



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 45 of 1975

An Act to provide for the registration, administration and control of building societies; to repeal the Building Societies Act, 1881-1968; and for other purposes.

[Assented to 10th April, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Building Societies Act, 1975".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

PART III—SOCIETIES

DIVISION I—OBJECTS OF SOCIETIES

DIVISION II—FORMATION AND REGISTRATION

DIVISION III—RULES

DIVISION IV—NAME AND OFFICE

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PART IV—ASSOCIATIONS

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DIVISION I—LOANS

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DIVISION III—POWER TO RESTRICT RAISING OF FUNDS BY A SOCIETY

DIVISION IV—PROPERTY AND INVESTMENTS

DIVISION V—GUARANTEES

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DIVISION I—MEMBERSHIP

DIVISION II—SHARE CAPITAL AND FUNDS

PART VII—MANAGEMENT

DIVISION I—DIRECTORS AND OFFICERS

DIVISION II—MEETINGS OF MEMBERS OF A SOCIETY

DIVISION III—RECORDS, ACCOUNTS AND AUDIT

DIVISION IV—RETURNS

PART VIII—OFFICIAL MANAGEMENT AND WINDING UP

PART IX—EVIDENCE AND OFFENCES

DIVISION I—EVIDENCE

DIVISION II—OFFENCES

PART X—CONTROL OF ADVERTISING

PART XI—MISCELLANEOUS

4. (1) The following Acts and portions of Acts are repealed:—

Repeal and saving provision.

The Building Societies Act, 1881;

the Building Societies Act Amendment Act, 1935;

so much of the second schedule to the Statute Law Revision Act, 1935, as relates to the Building Societies Act, 1881;

so much of the second schedule to the Statute Law Revision Act, 1936, as relates to the Building Societies Act, 1881;

the Building Societies Act Amendment Act, 1938;

Part III of the Statutes Amendment (Friendly Societies and Building Societies) Act, 1966;

the Building Societies Act Amendment Act, 1968.

(2) A society that was, immediately before the commencement of this Act, registered under the repealed Act shall, subject to this Act, continue in existence and the society and its rules shall, upon the commencement of this Act, be deemed to have been registered under this Act.

(3) A guarantee given under section 27a of the repealed Act shall continue in force.

(4) A nomination made by a member of a society under section 40a of the repealed Act shall, unless revoked by the member, continue in force and have the same effect as if that section had continued in force.

(5) Where, in any Act, regulation, rule or instrument, reference is made to the repealed Act, or any provision of the repealed Act, that reference shall, so far as the context admits, be read as a reference to this Act, or the corresponding provision (if any) of this Act.

5. In this Act, unless the contrary intention appears—

Interpretation.

“association” means an association registered under this Act:

“board”, in relation to a society, means the board of directors of that society:

PART I

“interest”, in relation to a loan, includes any charges made by the society in relation to the loan, but does not include any initial charge made in relation to the establishment of the loan:

“land” includes any estate or interest in land:

“mortgage” includes a lien, charge or other security over property:

“officer”, in relation to a society, means a director, secretary, treasurer or manager of the society and any other person empowered under the rules of the society to give directions in relation to the management of the business of the society:

“the Registrar” means the person for the time being holding, or acting in, the office of Registrar of Building Societies under this Act:

“the repealed Act” means the Building Societies Act, 1881-1968, repealed by this Act:

“rule”, in relation to a society, means a rule registered under this Act:

“share”, in relation to a society, means a share in the share capital of the society:

“society” means a society registered under this Act.

PART II**PART II****ADMINISTRATION**

Registrar and
Deputy
Registrars.

6. (1) The Governor may appoint—

(a) the Public Actuary, or, if for any reason he is not able to undertake the duties of the Registrar, some other suitable person to be Registrar of Building Societies;

and

(b) one or more Deputy Registrars of Building Societies.

(2) The Registrar and each Deputy Registrar shall be appointed under, and shall hold office subject to, the Public Service Act, 1967-1974.

(3) The office of Registrar of Building Societies, or Deputy Registrar of Building Societies, may be held in conjunction with any other office in the public service of the State.

(4) In the absence of the Registrar from the duties of his office, a Deputy Registrar may, at the direction of the Minister, exercise the powers conferred on the Registrar by this Act.

Delegation of
powers.

7. (1) The Registrar may, by instrument in writing, and subject to conditions specified in the instrument, delegate to any person any of his powers or functions under this Act.

(2) A delegation under subsection (1) of this section shall be revocable at will, and shall not prevent the Registrar from personally exercising any power or function.

PART IIThe Office of
the Registrar.

8. (1) The Registrar shall maintain a public office.

(2) Any document registered under this Act shall be kept in the office of the Registrar.

9. (1) The Registrar may inspect and make copies of any minutes, books or documents relating to the affairs of a society that are in the custody or control of a society, a liquidator, a bank or any other institution. Power of Registrar to inspect, etc.

(2) The Registrar may require any bank or other institution in which funds have been deposited by a society to furnish him with particulars of the amount of those funds and of any dealing with or disposition of any of those funds by the society.

(3) The Registrar may require a society or an officer of a society to produce any books, papers or documents relating to the affairs of the society for his inspection.

(4) A person shall not—

(a) hinder the Registrar, or any person to whom he has delegated his powers of inspection, in carrying out an inspection under this section;

or

(b) refuse or fail to comply with a requirement under this section.

Penalty: Two thousand dollars.

PART III

PART III

SOCIETIES

DIVISION I—OBJECTS OF SOCIETIES

DIVISION I

10. The objects of a society registered under this Act shall be—

Objects.

(a) to raise funds by subscription, or otherwise, as authorized by this Act;

and

(b) to apply those funds subject to this Act and the rules of the society in making loans.

DIVISION II—FORMATION AND REGISTRATION

DIVISION II

11. (1) Subject to this Part, a society may be formed by any twenty or more natural persons of full age and capacity.

Formation of
a society.

(2) No society shall be formed unless there has been a meeting for the purpose of forming the society at which there are present twenty or more natural persons of full age and capacity.

PART III

DIVISION II

(3) At the meeting referred to in subsection (2) of this section, the following documents must be presented to the prospective members of the society:—

(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 that are to be tendered for registration.

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

(5) No application for shares in a proposed society, made prior to the registration of that society, may be withdrawn, and every person who makes such an application shall, upon the registration of the society, be liable to pay to the society—

(a) the value of the shares for which he applied;

or

(b) the value of the minimum number of shares for which a member of the society is entitled to subscribe,

whichever is the greater.

(6) The expenses of, and incidental to, the formation of the society may be paid out of the capital or income of the society.

Registration
and
incorporation.

12. (1) A society formed in accordance with this Part may apply to the Registrar in the prescribed manner to be registered under this Act.

