

Sch.

Marginal
notes.

17. The marginal notes placed opposite the several clauses of this Agreement and indicating or purporting to indicate the contents or objects of such clauses respectively shall not be taken as part of this Agreement or in any manner affect the construction hereof or of any clause or thing in this Agreement contained.

IN WITNESS whereof the parties hereto have executed these presents the day and year first before written.

SIGNED SEALED and DELIVERED by the said The Honourable JOHN JOSEPH CAHILL the Premier of the State of New South Wales in the presence of

G. GRAY

J. J. CAHILL

SIGNED SEALED and DELIVERED by the said The Honourable THOMAS PLAYFORD the Premier of the State of South Australia in the presence of

R. G. HITCHCOX.

T. PLAYFORD

(L.S.)

The common seal of THE BROKEN HILL WATER BOARD was affixed hereto in the presence of a quorum of the Board on the Tenth day of December, 1953.

As witness the hands of ALAN RICHMOND GRANT and HORACE CLAUDE LUNAM two of the Members in whose presence the seal was so affixed.

ALAN R. GRANT

H. C. LUNAM

BROKEN HILL WATER AND SEWERAGE (AMENDMENT) ACT, 1956.

[Incorporated in *Broken Hill Water and Sewerage Act, 1938-1956.*]

BUILDING AND CO-OPERATIVE SOCIETIES ACT, 1901.

THIS Act is reprinted as amended by—

Friendly Societies Act, 1912, No. 46. Assented to, 26th November, 1912.

Reference may be made to the following Act:

Co-operation Act, 1923-1954, s. 3 and Sch. 1, by which this Act, except as otherwise provided by ss. 41 (6), 42 (7) of that Act, is repealed

Act No. 17, 1902.

ss. 1—4.

An Act to consolidate the law relating to Benefit Building, Trading, and Industrial Societies. [Assented to, 24th January, 1902.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Building and Co-operative Societies Act, 1901," and is divided into Parts as follows:— Short title.

PART I.—BENEFIT BUILDING, LOAN, AND INVESTMENT SOCIETIES—

DIVISION 1.—General—ss. 6-12.

DIVISION 2.—Provisional—ss. 13-32.

**PART II.—CO-OPERATIVE TRADING AND INDUSTRIAL SOCIETIES—
ss. 33-50.**

PART III.—GENERAL PROVISIONS—ss. 51-64.

2. (1) The Acts mentioned in the First Schedule to this Act, to the extent therein expressed, are hereby repealed. Repeal and saving clauses.
37 Vic. No. 4,
s. 2.

(2) Every society established or registered, or deemed to have been established or registered before the commencement of this Act, under the provisions of the portion of the Act thirty-seventh Victoria number four hereby repealed, and being within the purposes mentioned in Parts IV and V of that Act, shall be deemed to have been established or registered under the provisions of the Part of this Act applicable thereto, and shall possess and be subject to all the exemptions, privileges, and provisions of this Act applicable to societies of the like class or character to the same extent as if such society and the rules thereof had been registered under this Act.

3. All proceedings, bonds, securities, receipts, registrations, certificates, contracts, engagements, appointments, regulations, rules, alterations of rules, acts, or things duly taken, given, made, or done, and in force or operative at the commencement of this Act under or by virtue of the provisions of the enactments hereby repealed, shall be as valid and have the same force and effect in all respects as if this Act had been in force at the time when the same were so taken, given, made, or done, and they had been duly taken, given, made, or done hereunder. Saving clause
37 Vic. No. 4,
s. 2.

4. (1) The Registrar of Friendly Societies, from time to time appointed and in office under the Friendly Societies Act, 1899, shall be the Registrar under this Act; and the office of the said Registrar of Friendly Societies shall be the office of the Registrar for the purposes of this Act. Registrar.
37 Vic. No. 4,
s. 4.

(2) All rules, certificates, and documents now in the custody of the Registrar of Friendly Societies under the enactments hereby repealed, and all rules and documents by this Act required to be deposited with

Part I.
ss. 4—6.

the Registrar, or registered in his office, shall be deposited, registered, and kept in the office of the Registrar.

Second
Schedule.

(3) The Registrar may demand and take as fees the respective sums specified in the Second Schedule hereto, and may refuse to do any act, matter, or thing herein required and for which he is entitled to charge a fee until such fee has been paid.

Interpretation.
37 Vic. No. 4,
s. 5.

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

(1) "Committee of management" means the body of persons appointed to manage and direct the affairs of the society by whatever name such body is designated;

"Society" includes every branch of a society by whatever name the same is designated:

Provided that in the case of the said word occurring in Parts I or II hereof such word shall be taken to mean and include only such a society or branch thereof as is within the purposes mentioned or referred to in such Parts.

(2) A reference to a society established or registered under this Act includes a society deemed to be so established or registered.

PART I.

BENEFIT BUILDING, LOAN, AND INVESTMENT SOCIETIES.

DIVISION 1.—*General.*

6. (1) Any number of persons may form themselves into and establish a society—

(a) For the purpose of raising by the subscriptions of the members a stock or fund for the purpose of enabling each member thereof to receive out of the funds of such society the amount or value of his shares therein, and to erect or purchase dwelling-houses, or to acquire other real or leasehold estate, to be secured by way of mortgage to such society until the amount or value of his shares has been fully repaid to such society with the interest thereon and all fines or other payments incurred in respect thereof.

(b) For creating a loan fund for the use of members with a periodical repayment of principal and interest by instalments.

(c) For any other purpose of mutual benefit and advantage to the members only which the Attorney-General certifies to be legal and such as in his opinion is deserving of the extension thereto of the facilities and privileges by this Act conferred on societies within the meaning of this Part of this Act.

