



ANNO SECUNDO

**GEORGI VI REGIS.**

A.D. 1938.

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No. 2411.

An Act to amend the Building Societies Act, 1881-1936.

[Assented to 8th December, 1938.]

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

- Short titles.** 1. (1) This Act may be cited as the " Building Societies Act Amendment Act, 1938 ".
- (2) The Building Societies Act, 1881-1936, as amended by this Act, may be cited as " The Building Societies Act, 1881-1938 ".
- 211, 1881.** (3) The Building Societies Act, 1881-1936, is in this Act referred to as " the principal Act ".
- Incorporation.** 2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.
- Re-enactment of s. 4 of principal Act—** 3. Section 4 of the principal Act is repealed, and the following section is enacted and substituted in lieu thereof :—
- Formation of societies.**  
N.S.W. 1,  
1924, s. 39. 4. (1) Any number of persons, not less than ten, may establish a society under this Act either terminating or permanent.
- (2) Before any society formed after the enactment of this section is registered there shall be held a meeting at which ten or more persons qualified to be members of the society are present.

(3) At the meeting there shall be presented—

(a) a written statement showing the objects of the society, and the reasons for believing that, when registered, it will be able to carry out its objects successfully :

(b) a copy of the rules which it is proposed to tender for registration.

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

(5) Within two months after the election of the committee of management, an application shall be made to the registrar for the registration of the society, and shall be accompanied by—

(a) a statutory declaration from the chairman and secretary of the meeting declaring that the requirements of the preceding provisions of this section have been complied with :

(b) a copy of the written statement presented to the meeting :

(c) two copies of the proposed rules signed by not less than ten applicants for membership, each of whose signatures shall be attested by a witness :

(d) a list containing the full name and the occupation and address of each member of the committee of management :

(e) a list containing the full name and the occupation and address of each applicant for membership and the number of shares subscribed for by him :

(f) such other particulars as may be prescribed by regulation.

(6) The statutory declaration mentioned in subsection (5) of this section may be accepted by the registrar as sufficient evidence of compliance with the requirements of this section.

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

## Building Societies Act Amendment Act, 1938.

(8) The expenses of and incidental to the formation of any society may be paid either out of capital or income.

(9) No building society shall be formed or established except under this Act.

Enactment of ss. 13a, 13b, and 13c of principal Act—

Withdrawal of shares from building society.  
N.S.W., 1, 1924, s. 55.

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

Committee of management.  
N.S.W., 1,  
1924, s. 84.

4. The following sections are enacted and inserted in the principal Act after section 13 thereof :—

13a. No rules of a building society providing for the withdrawal of shares by members shall be registered after the enactment of this section unless they prescribe the withdrawal value of the shares and the society satisfies the registrar by the certificate of an actuary or such other evidence (if any) as the registrar requires that the withdrawal values so prescribed are equitable.

13b. (1) The Governor may by regulation prescribe model rules for any kind of society.

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

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

13c. (1) The members of the committee of management shall be elected at a general meeting of the society in accordance with the rules: Provided that the first members of the committee of management shall be elected at the meeting for the formation of the society.

(2) The number of members of the committee of management shall be not less than three, and no person shall be qualified to be a member of the committee of management unless he is a member of the society.

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

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

(5) Subsections (1) and (2) of this section shall apply only to societies formed after the enactment of this section; subsections (3) and (4) shall apply to all societies whether formed before or after the enactment of this section.

5. The following section is enacted and inserted in the principal Act after section 24 thereof :—

Enactment of  
s. 24a of the  
principal Act—

24a. A member of the committee of management of a society or an officer of a society shall not borrow from that society, and the society shall not lend to a member of its committee of management or to any of its officers, and if any loan is made in contravention of this subsection, the members of the committee of management who authorised the loan shall be jointly and severally liable for any loss which the society sustains by reason of the loan.

Officers  
borrowing  
from the  
society.  
N.S.W., 1,  
1924, s. 88.

This section shall not apply to—

- (a) any loan made on the security of shares held by the borrower if such loan does not exceed the amount paid up on such shares; or
- (b) any loan made pursuant to a resolution carried at a general meeting of the society;
- (c) any loan to which a person has become entitled under the rules of a society by reason of his having been successful in a ballot for loans, duly conducted by the society in accordance with those rules.

6. The following section is hereby enacted and inserted in the principal Act after section 26 thereof :—

Enactment of  
s. 26a of the  
principal Act—

26a. (1) Every society shall have a registered office in the State.

Registered  
office of  
society.

(2) Every society shall keep its registered office open and accessible to the public for not less than three hours between the hours of eight o'clock in the morning and six o'clock in the evening each day for at least two days a week.