(2) An application for registration—

(a) must be made within two months after the formation meeting at which the first directors of the society were elected;

and

(b) must be accompanied by—

(i) a statutory declaration by the chairman and the secretary of that formation meeting that the requirements of this Part as to formation have been complied with;

(ii) a copy of the statement presented to the meeting, signed by the chairman and the secretary;

(iii) two copies of the proposed rules of the society, certified by the chairman and the secretary to be the rules as approved at the meeting;

(iv) a list containing the full name, address and occupation of each director;

(v) a list containing the full name, address and occupation of each of twenty persons of full age and capacity who attended the meeting and applied for membership and shares, and stating the number of shares for which each of those persons applied;

and

- (vi) such evidence as the Registrar may require that the society will, upon registration, have available to it the funds referred to in subsection (3) of this section.

(3) A society shall not be registered under this Act unless it has a share capital of not less than five hundred thousand dollars of which not less than one hundred thousand dollars is available on terms that—

- (a) do not require repayment thereof before the expiration of ten years after the day on which it is received by the society;
and
(b) require any repayment thereof to be made only with the consent of the Registrar.

(4) If, upon an application for registration, the Registrar is satisfied—

- (a) that the society has complied with the provisions of this Part;
(b) that the proposed rules of the society are not contrary to this Act;
(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 good reason why the society or the proposed rules should not be registered,

the Registrar shall register the society and its rules and shall issue a certificate in the prescribed form that the society is incorporated under this Act.

(5) Upon the issue of a certificate of incorporation the society—

- (a) shall be a body corporate with perpetual succession and a common seal;
(b) shall in its corporate name be capable of suing and being sued;
(c) shall, subject to this Act and the rules of the society, be capable of holding, acquiring, dealing with and disposing of real and personal property;
and
(d) shall have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act and the rules of the society.

DIVISION III—RULES

DIVISION III

13. The Registrar shall not register any rules of a proposed society unless—

Contents of rules.

- (a) they contain the prescribed provisions and otherwise conform with the requirements of the regulations;
and
(b) they contain in the opinion of the Registrar adequate provisions requiring the society to insure against wrongful acts and defaults of its officers and employees and against other insurable risks assumed by a society in the conduct of its business.

14. The rules of a society shall bind the society and all members thereof and all persons claiming under them.

Effect of rules.

15. A society shall furnish any person with a copy of its rules upon application and payment of the prescribed fee.

Copies of rules.

PART III**DIVISION III**
Alteration of
rules.

16. (1) A society may, by special resolution, alter its rules, but any such alteration shall not take effect until it has been registered in accordance with this section.

(2) A society must, within one month of the date of the meeting at which the special resolution approving an alteration was passed, apply to the Registrar to have the alteration registered.

(3) The Registrar shall, if he is satisfied that the proposed alteration to the rules of the society is not contrary to this Act, and that there is no good reason why it should not be registered, register the alteration.

Power of
Registrar to
modify rules.

17. (1) Where in the opinion of the Registrar the rules of a society should be amended—

(a) in the interest of the members of the society;

(b) in the public interest;

or

(c) to achieve, in the case of a society that was registered under the repealed Act before the commencement of this Act, conformity with any requirement of this Act,

he may, by instrument in writing served personally or by post upon the society, require it, within a period specified in the instrument, to amend the rules in a manner specified in the instrument or otherwise in a manner approved by the Registrar.

(2) Subject to subsection (4) of this section, if within the period specified in the instrument the society fails to amend the rules as required by the instrument, the Registrar may himself, by notation upon the registered copy of the rules, amend the rules of the society.

(3) The Registrar shall give a society notice in writing of any amendment effected by him under this section.

(4) A society may, by instrument in writing, appeal to the Minister against a requirement of the Registrar, and where such an appeal has been instituted, the Registrar shall not exercise his powers under subsection (2) of this section until the appeal has been determined by the Minister.

(5) The Minister may determine an appeal under this section in such manner as he considers just and may confirm, vary or revoke the requirement of the Registrar.

DIVISION IV**DIVISION IV—NAME AND OFFICE**

Name.

18. (1) A society shall not be registered by a name, or change its name to a name, that is, in the opinion of the Registrar, undesirable.

(2) 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.

(3) Upon registration of an alteration of the rules of a society pursuant to subsection (2) of this section, the Registrar may issue a new certificate of incorporation in the new name in lieu of a previous certificate of incorporation.

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

19. (1) Every society shall have a registered office.

(2) The first registered office of a society shall be that appearing in the rules of the society at the time of registration.

(3) Notice of any change of address of its registered office shall be transmitted to the Registrar before the expiration of fourteen days from the date of the change and the Registrar shall thereupon register the new address as the address of the registered office of the society.

(4) A document may be served on a society or an officer of the society by leaving it at the registered office of the society with some person who appears to be responsible to the society or by post enclosed in a prepaid registered letter addressed to the society at its registered office.

20. (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.

(2) A society shall not use any name or title other than its registered name or an abbreviation of that name approved by the Registrar.

(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) Any society that contravenes the provisions of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars. Default Penalty: Fifty dollars.

DIVISION V—AMALGAMATION

DIVISION V

21. (1) Any two or more societies registered under this Act may apply to be registered as an amalgamated society. Amalgamation.

(2) No application shall be made under subsection (1) of this section—

(a) unless—

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

and

(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

(b) unless the Registrar has exercised his power under this Part to approve the amalgamation notwithstanding that an approval referred to in paragraph (a) of this subsection has not been obtained.

(3) The application shall be in the prescribed form and shall be accompanied by—

(a) two copies of the proposed rules of the amalgamated society;

and

(b) such other particulars as may be prescribed.

(4) 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, and issue a certificate of incorporation in respect of the society.

(5) The Registrar may, following the issue of such certificate, remove from the register the name of any of the societies that was a party to the amalgamation.

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

(7) 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, vest in the society formed by the amalgamation.

(8) 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.

(9) Upon production of the certificate of the Registrar, and of the appropriate certificates of title (if any) the Registrar-General shall make such entries or notations upon existing certificates of title, or shall issue such new certificates of title as are necessary to evidence the vesting of any estate or interest in land in the amalgamated society pursuant to this section.

(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 affecting that property.

(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 society formed by the amalgamation.

Supplementary
provisions as
to amalgama-
tion.

22. (1) A society desiring to amalgamate with one or more other societies 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 and any other society or societies with which it proposes to amalgamate;
- (b) any interest that the officers of the society or of any other society concerned in the amalgamation may have in the amalgamation;
- (c) any compensation or other consideration proposed to be paid to the officers of the society and of the other society or societies concerned;
- (d) the payments to be made to members of the society and of the other society or societies concerned in consideration of the amalgamation;

and

- (e) such other matters as the Registrar may direct.

(2) A statement under subsection (1) 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 approving the amalgamation.