(2) Such persons may make rules, subject to the provisions of this Act, for the better carrying out any of the aforesaid purposes.

For what
purposes
benefit
building and
other societies
may be
established.
37 Vic. No. 4,
s. 49.

(3) In societies formed for the purposes mentioned in subsection (a) **Part I.**
of this section the shares shall not exceed the value of two hundred **ss. 6—11.**
pounds per share, and the subscriptions from the members shall not
exceed the sum of thirty shillings per share per month.

7. The rules of every society so to be established shall provide **Rules to con-**
for the several particulars following (that is to say)— **tain certain**
particulars.

- (a) The name, objects, and place of business of the society.
- (b) The mode of appointing a committee of management and their duties and powers.
- (c) The mode of appointing and removing officers of the society.
- (d) The number of shares to be held by any one member.
- (e) The manner of making new rules and altering or repealing existing rules.
- (f) The manner of settling disputes between the society or any officer thereof, and a member, officer, or person claiming on account of a member.
- (g) The collection and safekeeping of the subscriptions of the members, and the investment and application of the same and the other funds of the society to the purposes of the society.
- (h) The auditing of accounts and the publication of a general balance of the assets and liabilities of the society at least once a year.
- (i) The faithful performance of their duties by the paid officers of the society having the custody or management of any moneys of the society, and the amount and nature of security to be given by such officers.
- (j) The manner of winding-up the affairs of the society and dissolving the same and distributing the assets thereof.

37 Vic. No. 4,
s. 50.

8. No member shall receive or be entitled to receive from the funds **Proviso as to**
of any such society established under this Part of this Act any interest **dividends.**
or dividend by way of annual or other periodical profit upon any **37 Vic. No. 4,**
shares in such society until the amount or value of his shares have been **s. 51.**
realised, except on the withdrawal of such member according to the
rules of such society.

9. Any such society may receive from any member thereof any sum **Society may**
of money by way of bonus on any share for the privilege of receiving **receive sums**
the same in advance prior to the same being realised and also any interest **of money by**
for the share so received or any part thereof. **way of bonus.**
37 Vic. No. 4,
s. 52.

10. Any such society in and by the rules thereof may describe the **Forms of**
forms of conveyance, mortgage, transfer, agreement, bond, or other **conveyance,**
instrument which may be necessary for carrying the purposes of the **etc., may be**
said society into execution, and such forms shall be specified and set **specified in**
forth in a schedule to be annexed to the rules of such society. **schedule to**
rules.
37 Vic. No. 4,
s. 53.

11. (1) The trustees named in any mortgage made on behalf of any **Receipts of**
society established under this Part of this Act, or the survivors or **trustees to act**
survivor of them, or the trustees for the time being, may endorse upon **as re-**
conveyances.
37 Vic. No. 4,
s. 54.

Part I.

ss. 11—14.

any mortgage or further charge given or to be given by any member of any such society to the trustees thereof for moneys advanced or to be advanced by any such society to any member thereof a receipt for all moneys intended to be secured by such mortgage or further charge.

(2) Such receipt shall be sufficient and effectual to vacate the said security and to vest the estate of and in the property comprised in such security in the persons for the time being entitled to the equity of redemption to the uses and upon the trusts to or upon which the equity of redemption then stands limited, without it being necessary for the trustees of any such society to give or execute any reconveyance of the property so mortgaged:

Provided that the form of such receipt shall be specified in a schedule to be annexed to the rules of such society.

What shall be evidence of appointment of trustee.
37 Vic. No. 4.
s. 55.

12. (1) A copy of any resolution appointing any person to the office of trustee of any such society, and signed by the secretary and any three members thereof deposited with the Registrar, shall be conclusive evidence as to the fact of such appointment and of its sufficiency in favour of all persons accepting any conveyance or release or otherwise dealing with such trustee.

(2) No such person shall be bound to inquire into the particulars of any such appointment except as disclosed by the copy of resolution so deposited, or prejudiced by any breach or neglect of the rules of such society or provisions of this Act in reference thereto.

DIVISION 2.—*Provisional.*

Application of certain provisions.
37 Vic. No. 4.
s. 56.

13. The provisions of the nineteen next succeeding sections of this Act shall be applied to every society established for any of the purposes hereinbefore in this Part of this Act mentioned or referred to unless the rules of such society make other provision in respect of the several matters in the said sections contained inconsistent with the application thereof to such society.

Societies, how dissolved.
37 Vic. No. 4.
s. 21.

14. (1) The members of any such society at some meeting thereof, to be specially called in that behalf, may dissolve or determine the same by consent.

(2) No such society shall be dissolved or determined without obtaining the votes or consent of five-sixths in number and value of the then existing members thereof.

(3) The intended appropriation or division of the funds or other property shall be fairly and distinctly stated in the agreement for dissolution prior to such consent being given.

(4) The agreement for such dissolution duly signed as aforesaid, accompanied with a statutory declaration by one of the trustees or by three members and the secretary, taken before a justice of the peace, that the provisions of this Act have been complied with, shall be forthwith transmitted to the Registrar, to be by him deposited with the rules

of the society, and such agreement shall thereupon be an effectual discharge at law and in equity to the trustees, treasurers, and other officers of such society, and shall operate as a release from all the members of the society to such trustees, treasurers, or other officers. Part I.
ss. 14—16.

(5) No society may direct a division or appropriation of any part of the funds or property thereof, except for the purpose of carrying into effect the general interests and objects declared in the rules as originally certified, unless the claim of every such member is first duly satisfied or adequate provision is made for satisfying such claim; and in case any member of such society shall be dissatisfied with such provision, such member may apply to the District Court judge of the district within which the usual place of business of the society is situated for relief or other order, and the said judge shall have the same powers to entertain such application and to make such order or direction in relation thereto as he may think just, as hereinafter provided in regard to the settlement of disputes.