N.S.W., 1,  
1924, s. 72.

(3) All communications and notices to the society may be addressed to the society at its registered office.

(4) Every society shall give notice to the registrar of the situation of its registered office and of the days and hours during which it is accessible to the public.

The notice shall be given—

- (a) in the case of a society existing at the time of the enactment of this section, within one month after the enactment of this section; and
  - (b) in the case of any society formed after the time of the enactment of this section within one month after the registration of the society.
- (5) Every society shall before making any change in the situation of its registered office, or in the days and hours when such office is open to the public, give notice of such change to the registrar.

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(6) Every society shall keep at its office throughout office hours—

- (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 the last profit and loss account of the society, together with the report of the auditor thereon ;
- (d) a register of the names and addresses of the members of the committee of management, and the list of members kept pursuant to section 35b of this Act ; and
- (e) a register showing the amounts of the loans raised by the society, and the dates thereof, and the securities given and bonds issued by the society,

and shall permit any member or creditor of the society to inspect any such document without fee.

(7) If any society fails to comply with this section in any particular it shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

Enactment of ss. 27a and 27b of the principal Act—

Government guarantee to banks.

N.S.W. 57, 1934, s. 3.

7. The following sections are enacted and inserted in the principal Act after section 27 thereof :—

27a. (1) The Treasurer may on the recommendation of the registrar and with the approval of the Governor, execute a guarantee in favour of any bank, or of any friendly society registered under the Friendly Societies Act, 1919-1937, or of any other body of persons, corporate or unincorporate, approved by the Treasurer, for the repayment of any advance made or to be made by the bank, friendly society, or body approved as aforesaid (as the case may be) to any society.

(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 securing the efficient management and working of the society and preventing loss.

(3) The guarantee may include the interest (whether compound or otherwise) and expenses chargeable by the bank, friendly society, or body approved as aforesaid (as the case may be), against the society in the usual course of its business and the expenses of enforcing or obtaining or endeavouring to obtain payment of the debt guaranteed and such interest and expenses.

(4) Any sums which 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 appropriation other than this Act.

27b. Where a building society proposes to lend money to a member who is not already the owner of a dwelling-house, and—

- (a) such money is to be lent for the purpose of enabling the member to purchase land upon which a dwelling-house is already erected or to purchase land and erect a dwelling-house thereon, or to erect a dwelling-house on land already owned by him ; and
- (b) the dwelling-house is to be occupied by the member to whom the money is to be lent ; and
- (c) the amount proposed to be lent does not exceed five hundred and fifty pounds ; and
- (d) the amount proposed to be lent reduced by the paid up value of the member's share capital exceeds eighty per centum but does not exceed ninety per centum of the value of the land and the dwelling-house erected or to be erected thereon, as ascertained in such manner as the registrar directs ; and
- (e) the payments to be made to the society by the member in repayment of the principal and interest of the loan are at a rate not exceeding three shillings a week for each hundred pounds of the loan ; and
- (f) a life insurance policy has been taken out on the life of the member insuring the payment in the event of his death during the currency of the loan of—
  - i. an amount not less than fifty per centum of the principal outstanding in respect of the loan at the time of the death ; or
  - ii. two hundred pounds,
 and the policy is by assignment or otherwise made security for repayment to the society of any amounts of principal or interest outstanding in respect of the loan at the time of the death of the member,

the Treasurer may, with the approval of the Governor, by agreement undertake to indemnify the society against so much of any loss sustained by the society in respect of the loan as is directly attributable to the fact that the amount so lent reduced by the paid up value of the member's share capital is in excess of eighty per centum of the value of the land and dwelling-house as ascertained in accordance with paragraph (d) of this section.

Treasurer may undertake to indemnify building societies against loss in certain circumstances.  
N.S.W., 1, 1924 s. 17a.

Enactment of  
s. 36a. of  
principal  
Act—

Inspection by  
registrar.  
N.S.W. 1.  
1924, s. 17.

8. The following section is enacted and inserted in the principal Act after section 36 thereof :—

36a. (1) The registrar or any public servant, accountant, or actuary authorised in writing by the registrar may inspect and take copies of any books, accounts or records of any society.

(2) If—

(a) any person who has in his possession or under his control any books, accounts, or records of any society fails to produce them for inspection and copying when required by the registrar or any person authorised by him in writing under this section ; or

(b) any person hinders or obstructs the registrar or any such authorised person in making any inspection or taking any copies under this section,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

(3) The registrar may require the manager of any bank or branch of a bank in which the funds of a society are deposited or invested to furnish him with a statement of the amount of such deposit or investment and any other particulars required by him to be furnished.