23. (1) A society may apply to the Registrar for his approval of a proposed amalgamation of the society with another society, or other societies, notwithstanding that the approval of shareholders has not been obtained in accordance with this Part. Approval notwithstanding absence of approval of shareholders.

(2) Where any such application is made the society shall give notice of the application in such manner and at such times as the Registrar may direct.

(3) The Registrar may, after hearing the society and any other person whom he may consider entitled to be heard, grant his approval of the proposed amalgamation.

PART IV

PART IV

ASSOCIATIONS

24. (1) An association of societies may be formed by three or more societies in accordance with the provisions of this Part. Associations.

(2) The objects of such an association shall be such of the following as may be authorized by the rules of the association:—

- (a) to promote the interests of and co-operation among societies;
- (b) to encourage saving and investment, to promote home ownership and to assist in raising housing standards;
- (c) to render services to and act on behalf of its members in such ways as may be specified in or authorized by the rules of the association and approved by the Registrar;
- (d) to advocate and promote such practices and reforms as may be conducive to any of the objects of the association;
- (e) to co-operate with other bodies with similar objects;
- (f) to promote the formation of societies;
- (g) 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 shall have power to raise moneys in accordance with the rules of the association and to apply those moneys in furtherance of the objects of the association.

25. (1) An application for the registration of an association—

- (a) must be made in the prescribed form and must be under the common seals of all the societies that are to be the first members of the association upon its formation;

and

- (b) must be accompanied by the rules of the proposed association.

Registration of an association.

(2) If the Registrar is satisfied—

- (a) that the rules as submitted are not contrary to the provisions of this Act;
 - (b) that there are reasonable grounds for believing that the association if registered will be able to carry out its objects successfully;
- and
- (c) that there is no good reason why the association and its rules should not be registered,

the Registrar shall register the association and its rules and shall issue a certificate in the prescribed form that the association is incorporated under this Act.

(3) Upon the issue of a certificate of incorporation the association—

- (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) shall in its corporate name be capable of suing and being sued;
 - (c) shall, subject to this Act and the rules of the association, be capable of holding, acquiring, dealing with and disposing of real and personal property;
- and
- (d) shall have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act and the rules of the association.

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

(5) An association may, in accordance with procedures prescribed by its rules, alter its rules, but no such alteration shall come into effect until it has been registered by the Registrar.

(6) If the Registrar is satisfied—

- (a) that a proposed alteration to the rules of an association is not contrary to the provisions of this Act;
- and
- (b) that there is no good reason why the alteration should not be registered,

he shall, upon the application of the association register the alteration.

(7) Subject to subsection (8) of this section, after the expiration of twelve months from the commencement of this Act no society shall be a member of a body whose members include three or more building societies and whose objects include any of the objects of an association under this Act, unless that body is registered as an association under this Act.

(8) Subsection (7) of this section shall not prevent a building society from becoming a member of a body approved by regulation.

PART V

PART V

MONETARY POLICIES OF SOCIETIES

DIVISION I—LOANS

DIVISION I

26. (1) Subject to this Part, a society may advance moneys on the security of a first mortgage over land. Loans.

(2) A society may advance money on the security of a mortgage over land which is subject to a prior mortgage provided that—

(a) the prior mortgage is in favour of the society;

or

(b) the total amount secured by the mortgage and all prior mortgages does not exceed the limits prescribed by this Part.

(3) Nothing in this section shall be construed as precluding a society from accepting collateral security for the repayment of a loan.

27. (1) The Minister may, upon the recommendation of the Registrar, by notice published in the *Gazette*, fix a maximum rate of interest for the purposes of this section. Rates of interest.

(2) Subject to this Act, a society shall not charge interest upon a loan at a rate exceeding the maximum rate fixed by virtue of subsection (1) of this section.

(3) This section does not apply in respect of a loan that was lawfully made before the commencement of this Act.

28. A society shall not lend money on the security of a mortgage over vacant land unless it has been furnished with satisfactory evidence that the borrower proposes to erect a dwellinghouse upon the land at a later date. Loans not to be made in respect of vacant land.

29. (1) Subject to subsection (2) of this section, a society shall not lend money on the security of a mortgage over land where the amount of the loan exceeds seventy-five per cent of the value of the land as determined in the valuation that the society is required to obtain in respect of the land under this Part. Limitation upon amount of loan.

(2) A society may make a loan exceeding the amount authorized by subsection (1) of this section if—

(a) the society has obtained an indemnity or guarantee in respect of the loan granted by—

(i) the Housing Loans Insurance Corporation constituted under the *Housing Loans Insurance Act*, 1965, of the Commonwealth;

or

(ii) an insurance company carrying on business in conformity with the *Insurance Act*, 1932, of the Commonwealth;

(b) it has taken a charge upon, or an assignment of, a life insurance policy issued by a company registered under the *Life Insurance Act*, 1945, of the Commonwealth, the surrender value of which, at the time of the charge or assignment, will secure the repayment to the society of an amount equivalent to the amount by which the loan exceeds the maximum stipulated by subsection (1) of this section;

or

PART V
DIVISION I

(c) it has obtained such additional security as may be prescribed.

(3) If any loan is made in contravention of this section, or in contravention of any terms or conditions prescribed, the directors of the board of the society who authorized the loan shall be jointly and severally liable for any loss suffered by the society as a result of making the loan.

Loan to cover premiums on certain policies of insurance.

30. Where a loan made by a society is partially secured by a policy of insurance (including a policy of life insurance) the society may lend to the borrower sufficient money to pay any premium due under that policy of insurance.

Advances to members on security of shares.

31. A society may lend to a member of the society an amount not exceeding the paid-up value of his shares in the society, on the security of those shares.

Minimum age at which a member may obtain a loan from the society.

32. No member of a society under the age of eighteen years shall be entitled to obtain a loan from the society.

Restricted loans.

33. (1) In this Act, a "restricted 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:—

- (a) a loan to any body corporate;
- (b) a loan to a person other than a body corporate of a sum exceeding forty thousand dollars or, where some other sum is prescribed, exceeding the prescribed sum;
- or
- (c) 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 an amount exceeding forty thousand dollars or the prescribed sum.

(2) For the purposes of this section, where a person becomes indebted to a society in any manner the society shall be deemed to have granted a loan to him of the amount of his indebtedness.

(3) A society shall not advance moneys under this section at a rate of interest exceeding the maximum fixed by virtue of subsection (4) of this section.

(4) The Minister may, on the recommendation of the Registrar, by notice published in the *Gazette*, fix a maximum rate of interest for the purposes of this section.