(6) In the event of the dissolution or determination of any society, or the division or appropriation of the funds thereof, except in the way hereinbefore provided, any trustee or other officer or person aiding or abetting therein shall, on conviction thereof, be liable to be imprisoned with hard labour for any term not exceeding three months.

15. (1) In case of the dissolution of any such society as hereinbefore provided, it shall not be necessary to state in the agreement the intended appropriation or division of the funds or other property, but the members, if they think fit, may refer such appropriation or division to the award of the Registrar.

Concerning
dissolution and
award.
37 Vic. No 4,
s. 22.

(2) In case application is made in writing by the members of any such society, not being less in number than five-eighths of the whole body thereof, setting forth that the funds of such society are insufficient to meet the claims thereon, with the grounds upon which such insufficiency can be proved, the Registrar may investigate the same.

(3) If upon such investigation the Registrar finds that the society is in an insolvent condition, and that it would conduce to the interests of all parties concerned that the affairs of the society should be wound up and brought to a termination, he shall make an award to that effect, and shall direct in what manner the funds and property of the society shall be divided or appropriated.

(4) Previous to such investigation the Registrar shall give not less than twenty-one days' notice in writing, to be sent by post to the trustees, secretary, or other officer of such society at the place where such society holds its meetings.

16. Every award so made as aforesaid by the Registrar shall be final and conclusive on all members and other persons having any claim on the funds of the said society, without appeal, and shall be enforced in

Registrar's
award to be
conclusive
37 Vic. No 4,
s. 23

Part I.

ss 16—20.

the same manner as is herein provided for enforcing the award of arbitrators, and the expenses of such award and of publishing the notice of dissolution in the Gazette shall be paid out of the funds of the society before any appropriation thereof is made.

Evidence to dissolution.
37 Vic. No. 4,
s. 24.

17. (1) When any such agreement for the dissolution of a society is transmitted to the Registrar, and when any such award is made by the Registrar, notice thereof shall, within two months after the same has been so transmitted or made respectively, be advertised by the Registrar in the Gazette.

(2) Unless within three months from the date of the Gazette in which such advertisement appears a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society consequent upon such agreement or award, the society shall be considered for all intents and purposes and in all courts of law and equity as legally dissolved, and the requisite consents to such agreement, or as the case may be, to the application to the Registrar to have been duly obtained without proof of the signatures thereto.

Registrar's annual report to contain particulars of award.
37 Vic. No. 4,
s. 25.

18. The Registrar in the next annual report submitted to Parliament shall set forth the particulars of every award made under the provisions of this Part of this Act which he may have made during the preceding twelve months.

Societies may unite with or transfer engagements to another.
37 Vic. No. 4,
s. 27.

19. (1) Any society established under this Part of this Act may—

- (a) unite and become incorporated in one society with any other such society or societies with or without any dissolution or division of the funds of such societies or either of them; or
- (b) transfer its engagements to any other such society if such other society undertakes to fulfil the engagements of such society:

upon such terms as are agreed upon by the committee of management of each of such societies confirmed by the majority of the members of each of such societies at a general meeting convened for the purpose and are afterwards approved of by the Registrar.

(2) Any member who is absent from such meeting in consequence of sickness or other emergency may vote by writing under his hand attested by two persons.

Appointment of trustees.
37 Vic. No. 4,
s. 28.

20. Every society established under this Part of this Act shall, at some meeting of its members, and by a resolution of a majority of the members then present, nominate and appoint one or more person or persons to be trustee or trustees for the said society, and the like in case of any vacancy in the same office, and a copy of the resolution so appointing such person or persons to the office of trustee, and signed by such trustee or trustees, by the secretary, and three members of the said society, shall be sent to the Registrar to be by him deposited with the rules of the said society in his custody.

[20.] Validity of appointment of new trustee: *Heydon v. Lillis* (1907) 4 C.L.R. 1223; 7 S.R. 684; 21 Austn Digest 1075.

21. (1) Any person under the age of twenty-one may be elected or admitted as a member of any society established under this Part of this Act, provided that the rules of such society do not prohibit such election.

Part I.
ss. 21—24.

Minors may be elected as members.

37 Vic. No. 4, s. 29.

(2) Any such person may execute all necessary instruments and give all necessary acquittances, but during his minority such person shall not be competent to hold office as director, trustee, treasurer, or manager of such society.

22. (1) Every society registered under this Part of this Act shall furnish to persons intending to become members thereof a list which shall state all the charges which are payable by members upon their admission to such society, and whether the same are compulsory or optional, and all persons, upon becoming members of any such society, shall be liable to pay only such charges as are mentioned in such list.

Societies to give correct lists of charges to intending members.

37 Vic. No. 4, s. 31.

(2) Any such charges may be altered by resolution of not less than three-fourths of such members.

23. (1) The trustees of any society established under this Part of this Act may, with the consent of the majority of the members thereof present at a special meeting of the society, purchase, build, hire, or take upon lease any building for the purpose of holding meetings, and adapt and furnish the same, or purchase or hold upon lease any land for the purpose of erecting thereupon a building for holding the meetings of the society, and such trustees shall thereupon hold the same in trust for the use of such society, and with the like consent as aforesaid such trustees may mortgage, sell, exchange, or let such building or any part thereof.

Building for societies' purpose may be purchased or leased.

