books or documents of the society.

A notice referred to in paragraph (b) of this subsection may be served, where it is addressed—

- (i) to a society or a director or other officer of a society, in the appropriate manner specified in subsection two of section thirty-six of this Act; or
- (ii) to any other person, by post sent to the last known address of such person.

(2) Any person, who—

- (a) when required by the registrar or an inspector pursuant to paragraph (b) of subsection one of this section refuses or fails, without lawful excuse,

to

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to attend at any time and place specified in a notice served on such person in accordance with the provisions of that subsection or, having so attended, fails then and there to answer any question put to him by the registrar or inspector, as the case may be, in relation to the matter of any inquiry or inspection under this Act or to produce any books or documents as required by the notice; or

- (b) being a director or other officer of a society refuses or fails, without lawful excuse, to furnish any information required of him pursuant to paragraph (c) of the said subsection one of this section or to produce any books or documents required to be produced pursuant to that paragraph,

shall be guilty of an offence and liable on summary conviction to a penalty not exceeding six hundred dollars or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

116. 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.
cf. Act No.
1, 1924,
s. 123.

DIVISION 2.—*Permanent Building Societies Advisory Committee.*

117. (1) There shall be a Permanent Building Societies Advisory Committee consisting of such number of members as may be determined by the Minister, being not less than three and not exceeding five or, where some other maximum number is prescribed, the prescribed maximum number.

Advisory
Committee.
cf. *Ibid.*
s. 114c.

(2) (a) One of such members shall be the person who for the time being holds the office of registrar and who shall by virtue of such office be the chairman and executive member of the committee.

(b) Of the total membership of the committee there shall at all times be a majority comprising persons each of whom is an officer of a society.

(3)

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(3) A deputy or alternate member may be appointed to attend any meeting of the committee at which a member may be unable to be present.

(4) The members (other than the chairman) and deputy or alternate members of the committee shall be appointed by the Minister and shall hold office for such period as he may deem fit and may be removed from office by the Minister.

(5) Meetings of the committee shall be convened by the chairman or by any two members.

(6) Each member and deputy or alternate member of the committee shall, unless he is an officer of the public service or a member of the Legislative Council or Legislative Assembly of New South Wales, be paid such fees, allowances and expenses as may be prescribed.

(7) It shall be the duty of the committee—

- (a) to submit recommendations to the Minister for the more effective operation of societies and in respect of proposed regulations;
- (b) to report on such other matters relating to societies and the provision of funds for home finance as may be referred to it by the Minister;
- (c) to tender advice to the registrar on such matters as may be referred to it by him and in particular with respect to applications for registration of societies and their rules and alterations thereof; and
- (d) to perform such other functions as are prescribed.

PART XI.

MISCELLANEOUS.

DIVISION 1.—*Civil Remedies.*

Civil remedies. cf. Act No. 1, 1924, s. 113.

118. If a society in making or raising any loan or receiving any deposit or allotting any share contravenes any provision of this Act or any rule of the society, the civil rights

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rights and liabilities of the society or any other person in respect of the recovery of the loan or deposit or the moneys payable in respect of the shares 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 or share capital and for the enforcement of any security therefor as if there had not been a contravention of this Act or of the rules of the society. No. 18, 1967

DIVISION 2.—Regulations.

119. (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— Regulations.
cf. Act No.
1, 1924,
s. 124 and
Act No. 71,
1961, s. 7
(11).

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

(2) Without prejudice to the generality of the foregoing provisions of this section, the Governor may make regulations prescribing the fees to be taken in the office of the registrar for any matter or thing to be done therein under this Act.

(3) The Governor may make regulations amending the Schedule to this Act and the Schedule, as so amended, shall be the Schedule to this Act.

(4) 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.

(5) 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.

(6)

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— (6) 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.

DIVISION 3.—*Amendment of various Acts.*

Amendment of Act No. 1, 1924. **120.** (1) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, is amended—

- Sec. 4.
(Savings.) (a) by inserting next after subsection two of section four the following new subsection :—

(3) Nothing in this Act shall apply to or in respect of a permanent building society or an association of permanent building societies registered under the Permanent Building Societies Act, 1967.
- Sec. 16.
(Objects.) (b) by omitting from subsection two of section sixteen the word “permanent” wherever occurring and by inserting in lieu thereof the word “non-terminating”;
- Sec. 18B.
(Minimum subscription by founding members of permanent building societies.) (c) by omitting from subsection one of section 18B the word “permanent” and by inserting in lieu thereof the word “non-terminating”;
- Sec. 18C.
(Permanent building societies directors’ shares.) (d) by omitting from subsection one of section 18C the word “permanent” and by inserting in lieu thereof the word “non-terminating”;
- Sec. 47.
(Shares.) (e) (i) by omitting from subsection (5A) of section forty-seven the word “permanent” and by inserting in lieu thereof the word “non-terminating”;
- (ii)