(5) A society shall observe the following principles in relation to the making of restricted loans:—

- (a) at the end of each financial year of the society it shall review the loans that are then outstanding, and shall ascertain—
 - (i) the total amount of the principal that has not been repaid to the society together with any arrears of interest in respect of the loans;
 - and
 - (ii) the proportion of that amount that relates to restricted loans;

(b) if the proportion ascertained in accordance with paragraph (a) of this subsection does not exceed ten per centum, the society may make restricted loans in the next financial year but the total amount so advanced shall not exceed ten per centum of the total amount advanced by the society during that financial year;

(c) if the proportion ascertained under paragraph (a) of this subsection exceeds ten per centum but does not exceed twenty-five per centum the society may make restricted loans in the next financial year but the total amount so advanced by loans shall not exceed two and one-half per centum of the total amount advanced by the society during that financial year;

and

(d) if the proportion ascertained under paragraph (a) of this subsection exceeds twenty-five per centum, the society shall not make any restricted loan in the next financial year.

(6) The Registrar may, if he considers that there is proper cause for him to do so, permit a society to grant a restricted loan in contravention of this section.

34. (1) A society shall not make a loan upon the security of a mortgage over land unless a valuation has been obtained of the land that the mortgage is to cover and a valuation of any buildings erected, or to be erected, thereupon. Valuers.

(2) A valuation for the purposes of this section shall be made by—

(a) a person who is licensed under the Land Valuers Licensing Act, 1969, as amended;

(b) where the society proposes to obtain an indemnity or a guarantee in respect of the loan, a person who is approved by the giver of the indemnity or guarantee;

or

(c) any other person approved by the Registrar.

(3) The Registrar may impose such conditions or limitations as he thinks fit upon any approval given by him for the purposes of this section.

35. (1) 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 upon any chance or lot. Prohibition of balloting for loans.

(2) This section shall not apply to, or in relation to, a Starr-Bowkett society that was immediately before the commencement of this Act registered under the repealed Act.

DIVISION II—LIQUIDITY AND RESERVES

DIVISION II

36. (1) A society shall not grant a loan unless at the time of granting the loan it holds by way of liquid funds a sum equal to not less than ten per centum, or, where some other proportion is prescribed, that proportion of the total of— Liquidity.

(a) the total paid-up share capital of the society;

(b) the total amount held by the society by way of deposit;

and

(c) the total amount of the principal that the society is liable to repay upon any loan made to the society except a loan secured by mortgage over the business premises of the society.

(2) Subject to subsection (3) of this section—

“liquid funds” means the sum of the following—

- (a) cash at bank (but not including any amount represented by any cheque or bill of exchange drawn or endorsed in favour of the society but not yet presented for payment) and cash in hand;
 - (b) deposits in any prescribed bank;
 - (c) the monetary value of any Commonwealth Special Bonds and Special Associated Inscribed Stock;
 - (d) the monetary value of any Commonwealth Stock;
 - (e) the monetary value of any debentures issued by the Electricity Trust of South Australia or the South Australian Gas Company;
 - (f) the monetary value of any loan made by the society to an authorized dealer in the short term money market;
- and
- (g) the monetary value of any other prescribed securities less the amount of any borrowings made by the society by way of bank overdraft:

“monetary value” in relation to any security, stock or investment means the face value or market value of that security, stock or investment, whichever is the lesser.

(3) In determining the amount of the liquid funds held at any time by a society—

- (a) any moneys received by the society from the Government of the State or the Commonwealth shall not be taken into account;
- and
- (b) the monetary value of any security that is not to mature within a period of five years shall not be taken into account.

(4) The Registrar may, if he considers that there is proper cause for him to do so, permit the society to grant a loan in contravention of the provisions of this section.

(5) This section does not apply to a Starr-Bowkett society.

Reserve
account.

37. (1) A society shall, at the end of its financial year, transfer to a reserve account two percent, or such other percentage as may be directed by the Registrar, of the surplus arising in that financial year from the business of the society.

(2) In calculating the amount of any surplus for the purposes of this section—

- (a) any interest that is paid or credited to members of the society shall not be regarded as part of the surplus;
- but
- (b) any amount that is, or is to be, paid or credited to members by way of bonus or rebate shall be regarded as part of the surplus.

(3) If the amount held in the reserve account is equal to seven and one-half percent, or where some other proportion has been prescribed, that other proportion, of the total paid-up share capital of the society, no further transfer of money to the reserve account shall be required by this section.

(4) Moneys appropriated to a reserve account pursuant to this section—

(a) shall not be distributed amongst members of the society except upon the winding up of the society;

and

(b) may be applied to any purpose to which the capital of the society may be applied.

(5) This section shall not apply to a Starr-Bowkett society.

DIVISION III—POWER TO RESTRICT RAISING OF FUNDS BY A SOCIETY

DIVISION III

38. (1) If, with respect to any society, the Registrar considers it expedient to do so in the public interest, he may, by notice in writing served on a society, prohibit the raising of funds by the society.

Power to prohibit raising of funds.

(2) Subject to the provisions of this section, while a prohibition imposed under subsection (1) of this section remains in force, 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 that fell due before the imposition of the prohibition.

(3) This section shall not make it unlawful for a society, with the consent in writing of the Registrar, to borrow money from a banking or finance company, or from an officer of the society.

(4) If a society contravenes the provisions of subsection (2) of this section it shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Default Penalty: Two hundred dollars.

(5) A society may, by instrument in writing, appeal to the Minister against a prohibition imposed under this section.

(6) The Minister may determine an appeal under this section in such manner as he considers just and may confirm, vary or revoke the prohibition imposed by the Registrar.

DIVISION IV—PROPERTY AND INVESTMENTS

DIVISION IV

39. (1) A society may purchase or acquire any real or personal property necessary for carrying out the objects of the society and may sell, lease, mortgage, charge, or otherwise deal with, or dispose of, any such real or personal property.

Acquisition of property.

(2) A society may, with the consent of the Minister given on the recommendation of the Registrar, purchase land for resale or subdivision.

PART V**DIVISION IV**
Investments.

40. (1) Subject to this Act, and the rules of the society, a society may invest funds in the following manner:—

- (a) in any security in which trust moneys may, by Act of the Parliament of this State, be invested;
- (b) in Commonwealth Special Bonds, or Special Associated Inscribed Stock;
- (c) in acquiring shares in a company or body corporate;
- (d) in acquiring an interest in a mortgage;
- and
- (e) in any other prescribed securities.

(2) A society shall not invest funds in any security that matures upon a certain date unless that date is less than fifteen years from the date of the investment.

(3) A society shall not invest funds in purchasing shares in a company or a body corporate if by reason of making that investment more than one per centum of its total paid up share capital would be so invested.

(4) This section shall not affect or render unlawful any investment made by a society prior to the commencement of this Act.

(5) A society shall not advance moneys to, or deposit moneys with, any other society except with the approval of the Registrar.

Borrowing
powers.