37 Vic. No. 4, s. 32.

(2) The receipt in writing of the trustees for the time being shall be a legal discharge for the money arising from such mortgage, sale, exchange or letting, and no mortgagee, purchaser, tenant, or assignee shall be bound to inquire into or ascertain or prove the consent aforesaid to verify his title.

(3) All money spent in purchasing, building, hiring, or taking upon lease any such building and in adapting and furnishing the same shall be raised according to rules of the society made for such purpose.

24. (1) All real and personal estate whatsoever belonging to any such society established under this Part of this Act, shall be vested in the trustees for the time being for the use and benefit of such society and the members thereof and the real or personal estate of any branch of a society shall be vested in the trustees of such branch, and be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests.

Property of societies vested in trustees.

37 Vic. No. 4, s. 33.

(2) Upon the death or removal of any such trustee the same shall vest in the succeeding trustees for the same estate and interest as the former trustee had therein, and subject to the same trusts without any conveyance or assignment whatsoever.

[24. (2)] Meaning of "removal": *Heydon v. Lillis* (1907) 4 C.L.R. 1223; 7 S.R. 684; 21 Austn Digest 1076.

Part I.

ss. 24—28.

(3) In all actions and suits or indictments or summary proceeding before magistrates touching or concerning any such property, the same shall be stated to be the property of the persons holding the said office of trustees in their proper names as trustees of such society without any further description.

Actions, etc.,
by or against
them.

37 Vic. No. 4,
s. 34.

25. (1) The trustees of any such societies may bring or defend, or cause to be brought or defended, any action, suit, or prosecution in any Court of law or equity, touching or concerning the property, right, or claim to property of the society for which they are such trustees as aforesaid, and shall in all cases concerning the real or personal property of such society sue and be sued, plead and be impleaded, in any Court of law or equity, in their proper names, as trustees of such society without other description.

(2) No such action, suit, or prosecution shall be discontinued or abate by the death of any trustee, or his removal from the office of trustee, but the same shall be proceeded in by or against the succeeding trustees as if such death or removal had not taken place, and such succeeding trustees shall pay or receive the like costs as if the action or suit or prosecution had been commenced in their names for the benefit of, or to be reimbursed from, the funds of such society.

Limitations of
trustees'
responsibility.

37 Vic. No. 4,
s. 35.

26. No trustee of any such society shall be liable to make good any deficiency which may arise in the funds of such society, but shall be liable only for the money which is actually received by him on account of such society.

Proceedings.

37 Vic. No. 4,
s. 36.

27. (1) In any proceedings against any such society established under this Part of this Act, it shall be sufficient to make the secretary or other public officer of such society the defendant in such proceedings by his name and the title of the office he holds in the society.

(2) Such proceedings shall be commenced and carried on against such officer on behalf of such society, and shall not be abated or prejudiced by the death, resignation, or removal, or by any act of such officer after the commencement thereof.

(3) The summons to be issued to such officer may be served by leaving it at the office or place of business of such society.

Treasurer to
give security.

37 Vic. No. 4,
s. 37.

Fifth
Schedule.

28. (1) The treasurer of every such society, and any other officer who is required by the rules of such society to give security, shall before he take upon himself the execution of his office, become bound with one or more sufficient sureties in a bond according to the form set forth in the Fifth Schedule hereto, or shall give the security of a guarantec society established in New South Wales, in such penal sum as the society or the committee of management directs.

(2) Every such bond shall be conditioned for his just and faithful execution of his said office of treasurer, and for rendering a just and true account of all the moneys received or paid by him on account of the said society at such times as such rules direct, and at such times as he is

required so to do by the trustees of the said society, or by a majority of ^{Part I.} the said committee of management, or by a majority of the members ^{ss. 28—30.} present at any meeting of such society.

(3) Every such bond shall be given to the trustees of the society, and if the same at any time becomes forfeited the trustees for the time being may sue upon such bond for the use of such society.

29. (1) The treasurer or other officer of every such society, whether appointed before or after the commencement of this Act, at the times prescribed by the rules of such society, or upon being required so to do by the trustees of such society, or by a majority of the said committee of management, or by a majority of the members present at a meeting of the said society as aforesaid, within seven days after such requisition, shall render to the trustees of the society, or to the said committee of management, or to the members of such society, at a meeting of such society, a just and true account of all moneys received and paid by him since he last rendered the like account, if any, or if none since he entered upon his office, and of the balance then remaining in his hands, and of all bonds and securities of such society.

<sup>Treasurer to
account.
37 Vic. No. 4,
s. 38.</sup>

(2) The trustees or committee of management shall cause such account to be audited by some fit and proper person by them to be appointed.

(3) Such treasurer or other officer, if thereunto required, upon the said account being audited, shall forthwith hand over to the said trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such trustees all securities and effects, books, papers, and property of the said society in his hands or custody.

(4) If he fail to do so, the trustees of the said society may sue upon the bond aforesaid, or may sue such treasurer or other officer in the District Court of the district, or in the Supreme Court, or in any other Court having jurisdiction, for the balance appearing to have been due from him upon the account last rendered by him, and for all the moneys since received by him on account of the said society, and for the securities and effects, books, papers, and property in his hands or custody, leaving him to set off in such action the sums (if any) which he may have since paid on account of the said society, and in such action the said trustees shall be entitled to recover their full costs of suit to be taxed as between solicitor and client.