Any person who upon receipt of a demand under this subsection fails to comply therewith shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

Amendment of  
principal Act,  
s. 38—  
Winding-up  
by the court.

9. Section 38 of the principal Act is amended as follows :—

(a) After the word “ otherwise ” in paragraph iv. thereof, the following paragraph is inserted :—

v. by winding-up by the court on the petition of the registrar on the happening of any of the events specified in subsection (2) of this section :

(b) The following subsection is inserted at the end of section 38 (the previous part of that section being read as subsection (1)) :—

(2) The registrar may, if he is satisfied that the facts justify him in doing so, apply by petition for the winding-up of a society in any of the following cases :—

(a) If the number of members of the society is reduced to less than ten :

N.S.W. 1.  
1924, s. 92.

- (b) If the society has not commenced business within a year of registration, or has suspended business for more than six months :
- (c) If the period, if any, fixed for the duration of the society by its rules has expired :
- (d) If an event has occurred upon the occurrence of which the rules of the society provide that the society is to be wound up :
- (e) If the registration of the society has been obtained by fraud or mistake :
- (f) If the society exists for an illegal purpose :
- (g) If the society has unlawfully and after notice from the registrar, violated this Act, or the rules of the society.

10. The following section is enacted and inserted in the principal Act after section 38 thereof :—

Enactment of s. 38b of the principal Act—

38a. If a society continues to carry on business for one month after the number of its members is reduced below ten, every person who is a member of the committee of management of the society at any time while it so continues to carry on business, and is aware that it is so carrying on with less than ten members, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding five pounds for every day during which the offence continues.

Too few members.

11. The following section is enacted and inserted in the principal Act after section 40 thereof :—

Enactment of section 40a of principal Act—

40a. (1) On the death of a member the society shall, except as otherwise provided in subsection (2) of this section or in the rules of the society, transfer his share or interest to one of the following persons :—

Death of member.  
N.S.W., 1,  
1924, s. 53.

- (a) To the nominee of the member nominated by a written nomination deposited with the secretary of the society ; or
- (b) If there is no such nominee, then to the executor or administrator of the member ; or



(c) To such person as the nominee, or if there is no such nominee, then as the executor or administrator may specify in an application made to the society within three months after the death of the member.

(2) If there is no such nominee, executor, administrator, or other person willing to have the share or interest transferred to him, the board may purchase such share or interest and pay the amount of the purchase-money to the nominee, or if there is no such nominee, then to the executor or administrator :

Provided that the board shall not be bound to make such payment until all moneys due from the deceased member or his estate have been repaid to the society.

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

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

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

(6) The nomination may be revoked or varied by a written notice deposited with the secretary of the society, but shall not be revocable or variable by will or codicil.

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

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

Consequential  
amendment of  
s. 41 of the  
principal Act.

**12.** Section 41 of the principal Act is amended by inserting at the end thereof the following passage :—

Nothing in this section shall affect the rights of a nominee under any nomination made by a member and in force at the material time.

13. The following sections are enacted and inserted in the principal Act after section 41 thereof :—

Enactment of ss. 41a to 41d, of principal Act—

41a. (1) On any application for registration of a society or of any rule or document under this Act, the registrar may require any applicant to furnish him with any information reasonably required for the purpose of showing that the application should be granted.

Information and evidence. Cf. N.S.W. 1, 1924, s. 116.

(2) The registrar may at any time require from any society any information reasonably required for the purpose of showing that the society is *bona fide* carrying on business and is complying or has complied with the requirements of this Act.

(3) The registrar may require any such information to be verified by a statutory declaration.

41b. (1) If (except as provided for in the rules of the society) any officer of a society accepts any commission, fee, or reward, whether pecuniary or otherwise, from any person for or in connection with a transaction of such person with the society, he shall be guilty of an offence, and shall be liable on summary conviction to imprisonment for any term not exceeding six months or to a penalty not exceeding one hundred pounds.

Commission. N.S.W. 1, 1924, s. 110;

(2) Every officer who is guilty of any offence under subsection (1) of this section shall further be liable to make good to the society double the value or amount of such commission, fee, or reward.

41c. Every year the Governor shall cause an investigation to be made into the operations and administration of those societies whose loans have been guaranteed under section 27a of this Act, or to which the Treasurer has given indemnities under section 27b of this Act, and shall cause the report on such investigation to be laid before both Houses of Parliament.

Annual investigation.

41d. The registrar shall within three months after the close of each financial year present to the Minister a report on the working of this Act during that financial year and the report shall, as soon as practicable after the receipt thereof, be laid before both Houses of Parliament.

Annual report.

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

W. DUGAN, Governor.