41. (1) Subject to this Act, and the rules of a society, a society may raise funds by accepting deposits or by borrowing money.

(2) A society shall not raise funds under this section if the total amount of the funds raised and held by the society at the relevant time would exceed two-thirds of the total amount due to the society at that time by way of the outstanding principal of loans made by the society.

(3) Subject to the rules of a society, it may give such security in respect of a loan to a society as it thinks fit and, without limiting the generality of the foregoing, that security may consist of a legal or equitable mortgage over the undertaking of the society or over all or any portion of the property or rights (both present and future) of the society.

(4) A society shall not pledge any property as security for a loan if the value of the property pledged exceeds by more than 25 per centum the amount borrowed by the society (but this subsection does not apply to a security granted by a society over land or premises used or intended for use by the society as business premises).

(5) The society shall not borrow moneys otherwise than in Australian currency or undertake to repay moneys borrowed otherwise than in Australian currency.

Disposal of
certain
property.

42. Any property to which a society may become absolutely entitled by foreclosure, surrender, or extinguishment of a right of redemption, shall as soon as practicable be sold and converted into money.

DIVISION V—GUARANTEES

PART V
DIVISION V

43. (1) The Treasurer may on the recommendation of the Registrar execute a guarantee in favour of any person or body of persons for the repayment of any advance made, or to be made, by that person or body of persons to any society. Guarantees.

(2) Before executing any such guarantee the Treasurer may require the society to comply with any conditions which the Treasurer thinks necessary for the purpose of preventing loss and securing the efficient management of the society.

(3) The guarantee may cover the interest and other charges charged or to be charged in respect of the loan.

(4) Any sums that may become due and payable by the Treasurer under any guarantee given by him pursuant to this section may be paid out of the General Revenue of the State without any further appropriation.

PART VI

PART VI

MEMBERSHIP AND SHARE CAPITAL OF SOCIETIES

DIVISION I—MEMBERSHIP

DIVISION I

44. (1) The members of a society formed under this Act shall be the persons who signed an application for membership on the formation of the society, and any other persons who are admitted to membership in accordance with the rules of the society. Members.

(2) Where a society is formed by the amalgamation of two or more societies, the members of the society formed by the amalgamation shall be the members of the amalgamating societies and any other persons who are admitted to membership in accordance with the rules of the society formed by the amalgamation.

(3) No rights of membership shall be exercised by any person until he has made such payments in respect of membership, or acquired such shares or interests, as is provided in the rules.

45. (1) Subject to any contrary provision in the rules of a society, a person under the age of eighteen years may be a member of a society. Minors.

(2) A minor shall not—

(a) be entitled to exercise any vote at any meeting of the society;

or

(b) be entitled to borrow moneys from the society.

46. (1) Subject to this section, where a body corporate is a member of a society it may appoint a person to represent it at any meeting of members of the society. Corporate member of a society.

PART VI**DIVISION I**

(2) Any person appointed under subsection (1) of this section—

(a) shall be entitled to receive notice of all meetings in the same manner as other members of the society, and shall be entitled to exercise the same rights of voting (either in person or by proxy) as a natural person who is a member of the society;

and

(b) shall be eligible to be elected to the board of directors of the society.

(3) A society that is a member of an association may appoint such number of its members as may be prescribed in the rules of the association to represent it (either in person or by proxy) at any meeting of the association.

DIVISION II**DIVISION II—SHARE CAPITAL AND FUNDS****Share capital.**

47. (1) A society may from time to time raise funds by the issue of shares.

(2) The shares shall be of one denomination only, and shall be issued either as shares fully paid up, or as shares to be paid for by periodical or other subscription.

(3) The rules of a society shall not provide for the holder of shares to be repaid his share capital at any specified date or time.

(4) The rules of a society shall not provide for share capital to be repaid in priority to funds of the society consisting of deposits made with the society.

(5) The rules of a society may provide for the cancellation of shares, or the withdrawal of share capital, but no such rules shall be registered unless the Registrar approves of the provisions governing the cancellation of shares, or the withdrawal of share capital.

(6) The share capital of a society, other than a society that was, before the commencement of this Act, registered under the repealed Act, must at no time be less than five hundred thousand dollars.

(7) 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 (if any) in arrears in respect of that share.

(8) 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 under any mortgage or other security by which that loan is secured together with the amount (if any) in arrears in respect of the share.

(9) Any balance unpaid upon a share shall be paid by periodic subscription, or in such other manner, as may be specified by the rules.

(10) No member of a society shall, unless exempted by the Registrar from the provisions of this section, hold more than one-fifth of the total share capital of the society.

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

(12) A share may not be sold or transferred without the approval of the board.

(13) A share shall not be sold, or offered for sale, on any stock exchange.

(14) Any document that constitutes a receipt for the payment of a share, or subscription for a share, shall contain a clear acknowledgment that it constitutes such a receipt.

48. (1) Subject to the rules of a society, where shares in a society are held jointly, 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. Case where shares are held jointly.

(2) For the purpose—

(a) of determining who is qualified to vote on a resolution of a meeting of a society;

(b) of determining (where relevant) the number of votes any person may give at a meeting of a society;

and

(c) of determining the number or proportion of any members required to give effect to any provision of this Act or the rules of a society,

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

(3) For the purpose of this section, the primary joint holder of shares in a society is the member whose name appears first in the register of members of the society.

(4) The joint holders of any shares in a society 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.

49. (1) A society shall, in respect of any debt due from the member or past member of the society, have a charge upon the shares of any member of the society, and on the credit balance of any member, or any past member, and upon any dividend, interest, bonus or rebate payable to a member or past member of the society and may set off any such sum payable to a member or past member against the debt. Charge and set off.

(2) The charge created by this section may be enforced by the appropriation by the society of the share capital or other moneys subject to the charge.

(3) Any share in respect of which the whole of the capital has been so appropriated shall be cancelled by the society.

50. A society may, if authorized by its rules to do so, make contributions out of its funds for any charitable purposes, but any such contribution shall not exceed five per centum of any surplus that the society has made in the preceding financial year of the society. Contributions.

PART VII

PART VII

MANAGEMENT

DIVISION I

DIVISION I—DIRECTORS AND OFFICERS

Board of
directors.

51. (1) The business of a society shall be managed and controlled by a board of directors, and for that purpose the board shall, subject to this section, have and may exercise the powers of the society.

(2) The powers of the board shall be subject to any restrictions imposed upon it by this Act, by the rules of the society, or by a resolution of a general meeting of the society.

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

(4) A director of a society shall at all times act honestly and diligently in the discharge of the duties of his office.

(5) A meeting of the board of directors of a society shall be held as often as may be necessary for properly conducting the business of the society and not more than three months after the last preceding meeting of the board.

(6) A quorum at a meeting of the directors of a society shall be as prescribed by the rules of the society but shall not in any case be less than half the number of the directors.