30. If any person already or hereafter to be appointed or employed to or in any office in any such society, whether such appointment or employment was before or after the legal establishment of such society, and having in his hands or possession by virtue of his office any moneys or property whatsoever of such society, or any deeds or securities belonging to such society, dies or becomes bankrupt or has any execution or attachment or other process issued against him or any part of his property, or makes any assignment for the benefit of his creditors, the executor, administrator, or assignee of every such officer, and every other person having or claiming right to the property of such officer, and the sheriff or other person executing such process shall, upon demand in

<sup>Property how
recovered if
the officer die
or becomes
bankrupt or
insolvent.
37 Vic. No. 4
s. 39.</sup>

Parts I, II.
s. 30—34.

writing made by the treasurer or by the trustees of such society, or any person appointed at some meeting of the society to make such demand, deliver and pay over all such moneys, property, deeds, and securities belonging to such society to such person as such treasurer, or trustees, or meeting appoint, and shall pay out of the estate, assets, or effects of such officer, all sums of money due, which such officer has received before any other of his debts are paid, and before any other claims upon him are satisfied, and before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process, and all such assets, lands, goods, chattels, property, estates, and effects, shall be bound to the payment, discharge, and satisfaction of such claims.

Returns to the Registrar, when and how to be made.
37 Vic. No. 4, s. 45.

31. (1) The trustees of every such society, or the officer thereof appointed to prepare returns, shall, once in every year, in the months of January, February, or March transmit to the Registrar a general statement of the funds and effects of such society during the past twelve months, or a copy of the last annual report of such society, and shall also, within three months after the expiration of every five years succeeding the thirty-first day of December, one thousand eight hundred and ninety-eight, transmit to the Registrar a return of the rate or amount of sickness and mortality experienced by such society within the preceding five years in such form as shall be prepared by the Registrar; and an abstract of the same shall be laid before Parliament.

(2) The Registrar shall also lay before Parliament every year a report of his proceedings and of the principal matters transacted by such societies which have come under his cognizance during the past year.

Penalty for not sending in annual returns to the Registrar.
37 Vic. No. 4, s. 46.

32. If default is made in transmitting to the Registrar, before the first day of June in any year, the general statement or copy of the last annual report of any society, in compliance with the provisions of the last preceding section, the officer making such default shall be liable to a penalty not exceeding five pounds to be recovered with costs at the suit of the Registrar in a summary way.

PART II.

CO-OPERATIVE TRADING AND INDUSTRIAL SOCIETIES.

Constitution.
37 Vic. No. 4, ss. 57, 58.

33. (1) Any number of persons, not being less than seven, may establish a society under this Act for the purpose of carrying on any labour trade or handicraft, whether wholesale or retail, except the business of banking, which the members of such society voluntarily unite to carry on or exercise and of applying the profits to any lawful purpose; and the buying and selling of land, and the working of mines and quarries, shall be deemed to be a trade within the meaning of this section.

(2) Every such society shall be registered as one of limited liability.

Rules to contain certain particulars.
37 Vic. No. 4, ss. 58, 62.

34. (1) The rules of every such society shall contain provisions in respect of the several matters following, namely:—

- (a) Object, name, and place of office of the society.
- (b) Terms of admission of members.

Part II.
ss. 34—39.

- (c) Mode of holding meetings and right of voting and making or altering rules.
- (d) Determination whether the shares, or any number thereof, shall be transferable or not; and in case it be determined that the shares, or any number thereof, shall be transferable, provisions for the form of transfer and registration of shares and for the consent of committee of management and confirmation by the general meeting of the society; and in case shares are not transferable, provision for paying to members balance due to them or withdrawing from the society.
- (e) Provision for the audit of accounts.
- (f) Power to invest part of capital in another society: Provided that no such investment shall be made in any other society not registered under this Part of this Act.
- (g) Power and mode of withdrawing from the society and provisions for the claims of executors, administrators, or assigns of members.
- (h) Mode of application of profits.
- (i) Appointment of managers and other officers and their respective powers and remuneration.

(2) A copy of the rules shall be delivered by the society to every person, on demand, on payment of a sum not exceeding one shilling.

Copy of rules on demand
37 Vic. No. 4, s. 62.

35. The granting of such certificate to a society by the Registrar shall have the effect of incorporating the members of such society by the name described in such certificate with perpetual succession and a common seal, with power to hold lands and buildings and to erect, purchase, lease, mortgage, sell, and convey the same respectively, and with limited liability as hereinafter provided.

Incorporation of society.
37 Vic. No. 4, s. 60.

36. The certificate of registration shall vest in the society all the property that may at the time be vested in any person in trust for the society, and all legal proceedings then pending by or against any such person or any other officer on account of the society may be prosecuted by or against the society in its registered name without abatement.

Certificate to vest all property of society previously held in trust.
37 Vic. No. 4, s. 61.

37. * * * * *

Repealed.
Act No. 46, 1912, Sch. 1.

38. No society shall be registered under a name identical with that by which any other existing society has been registered or so nearly resembling such name as to be likely to deceive the members or the public, and the word "Limited" shall be the last word in the name of every society registered under this Part of this Act.

No society to be registered by same name as that of any existing society.
37 Vic. No. 4, s. 63.

39. No member shall be entitled in any society registered under this Part of this Act to hold or claim any interest exceeding the sum of two hundred pounds, but the society may hold in its registered name any amount of interest in any other such society.

Member's interest limited to £200.
37 Vic. No. 4, s. 64.



45. Any such society may be wound up by the Court or voluntarily in the same manner and under the same circumstances under and in which any company may be wound up under the Companies Act, 1899, and all the provisions of such Act with respect to winding-up shall apply to all such societies.

Part II.

ss. 45—48.

As to the winding-up of societies.

37 Vic. No. 4, s. 70.

46. In case of the dissolution of any such society, such society shall nevertheless be considered as subsisting and be in all respects subject to the provisions of this Act so long and so far as any matters relating to the same remain unsettled, to the intent that such society may do all things necessary to the winding-up of the concerns thereof, and that it may be sued and sue under the provisions of this Act in respect of all matters relating to such society.