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- (ii) by omitting from subsection (5B) of the same section the word “permanent” and by inserting in lieu thereof the word “non-terminating”; No. 18, 1967
- (f) (i) by omitting from subsection one of section forty-eight the words “permanent building society, or terminating”; Sec. 48. (Reserve funds of building societies and credit unions.)
- (ii) by omitting from paragraph (a) of subsection five of the same section the word “permanent” and by inserting in lieu thereof the word “non-terminating”;
- (g) by omitting from section 54B the word “permanent” and by inserting in lieu thereof the word “non-terminating”; Sec. 54B. (Permanent building society, cancellation of borrowers' shares.)
- (h) (i) by omitting from subsection five of section sixty-six the word “permanent” and by inserting in lieu thereof the word “non-terminating”; Sec. 66. (Loans and deposits.)
- (ii) by omitting subsection (8A) of the same section;
- (i) by inserting next after paragraph (b) of subsection one of section sixty-eight the following new paragraph :— Sec. 68. (Investment.)
- (b1) shares of, or deposits in, any building society registered under the Permanent Building Societies Act, 1967;
- (j) by omitting from paragraph (a) of subsection three of section eighty-two the word “permanent” and by inserting in lieu thereof the word “non-terminating”. Sec. 82. (Rules.)
- (2) The amendment made by paragraph (j) of subsection one of this section shall not affect a building society or association of building societies registered under the Co-operation Acts before the commencement of this Act until the expiration of a period of three years after that commencement.

(3)

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No. 18, 1967 (3) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923–1967.

Amendment of Act No. 47, 1920. **121.** (1) The Stamp Duties Act, 1920, as amended by subsequent Acts, is amended—

Second Schedule.
cf. Act No. 1, 1924,
ss. 41, 42,
43, 62.

(a) by inserting in clause eight of the “General Exemptions from Stamp Duty under Part III” in the Second Schedule after the word “terminating” the word “, non-terminating”;

(b) by inserting in the same clause after the word “amended,” where secondly occurring the words “or the Permanent Building Societies Act, 1967,”.

(2) No instrument or document executed or registered for transferring any property in pursuance of section thirty or thirty-nine of this Act shall be liable to stamp duty.

(3) 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.

(4) The Stamp Duties Act, 1920, as amended by subsequent Acts and by this Act, may be cited as the Stamp Duties Act, 1920–1967.

Amendment of Act No. 57, 1932. **122.** (1) The Moratorium Act, 1932, as amended by subsequent Acts, is amended by inserting in paragraph (a) of section five after the figures “1931” the words “, or registered under the Permanent Building Societies Act, 1967”.

Sec. 5.
(Non-application of Act to certain mortgages.)

(2) The Moratorium Act, 1932, as amended by subsequent Acts and by this Act, may be cited as the Moratorium Act, 1932–1967.

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123. (1) The Government Guarantees Act, 1934, as amended by subsequent Acts, is amended—

No. 18, 1967
Amendment
of Act No.
57, 1934.

- (a) (i) by inserting in paragraph (b) of subsection two of section three after the figures "1941" the following word and new paragraph :—
; or
(c) to any society within the meaning of the Permanent Building Societies Act, 1967;

Sec. 3.
(Authority
for
Treasurer
to guaran-
tee certain
overdraft
accounts.)

- (ii) by inserting in subsection (2A) of the same section after the figures "1947" where firstly occurring the words ", or any society (other than an association) within the meaning of the Permanent Building Societies Act, 1967";

- (b) (i) by inserting in paragraph (e) of section four after the words "said Act" the words "or a society (other than an association) within the meaning of the Permanent Building Societies Act, 1967,";
(ii) by inserting in the same paragraph after the word "society" where lastly occurring the words "or society (other than an association) within the meaning of the Permanent Building Societies Act, 1967,".

Sec. 4.
(Provisions
relating to
guarantees
given under
this Act.)

(2) The Government Guarantees Act, 1934, as amended by subsequent Acts and by this Act, may be cited as the Government Guarantees Act, 1934–1967.

SCHEDULE.

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SCHEDULE.

Sec. 31.

- (a) The name of the society and the location of its first office.
- (b) The objects of the society.
- (c) The manner in which the capital of the society is to be raised including the minimum and maximum shareholding to be held by members and the denominations of shares.
- (d) The powers of the society, in particular and without affecting the generality of this clause, the powers of the society to borrow money and receive deposits and any limitation on these powers.
- (e) The manner in which investments may be made.
- (f) 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.
- (g) The manner in which any gain or surplus which may result from the transactions of the society is to be distributed among members.
- (h) 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.
- (i) The circumstances under which membership shall cease.
- (j) The number of directors, the qualification of directors and the manner of electing, remunerating and removing directors and filling a vacancy.
- (k) The powers and duties of the board, the requisite notice of meetings, the quorum for meetings, and the procedure at meetings, of the board.
- (l) 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.
- (m) 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.
- (n) The frequency at which the accounts of the society are to be audited.
- (o) 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.

(p)

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(p) The charges, including any charges on admission or for **No. 18, 1967** working expenses or otherwise which are to be payable by a member to the society in respect of his membership therein.

(q) The manner of settling disputes between the society and any of its members, or any person claiming by or through any member under the rules.

(r) The manner of altering and rescinding the rules and of making additional rules.

(s) The device, custody and use of the seal of the society.

(t) The manner in which the society may be wound up.

(u) Whether or not shares may be withdrawn and if so upon what terms; the manner in which the value of shares is to be ascertained for repayment.

POLICE