(7) A director shall not be removed from, or be required to vacate, his office by reason of any resolution, request or notice of the directors, or any of them, notwithstanding anything in the rules of the society.

(8) A director may, if authorized to do so by the rules of the society, appoint a deputy to act in his place and a deputy, while so acting, shall be deemed to be a director of the society.

Age limit for
directors.

52. (1) No person of or above the age of seventy-two years may be appointed as a director of a society.

(2) The office of a director of a society shall become vacant at the annual general meeting 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 subsequently discovered that his office has become vacant by virtue of subsection (2) of this section.

(4) Notwithstanding the foregoing provisions of this section, a person of or above 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.

(5) This section does not affect any provision of the rules of a society providing that a director is to be disqualified from holding office upon attaining an age of less than seventy-two years.

Appointment
of directors.

53. (1) Subject to subsection (2) of this section, a society (other than a Starr-Bowkett society) shall not have less than five directors.

(2) The obligation imposed by subsection (1) of this section does not apply to a society that was, before the commencement of this Act, registered under the repealed Act until the expiration of two years from the commencement of this Act.

(3) No person shall be eligible to be appointed a director if that person was convicted, and the office of a director shall become vacant if he is convicted—

(a) upon indictment of any offence in connection with the promotion, formation or management of a body corporate;

(b) of any offence involving fraud or dishonesty;

(c) of any offence under section 124 or section 303 of the Companies Act, 1962-1973;

or

(d) of any prescribed offence.

(4) No person shall be eligible to be appointed a director, and the office of a director shall become vacant, if he is a bankrupt or insolvent debtor, is bound by a composition in favour of his creditors, or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors.

(5) A majority of the directors of a society must reside permanently in the State of South Australia.

(6) An employee of a society shall not be eligible to be appointed a director unless he is a member of that society, or in the case of an association, he is a member of a society that is a member of that association.

(7) A society shall not have a number of directors who are employees of the society in excess of one-half of the total number of directors of the society.

54. (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.

(2) In the case of a proposed contract, the declaration required by this section shall be made at the meeting of directors at which the question of entering into the contract is first considered, 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 a 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 to the board by a director to the effect that he is a member of a specified company or firm, and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm, is a sufficient declaration.

(5) A director who fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(6) Nothing in this section prejudices any rule of law affecting the validity of contracts between a body corporate and a director of the body corporate or affecting the obligations of a director to account for any profits arising from any such contract.

PART VII

DIVISION I

Certain
dealings are
prohibited.

55. (1) A director or an officer of a society (whether on his own account or in partnership with any other person or body of persons) shall not, without the approval of the directors—

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

or

- (d) borrow moneys from the society.

(2) For the purposes of this section, anything done by a proprietary company in which a director or other officer of the society is a shareholder shall be deemed to have been done by the director or officer.

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

Directors'
remuneration.

56. 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.

DIVISION II

Meetings of
societies.

DIVISION II—MEETINGS OF MEMBERS OF A SOCIETY

57. (1) The annual general meeting of a society shall be held within four months after the close of the society's financial year, or within such further time as may be allowed by the Registrar.

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

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

(4) Notice of a meeting shall be given by advertisement in two newspapers circulating generally throughout the State and by exhibiting copies of the notice in a conspicuous place at the head office and every branch office of the society.

(5) The notice must be advertised in newspapers under subsection (4) of this section not more than five weeks and not less than three weeks before the date of the meeting and the notice posted at offices of the society must be exhibited over a period of at least three weeks immediately preceding the date of the meeting.

(6) A notice advertised or exhibited under this section must set out the general nature of the business to be transacted at the meeting.

(7) The auditors of a society shall be entitled to attend every meeting of the society.

58. (1) Except as is otherwise provided in this Act, or by the rules of a society, every question arising for decision at a meeting of a society shall be determined by a majority of those persons entitled to vote who are present at the meeting either personally or by proxy, and unless a poll is demanded by at least five persons who are so present, the question shall be determined by a show of hands.

(2) Except as otherwise provided by this section, every member who is present personally or by proxy shall have one vote.

(3) The rules of a society may provide that no member is entitled to vote unless he holds a prescribed minimum of paid-up capital in the society.

(4) No person shall be entitled to act as proxy for more than ten members.

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

(6) The voting rights of a member who is indebted to a society by virtue of having borrowed moneys from the society, and is in default in repayment of those moneys, may be restricted by the rules.

(7) The Registrar shall not register any rule under which the right of a member who has borrowed money from the society is limited or excluded unless he approves of the limitation or exclusion.

59. (1) For the purposes of this Act, a special resolution is a resolution passed by a majority of not less than two-thirds of those persons who, being present either personally or by proxy are entitled to vote, register their vote in favour of the resolution.

Special resolutions.

(2) Unless a poll is demanded, a declaration by the chairman of the meeting that a resolution has been carried by a specified majority shall be conclusive evidence of the fact.

(3) A society shall, within two months of a meeting, at which a special resolution has been passed, submit the resolution to the Registrar for registration.

(4) A special resolution shall not have any effect unless registered.

DIVISION III—RECORDS, ACCOUNTS AND AUDIT

DIVISION III

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

Registers and accounts.

(2) The registers shall include the following:—

- (a) registers of the directors, members and shares;
- (b) a register of any loans raised, securities given, 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 in respect of any such loan.

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

PART VII

DIVISION III

(4) With the consent in writing of the Registrar, the registers referred to in this section may be kept in any office of the society other than its registered office.

(5) A person who is authorized to do so by the Registrar shall be entitled to inspect any register or account that the society is required to keep under this section.

(6) Subject to subsection (7) of this section, no notice of any trust, express, implied or constructive, shall be entered in any register or account kept by a society or be received by the society or the Registrar.

(7) Where the rules of a society so provide, an entry in a register or account kept by the society in respect of any shares in the society or moneys deposited with the society may, in the circumstances and in the manner authorized by the rules, be made so as to indicate that the shares or moneys are held by or vested in a person on trust.

(8) Whether or not an entry is made in pursuance of subsection (7) of this section, a society shall be regarded as being unaffected by notice of any trust.

Inspection.

61. (1) A society shall keep at its registered office, and at each branch office, open for inspection by any member of the public without fee—

- (a) a copy of this Act and the regulations;
- (b) a copy of the rules of the society;
- (c) a copy of the last balance-sheet and profit and loss account of the society, together with a copy of the report of the auditor thereon;
- and
- (d) the prescribed register of directors or a copy thereof.

(2) The society shall, at the request of a member of the society, furnish that member of the society with any information to which that member is entitled in accordance with the regulations.

Financial year.

62. (1) The financial year of a society shall end on such day in each calendar year as is provided by the rules of the society.