Dissolution of society not to prevent winding-up of its affairs.

37 Vic. No. 4, s. 71.

47. In the event of any such society being wound up, every present and past member of such society shall be liable to contribute to the assets of the society to an amount sufficient for payment of the debts and liabilities of the society, and the costs, charges, and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributors amongst themselves, with the qualifications following (that is to say)—

Liability of present and past members of society.

37 Vic. No. 4, s. 72.

- (a) No past member shall be liable to contribute to the assets of the society if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up.
- (b) No past member shall be liable in respect to any debt or liability of the society contracted after the time at which he ceased to be a member.
- (c) No past member shall be liable to contribute to the assets of the society unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in order to satisfy all just demands upon such society.
- (d) No contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is *unable as a past or present member.

*sic.

48. (1) A member of any such society may, by writing under his hand, delivered at or sent to the registered office of the society, or made in a book kept at that office, nominate a person to whom his interests in the society shall be paid or transferred at his decease.

Power of member to dispose of interests by nomination

37 Vic. No. 4, ss. 41, 73.

(2) The power of making such nomination shall not be affected by any rules of such society declaring its shares not to be transferable.

(3) The society may, in lieu of making such transfer, elect to pay to the person so nominated the full value of such interests.

(4) A nomination so made may be revoked and varied by any similar document.

(5) On receiving satisfactory proof of the death of a member so nominating, the society shall pay or transfer to the nominee the interests of such deceased member at his decease.

Parts II, III.
ss. 48—52.

(6) No such interests shall be paid or transferred to a nominee as aforesaid to an amount or value exceeding one hundred pounds.

Members may inspect books.
37 Vic. No. 4,
s. 74.

49. Every person or member having an interest in the funds of any such society may inspect the books and the names of the members at all reasonable hours at the office of the society.

Annual returns to be prepared as directed by Registrar.
37 Vic. No. 4,
s. 75.

50. (1) A general statement of the funds and effects of every such society shall be transmitted to the Registrar once in every year, and shall exhibit fully the assets and liabilities of such society, and shall be prepared and made out within such period and in such form, and shall comprise such particulars as the Registrar requires.

(2) The Registrar shall have authority to require such evidence to be produced as he thinks proper of all matters required to be done, and of the entries contained in any document required to be transmitted to him under this Act, and every member of or depositor in any such society shall be entitled to receive on application to the treasurer or secretary thereof a copy of such statement without fee or charge.

PART III.

GENERAL PROVISIONS.

Penalty on acting before registration.
37 Vic. No. 4,
s. 6.

51. Every person, being a member of the committee of management of any society formed for any purpose within the meaning of this Act, who takes any money in consideration of the allotment of shares, or any interest in such society, until the same is registered under this Act, shall incur a penalty for every such offence not exceeding twenty pounds.

Copies of rules to be sent to Registrar and his certificate obtained.
37 Vic. No. 4,
ss. 7, 59.

52. (1) Two printed or written copies of the rules of every society formed for any purpose within the meaning of this Act, signed by three of the intended members and the secretary or some other officer, shall, where it is intended that such society shall be registered under this Act, be transmitted to the Registrar.

(2) The Registrar shall advise with such secretary or officer of such society, if necessary, for the purpose of ascertaining whether the said rules are in conformity with law, and are calculated to carry into effect the intentions and objects of the persons who desire to form such society.

Third Schedule.

(3) If the Registrar finds that such rules are in conformity with law and with the provisions of this Act, he shall give a certificate in the form set forth in the Third Schedule hereto, and shall return one of the said copies to the said society, and shall keep the other in such manner as shall be directed by the Governor; and all rules, when so certified as aforesaid, shall be binding on the several members of the said society.

Registration of society.

(4) A certificate of registration according to the form set forth in the Third Schedule hereto shall be given by the Registrar in all cases where the requirements of this Act have been complied with, and such certificate shall in all cases be conclusive evidence that the society mentioned therein has been duly registered.

[52.] Registrar's certificate: *Montgomery v. Fox* (1900) 21 L.R. Eq. 127; 17 W.N. 108; 21 Austn Digest 1039.

53. (1) Any society established under this Act may, by resolution at a meeting specially called for that purpose, alter, amend, or rescind its rules, or any of them, or make new rules.

Part III.
ss. 53—56.

Rules may be altered, amended or rescinded, or new rules made
37 Vic. No. 4, s. 8.

(2) Two copies of the proposed alterations or amendments, and of such new rules signed by three members of such society and the secretary or some other officer, shall be transmitted to the Registrar, to one of which shall be attached a statutory declaration by the secretary or some other officer that in making the same the rules of such society respecting the making, altering, amending, and rescinding rules, or the directions of the Act under which such society was established have been duly complied with.

(3) If the Registrar finds that such alterations, amendments, or new rules are in conformity with law, he shall give to the society a certificate in the form set forth in the said Third Schedule, and return one of the copies to the society, and shall keep the other with the rules of such society in his custody; and as against any of such three members and such secretary or other officer, such certificate shall be conclusive as to the validity thereof, and all rules, alterations, and amendments, when so certified as aforesaid, shall be binding on the several members of the said society, and all persons claiming on account of a member, or under the said rules, but unless and until the same are so certified, such rules, alterations, and amendments shall have no force or validity whatsoever.

Third Schedule.

54. Whenever any society established under this Act changes its place of business, notice of such change, under the hands of two of the trustees, or three members and the secretary or other officer of such society, shall, within fourteen days thereafter, be sent to the Registrar.

Notice to be sent to Registrar of altering place of business
37 Vic. No. 4, s. 9.

55. If any person gives to any member of a society established under this Act, or to any person intending or applying to become a member of such society, a copy of any rules, or of any alterations or amendments of the same other than those which have been deposited with the Registrar, or certified by him with a copy of his certificate appended thereto, under colour that the same are binding upon the members of such society, or makes any alteration in or addition to any of the rules or tables of such society after they have been deposited or certified as aforesaid, and circulates the same purporting that they have been duly deposited or certified as aforesaid when they have not been so duly deposited or certified, such person so offending shall be deemed guilty of a misdemeanour.

Circulating false copies of rules, etc., a misdemeanour.
37 Vic. No. 4, s. 10.

56. All the rules and tables of any society established under this Act, and all alterations and amendments thereof, and all copies thereof or extracts therefrom, and all writings and documents relating to any such society and purporting to be signed by the Registrar shall be received in evidence without proof of the signature thereto.

Rules how received in evidence.
37 Vic. No. 4, s. 11.

[53.] Amendment of rules: *Montgomery v. Fox* (1900) 21 L.R. Eq. 127; 17 W.N. 108; 21 Austn Digest 1039.

Part III.

ss. 57, 58.

Punishment of
fraud in
withholding
money, etc.
37 Vic. No. 4,
s. 13.

57. (1) If any officer, member, or other person being or representing himself to be a member of any society established under this Act, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatever by false representation or imposition obtains possession of any moneys, securities, books, papers or other effects of such society, or having the same in his possession, withholds or misapplies the same, or wilfully applies the same to purposes other than those expressed or directed in the rules of such society, such person may, upon complaint being made by any person on behalf of such society, be summoned before any two justices of the peace or a stipendiary or police magistrate, and may be ordered by such justices or magistrate to deliver up all such moneys, securities, books, papers, or other effects to the society, and to repay the amount of money applied improperly, and to pay the costs of the proceedings, and in default of such delivery of effects or repayment of such amount of money or costs, to be imprisoned with or without hard labour for any term not exceeding three months, and such person shall be liable in addition to a penalty not exceeding fifty pounds.

(2) Nothing herein contained shall prevent the society from proceeding by indictment against any such offender, but no person shall be proceeded against by indictment if a conviction has been previously obtained for the same offence under the provisions of this Act.

Settlement of
disputes.
37 Vic. No. 4,
s. 14.

58. (1) Every dispute between any officer or member of any society established under this Act, or any person claiming through or under such member, and the society or the trustees, treasurer, or other officer or committee of management thereof shall be decided in manner directed by the rules of such society, and the decision so made shall be binding and conclusive on all parties without appeal.

(2) Where the rules of any such society direct disputes to be referred to justices, any justice of the peace may, upon complaint made by any member, his executors, administrators, nominee, or assigns, or by any person claiming under the rules of the society of any matter of dispute between him or them and the society, summon the person against whom the complaint is made before any two justices or a stipendiary or police magistrate, and such justices or magistrate shall hear and determine such complaint in a summary manner according to the provisions of the Act or Acts for the time being regulating the proceedings before justices, and may make such order thereupon either for the payment of money or otherwise together with costs as they think fit.

(3) Where the order made is for the doing of some act other than the payment of money the said justices may order the payment of a sum of money in default of the doing of such act.

(4) Any money paid by any officer of the society under any order of the justices shall be repaid with all damages accruing to him by the society.

[58.] Meaning of "dispute": *Heydon v. Lillis* (1907) 4 C.L.R. 1223; 7 S.R. 684; 21 Austn Digest 1084.

59. (1) In all societies established under this Act all applications—

- (a) for the removal of trustees; or
- (b) for the settlement of disputes that may arise or may have arisen in any society, the rules of which do not prescribe any other mode of settling such disputes; or
- (c) for any other relief, order, or direction; or
- (d) to enforce the decision of any arbitrators; or
- (e) to hear or determine any dispute if no arbitrator has been appointed, or if no decision is made by the arbitrators within forty days after application has been made by the member or person claiming through or under a member or under the rules of the society;—

shall be made to the District Court of the district within which the usual or principal place of business of the society is situate.

(2) Such Court shall, upon the application of any person interested in the matter, entertain such application and give such relief and make such orders and directions in relation to the matter of such application as hereinafter mentioned, or as might before the commencement of the Friendly Societies Act of 1873 be given or made by the Supreme or any other Court, and the decision of such District Court upon and in relation to such application as aforesaid shall not be subject to any appeal.

60. (1) In all cases where the order of such District Court is for the payment of money, the same may be enforced in the same manner as the ordinary judgments of District Courts are enforced; but where the order of the said Court is for the doing of some act, not being for the payment of money, the Judge of such District Court in his said order may order the party to do such act, or that in default of his so doing it he shall pay a certain sum of money, and in case he refuse or neglect to do the act required upon demand in that behalf the sum of money or penalty in the said order may then be recovered in the same manner as a judgment for debt or damages in such Court, and it shall not be lawful to remove the same by *certiorari* or other writ or process before the Supreme Court.

(2) The Chief Judge in Equity may make such orders for regulating the proceedings by and before the Judges of District Courts under this Act as he thinks fit, and such Judges may regulate the proceedings before them respectively so as to render them as inexpensive and summary as conveniently may be.

61. (1) In the case of any society established for any of the purposes within the meaning of this Act, or for any purpose which is not illegal, having written or printed rules which have not been certified by the Registrar (provided a copy of such rules has been deposited with the Registrar), every dispute between any member of such society,

Part III.

ss. 59—61.

In what cases by the District Court when the rules do not provide for settlement of disputes.

37 Vic. No. 4, s. 15.

Order of District Court, how enforced.