(2) The first financial year of a society may extend from the date of its registration to a day not later than eighteen months from the date of registration.

(3) Any alteration of the rules of a society altering its financial year may provide for the financial year to extend for a period not exceeding eighteen months from the date of registration of the alteration.

Accounts and audit.

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

(2) The auditor of a society must be a member of a firm of registered company auditors.

(3) It is the duty of the auditor of a society to form an opinion as to each of the following matters:—

- (a) whether he has obtained all the information and explanations that to the best of his knowledge and belief are necessary for the purposes of the audit;
 - (b) whether proper books and accounts are being kept by the society and proper returns adequate for the purposes of the audit have been received from branches that have not actually been visited by the auditor;
 - (c) whether the society's balance-sheet and profit and loss account are in accordance with the books, accounts and returns of the society;
 - (d) whether the accounts give the information required by or under this Act in the manner so required, and give a true and fair view—
 - (i) of the state of the society's affairs as at the end of the financial year;
 - and
 - (ii) of the surplus or deficit arising from business conducted during the financial year;
 - (e) whether the register of members and other records that the society is required to keep have been properly kept;
 - and
 - (f) whether the rules relating to the administration of the funds of the society have been observed,
- and he shall state in his report to the members particulars of any deficiency, failure or shortcoming in respect of any matter referred to in this subsection.

(4) The 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 explanations as he thinks necessary for the performance of his duty.

(5) If the auditor, in the course of performing an audit of the society is satisfied that—

- (a) there has been a breach of, or non-observance of, any provision of this Act;
 - and
 - (b) that the circumstances are such that in his opinion the matter has not been, or will not be, adequately dealt with by bringing the matter to the notice of the directors of the society, he shall forthwith report the breach or non-observance in writing to the Registrar.
- (6) This section does not apply to a Starr-Bowkett society if—
- (a) its rules provide for its accounts to be audited annually or more frequently;
 - and
 - (b) its accounts are duly audited in accordance with its rules.

DIVISION IV—RETURNS

DIVISION IV

64. (1) A society shall, within one month after any change in the membership of the board of directors, inform the Registrar in writing of the change. Returns.

PART VII

DIVISION IV

(2) A society shall, within four months after the close of each financial year, or within such further time as the Registrar may allow, transmit to the Registrar the following returns:—

- (a) a list of directors for the financial year then current;
- (b) a statement in the prescribed form of the assets and liabilities of the society at the end of its financial year and of the accounts of the society for that financial year;
- (c) a copy of the report by the auditor in respect of the accounts;
- (d) a return in the prescribed form in respect of every property that has been sold by the society in the exercise of its powers as mortgagee, and every mortgage that has been transferred by the society to any other mortgagee, during the financial year last ended;

and

- (e) a return containing such other particulars as may be prescribed.

(3) The Registrar may by instrument in writing require a society to furnish such further returns relevant to its financial position, or to the directors or members of the society, as the Registrar may require.

(4) The returns required pursuant to subsection (3) of this section shall contain the information stipulated in the instrument and shall be furnished as frequently as is required by the instrument.

(5) A society shall, when transmitting to the Registrar the returns referred to in subsection (2) of this section, include a statement showing the amount of any loans made by the society during the financial year—

- (a) to any officer of the society;
- (b) to any person who, after the making of the loan, became an officer of the society;
- (c) to a company or other body corporate in which an officer of the society is interested;

or

- (d) to a company or other body corporate in which an officer of the society held any interest at the time when the loan was made.

PART VIII

PART VIII

OFFICIAL MANAGEMENT AND WINDING UP

Application of this Part to an association.

65. The provisions of this Part shall apply, *mutatis mutandis*, to and in relation to an association.

Receivers and Managers, and Official Management.

66. (1) The provisions of Part VIII and Part IX of the Companies Act, 1962-1973, shall, *mutatis mutandis*, and with such modifications (if any) as may be prescribed, extend to a society.

(2) For the purposes of that extension, a reference in any of those provisions to the Registrar of Companies shall be construed as a reference to the Registrar of Building Societies.

67. (1) A society may be wound up voluntarily or by the court or upon a certificate of the Registrar. Winding up.

(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, 1962-1973, 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 twenty or, in the case of an association, to less than three (but this paragraph does not apply to a society registered under the repealed Act);
- (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 paid-up share capital of less than five hundred thousand dollars (but this paragraph does not apply to a society registered under the repealed Act);
- (e) that the society has, after notice by the Registrar of any breach or non-compliance with this Act 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 grant a certificate under paragraph (c), (e), (f) or (g) of subsection (3) of this section unless the Minister consents to the issue of the certificate.

(5) Where the Registrar grants a certificate under this section 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 Registrar upon the advice of the Auditor-General.

(6) The Registrar shall, within ten days after appointing a liquidator of a society, give notice of that appointment by notice published in the *Gazette*.

(7) A winding up on the certificate of the Registrar—

- (a) shall be deemed to commence on the day that the certificate is given; and
- (b) shall be carried out in the prescribed manner.

(8) A Starr-Bowkett society shall be wound up when the business that it was formed to transact has been completed.

PART VIIILiquidator.

68. Where a society is being wound up voluntarily and a vacancy occurs in the office of liquidator that, in the opinion of the Registrar, is unlikely to be filled in the manner provided by the Companies Act, 1962-1973, the Registrar may appoint a person to be liquidator.

Remuneration of liquidator.

69. The remuneration paid to the liquidator of a society wound up voluntarily shall not exceed the amount fixed by the Registrar upon the advice of the Auditor-General.

Cancellation.

70. As soon as may be practicable after a society is dissolved, the Registrar shall cancel the registration of the society.

PART IX

PART IX

EVIDENCE AND OFFENCES

DIVISION I

DIVISION I—EVIDENCE

Evidentiary provision.

71. (1) An apparently genuine document purporting to be a certificate of incorporation of a society or an association granted by the Registrar under this Act or the repealed Act shall be accepted in any legal proceedings as proof of the incorporation and registration of the society or association in the absence of proof to the contrary.

(2) An apparently genuine document purporting to be a copy of the rules of a society or an association and to be certified by the Registrar as a true copy of the rules of that society or association shall be accepted in any legal proceedings, in the absence of proof to the contrary, as a true copy of those rules.

(3) An apparently genuine document purporting to be a copy of, or extract from, a record of a society, and to be certified to be a true copy of, or extract from, such a record by the secretary of the society shall be accepted in any legal proceedings to be a true copy of, or extract from, that record in the absence of proof to the contrary.

(4) An apparently genuine document purporting to bear the common seal of a society or an association shall be accepted in any legal proceedings as a document that bears the common seal, duly affixed, of that society or association.

DIVISION II

DIVISION II—OFFENCES

Use of words "building society".