37 Vic. No. 4, s. 16.

Chief Judge in Equity may make order for regulating the proceedings.

Disputes between members of non-registered societies to be settled in accordance with this Act.

37 Vic. No. 4, s. 17.

[59.] Meaning of "for any other relief": *Heydon v. Lillis* (1907) 4 C.L.R. 1223; 7 S.R. 684. Jurisdiction of District Court: *Price v. Clack* (1906) 6 S.R. 611; 23 W.N. 191; 21 Austn Digest 1058 (twice).

Part III.
ss. 61—64.
Sch. 1.

his executors, administrators, nominees, or assigns, and the trustees, treasurer, or other officer, or the committee of such society, shall be decided in manner hereinbefore mentioned or provided with respect to disputes, and the decision thereof in the case of societies established under this Act and the provisions of this Act relating to disputes and to the punishment of fraud or imposition shall be applicable to such uncertified societies.

(2) Nothing herein contained shall be construed to confer on any such society whose rules have not been certified by the Registrar or any of the officers or members of such society any of the powers, exemptions, or privileges of this Act, save and except as in and by this section is expressly provided.

Society may be constituted a company.
37 Vic. No. 4, s. 76.

62. Any society under this Act may be constituted a company under the Act or Acts in force for the time being relating to joint stock companies by conforming to the requirements of such Act or Acts, and shall thereupon cease to retain its registration under this Act.

Power to change name.
37 Vic. No. 4, s. 77.

63. (1) Any such society may, with the approval in writing of the Registrar, change its name, but no such change shall affect any rights or obligations of such society, or of any member thereof, and any legal proceedings may be continued or commenced by or against the trustees of such society, or any officer or the committee of management thereof, by the new name of such society.

(2) The Registrar shall give his certificate of such change of name in the form in the Fourth Schedule hereto.

Fourth Schedule.

Recovery of penalties.
37 Vic. No. 4 s. 78.

64. All penalties and fines imposed by this Act, or by the rules of any society registered or brought under the operation of this Act, and all offences committed under such Act or rules shall be recovered and prosecuted (where no other provision for the recovery or prosecution thereof is in that behalf provided) in a summary way at the suit of the Registrar in the case of offences liable to penalties under this Act, and at the suit of the society or the secretary thereof in the case of penalties imposed by the rules of such society before any two justices of the peace or a stipendiary or police magistrate in a summary manner according to the Act or Acts in force for the time being regulating proceedings before justices.

SCHEDULES.

FIRST SCHEDULE.

No. of Act.	Title of Act.	Extent of Repeal.
37 Vic. No. 4 ..	The Friendly Societies Act of 1873.	The unrepealed portion. S. 6.
Act No. 77, 1900 ..	Friendly Societies (Amendment) Act, 1900.	

SECOND SCHEDULE.

Schs. 2-5.

Scale of fees payable to Registrar.

	For benefit building and other societies, within Part I.	For co-operative, trading, and industrial societies within Part II.
	£ s. d.	£ s. d.
Certificate of rules of new society	2 2 0	2 2 0
Certificate of new or amended rule or change of name	0 10 6	0 10 6
Award	5 5 0	

THIRD SCHEDULE.

Form of Registrar's certificate to rules of societies, alterations, or amendments thereof.

I HEREBY certify that the foregoing rules (or the alterations or amendments of the rules) of the _____ society at _____ are in conformity with law (*and in the case of a new society*), and that the society is duly established from the present date and is subject to the provisions and entitled to the privileges of the Building and Co-operative Societies Act, 1901.

Dated this _____ day of _____, 19 ____ .
(A.B.) Registrar.

FOURTH SCHEDULE.

Form of Registrar's certificate of change of name.

I HEREBY certify that the registered name of the _____ society established at _____ is changed from the date hereof to the name _____ following _____ society in accordance with the provisions of the sixty-third section of the Building and Co-operative Societies Act, 1901.

Dated this _____ day of _____, 19 ____ .
(A.B.) Registrar.

FIFTH SCHEDULE.

Form of bond.

KNOW all men by these presents that we, A.B., of _____, treasurer, &c. (*as the case may be*) of the _____ society established at _____, and C.D., of _____ (as surety on behalf of the said A.B.), are jointly and severally held and firmly bound to A.B. of _____, C.D. of _____,

Sch. 5.

and *E.F.* of _____, the trustees of the said society, in the sum of _____ to be paid to the said *A.B.*, *C.D.*, and *E.F.*, as such trustees or their successors, trustees for the time being or their certain attorney, for which payment well and truly to be made we jointly and severally bind ourselves and each of us by himself, our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals. Dated the _____ day of _____ in the year of our Lord

Whereas the above-bounden *A.B.* hath been duly appointed treasurer, &c., (*as the case may be*) of the _____ society established as aforesaid, and he together with the above-bounden *C.D.*, as his surety have entered into the above-written bond subject to the condition hereinafter contained. Now therefore the condition of the above-written bond is such that if the said *A.B.* shall and do justly and faithfully execute his office of treasurer, &c. (*as the case may be*) of the said society established as aforesaid, and shall and do render a just and true account of all moneys received and paid by him, and shall and do pay over all moneys remaining in his hands, and assign and transfer or deliver all securities and effects, books, papers, and property of or belonging to the said society in his hands or custody to such person or persons as the said society shall appoint according to the rules of the said society, together with the proper or legal receipts or vouchers for such payments, and likewise shall and do in all respects well and truly and faithfully perform and fulfil his office of treasurer, &c. (*as the case may be*) to the said society according to the rules thereof, then the above-written bond shall be void and of no effect, otherwise it shall be and remain in full force and virtue.