72. (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, carry on business, or advertise for share capital, deposits or loan funds under any name or title of which the words "building society" or "building societies" form a part;

(b) trade or carry on business as a building society;

or

(c) in any manner hold out that its trade or business is that of a building society.

Penalty: One thousand dollars.

Default Penalty: Two hundred dollars.

(2) For the purposes of subsection (1) of this section, where a person, or a body of persons, administers a fund into which members of a group contribute moneys and which is applied solely or principally in loans to those members, secured by mortgage over land, for the purpose of building dwelling-houses in which the members propose to reside, that person or body of persons shall be deemed to be trading or carrying on business as a building society.

(3) Any society or company formed or incorporated outside South Australia that desires to trade or carry on business in South Australia may apply to the Registrar for exemption from the provisions of subsection (1) of this section and that subsection shall not apply to any such society or company in respect of which the Registrar has granted exemption.

(4) The Registrar may grant any exemption referred to in subsection (3) 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.

73. 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 five hundred dollars.

Allotment of shares.

74. (1) If a society continues for a period of one month to carry on business—

Too few members.

(a) after the number of its members is reduced below twenty;

or

(b) after it ceases to have a paid-up share capital of at least five hundred thousand dollars,

the society shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Default Penalty: Fifty dollars.

(2) Subsection (1) of this section shall not apply in respect of a society registered under the repealed Act.

75. (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

Certain acts prohibited in relation to loans.

PART IX
DIVISION II

(b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any persons through or from any society,

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

(2) Any sum received in contravention of this section or section 73 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.

76. (1) If any officer or employee of a society accepts any commission, fee or reward (whether pecuniary or otherwise) from any person for or in connection with a transaction with the society, he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or imprisonment for six months.

(2) Every officer or employee who is guilty of any offence under this section shall further be liable to make good to the society the value or amount of the commission, fee or reward.

Default by society.

77. (1) If a society contravenes or fails to comply with—

(a) any provision of this Act that does not provide a penalty for such contravention or failure to comply;

or

(b) any rule of the society,

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

(2) If a society refuses or neglects to furnish any return or information lawfully required by the Registrar or by any other person it shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

Default by society extended to directors and officers.

78. Where a society is guilty of an offence against this Act, every officer of that society shall be guilty of the same 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.

Proceedings.

79. Proceedings for an offence against this Act shall be disposed of summarily.

Saving provision.

80. If a society contravenes or fails to comply with any provision of this Act or the rules of the society, the rights and liabilities of the society, or any other person, under this Act or any other Act or law, shall not be affected or prejudiced thereby.

PART X

PART X

CONTROL OF ADVERTISING

81. (1) A person shall not issue, or cause to be issued, any advertisement that relates to a society proposed to be formed or registered under this Act, unless the Registrar has first consented to the advertisement.

Restrictions
on initial
advertisements.

Penalty: Five hundred dollars.

(2) Any person whose name appears as a proposed director of a society in an advertisement issued in contravention of subsection (1) of this section shall be guilty of an offence under that subsection, unless he proves that the advertisement was issued without his knowledge or that he used all due diligence to prevent the issue of the advertisement.

(3) A society first registered after the commencement of this Act shall submit the first advertisement proposed to be issued by the society after registration to the Registrar for his approval.

Penalty: Five hundred dollars.

82. (1) The Registrar may, with the approval of the Minister, by notice served on a society give a direction—

Power to
control
advertising of
a society.

- (a) prohibiting the issue by the society of advertisements of all descriptions;
 - (b) prohibiting the issue by the society of advertisements of any description specified in the direction;
 - (c) prohibiting the issue by the society of any advertisements that are, or are substantially, repetitions of an advertisement that has been issued;
 - (d) requiring the society to take all practicable steps to withdraw any advertisement, or any description of advertisement, specified in the direction;
- or
- (e) requiring that in any specified kinds of advertisements, or invitations to invest in or lend money to a society, there shall be included a statement giving any information stipulated by the Registrar with respect to the society.

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

(3) Any society that fails to comply with any direction given to it under subsection (1) of this section shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

PART XI

PART XI

MISCELLANEOUS

Minutes.

83. A society shall cause full and accurate minutes of every meeting of the board, and of every meeting of the members of a society, to be kept.

Inspection of document.

84. Any person may, with permission of the Registrar, and on payment of the prescribed fee—

(a) inspect any document registered by, or filed or lodged with the Registrar pursuant to this Act;

(b) obtain from the Registrar a copy of the certificate of the registration of the society;

or

(c) obtain from the Registrar a certified copy of any document, or any part of any document, registered by or filed or lodged with the Registrar.

Certain insurance policies to be forwarded to members.

85. Where, pursuant to an agreement with a member, a society procures the issue of a policy of insurance over any property that provides security for a loan to that member, the society shall, within one month after the date of issue of the policy, forward to the member—

(a) the policy, or a copy thereof;

or

(b) a statement of the risks covered by the policy.

Special meeting and inquiry.

86. (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;

or

(b) hold an inquiry into the affairs including the working and financial conditions of a society.

(2) An application under subsection (1) 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 or inquiry is to be held and what matters are to be discussed and determined and shall give such notice to members of the holding of the meeting or inquiry as he deems fit, notwithstanding any provision in the rules of the society as to the giving of such notice.

(6) A meeting held under this section 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, notwithstanding any rule of the society to the contrary.

(7) The Registrar or any person nominated by him may attend and address a meeting held under this section.

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

87. (1) Where in, or at the foot of, any section or part of a section of this Act there appears the expression "Default Penalty", it signifies 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 so continues of not more than the amount expressed in the section or part as the amount of the default penalty. Default penalties.

(2) Where any offence is committed by a person by reason of his failure to comply with any provisions 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 subsection (1) of this section shall be deemed to continue so long as the thing so required or directed to be done by him remains undone, notwithstanding that the period has elapsed.

88. (1) The Registrar shall on or before the thirty-first day of December in each year make a report to the Minister upon the administration of this Act during the period of twelve months ended on the preceding thirtieth day of June. Report.

(2) The Minister shall, as soon as practicable after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

89. (1) The Governor may make all such regulations as are contemplated by this Act, or as he considers necessary or expedient for the purposes of this Act. Regulations.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) prescribe any form for the purposes of this Act;
- (b) prescribe the manner in which a rate of interest is to be calculated for the purposes of this Act;
- (c) prescribe, and provide for the recovery of, fees in respect of any application under this Act;
- (d) limit the charges that may be made by a society in respect of the granting of a loan by the society, or for any work done by a society in relation to the granting of a loan;

- (e) require societies, or societies of a prescribed class, to keep their offices open to the public throughout prescribed periods;
- (f) limit the amount that a society may subscribe to an association;
and
- (g) prescribe penalties not exceeding two hundred dollars in any case for breach of, or non-compliance with, any regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor