
Building Societies Acts Amendment Act. 6 GEO. VI. No. 15,

SOCIETIES.

- (1) *Building Societies Acts Amendment Act of 1942* 6 *Geo. VI. No. 15*
 (2) *Friendly Societies Acts Amendment Act of 1942* 6 *Geo. VI. No. 35*

6 GEO. VI.
No. 15.
THE
BUILDING
SOCIETIES
ACTS
AMENDMENT
ACT OF 1942.

An Act to Amend "The Building Societies Acts, 1886 to 1915," in certain particulars.

[ASSENTED TO 29TH OCTOBER, 1942.]

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

Short title
and
construction.

1. (1.) This Act may be cited as "*The Building Societies Acts Amendment Act of 1942*," and shall be read as one with *"*The Building Societies Acts, 1886 to 1915*," herein referred to as the Principal Act.

Collective
title.

(2.) The Principal Act and this Act may collectively be cited as "*The Building Societies Acts, 1886 to 1942*."

Amendments of the Principal Act.

Amendment
of s. 2.
[Definitions.]

2. Section two of the Principal Act is amended as follows:—

(a) Before the definition of "Court" the following definition is inserted, namely:—

Certificated
accountant.

" "Certificated Accountant"—Means an accountant in public practice and who is a member of any association or institute of accountants as set forth in the Regulations under † "*The Trust Account Acts, 1923 to 1925*," : or who is in public practice and is an associate in accountancy of the University of Queensland."

Prescribed.

(b) A new definition "Prescribed" is inserted after the definition of "Court," as follows:—

" "Prescribed"—Prescribed by this Act."

This Act.

(c) A new definition "This Act" is inserted after the definition of "Certifying Barrister," as follows:—

" "This Act"—This Act and all regulations made thereunder."

* 50 V. No. 34 and amending Acts. See v. 8, pp. 1016 *et seq.*
 † 14 G. 5 No. 4 and amending Acts. See v. 9, pp. 694 *et seq.*

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3. The following proviso is added to section twenty-three of the Principal Act, as follows :—

“ Provided that on and after the passing of **“ The Building Societies Acts Amendment Act of 1942,”* and notwithstanding anything to the contrary contained in the rules of any society concerned, advances referred to in paragraph (b) aforesaid shall be made only on the security of a first mortgage and not by way of second or subsequent mortgage.”

Amendment of s. 23.

[Employment of funds.]

4. Two new paragraphs are added to section twenty-eight of the Principal Act, namely :—

“ Notwithstanding anything hereinbefore contained in this section, a Registered Society may from time to time, unless its rules otherwise direct, invest any portion of its funds not immediately required for its purposes in all or any of the authorised investments in which a trustee may, pursuant to section four of †*“ The Trustees and Executors Acts, 1897 to 1924,”* or pursuant to any other law of the State, invest trust funds in his hands :

Amendment of s. 28.

[Investment of funds.]

Provided that on and after the passing of **“ The Building Societies Acts Amendment Act of 1942,”* and notwithstanding anything to the contrary contained in the rules of any Society concerned, no advance in respect of real securities shall be made by any Society on any second or subsequent mortgage security in respect of such real estate.”

5. Section thirty-four of the Principal Act is amended by inserting therein before the words “ And the Society shall ” the words “ Every such account or statement shall be in the forms prescribed or to the like effect.”

Amendment of s. 34.

6. A new section 34A is inserted after section thirty-four of the Principal Act, as follows :—

New s. 34A.
Provisions as to audit.

“ [34A.] (1.) Every Society shall at each annual general meeting appoint an auditor or auditors to examine the books and accounts of the Society, who shall hold office until the next annual general meeting. Any such auditor so appointed shall be a certificated accountant.”

Appointment and qualification of auditors.

* This Act.

† 61 V. No. 10 and amending Acts. See v. 9, pp. 582 *et seq.*

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Remunera-
tion of
auditors

(2.) The remuneration of the auditor or auditors shall be fixed at such annual general meeting of the Society prior to the appointment of the auditor or auditors :

Provided that the remuneration of an auditor filling a casual vacancy as referred to in subsection four of this section, shall be fixed by the committee of management of the Society.

Duties of
auditor.

(3.) (i.) The auditor or auditors shall forward two copies of his report of the audit direct to the Registrar, who shall thereupon furnish one copy thereof to the Society concerned with any annotations and/or recommendations and/or directions which the Registrar may deem fit to make, and the Society shall comply with such directions.

(ii.) The auditor or auditors shall also furnish to the Registrar in the form from time to time as directed by him a return showing particulars of mortgages to the Society as at the end of each financial year.

Casual
vacancy.

(4.) Any casual vacancy occurring in the office of auditor through death, resignation, removal, or other cause between one annual meeting and the subsequent annual meeting may be filled by the committee of management of the Society ; such person so appointed shall hold office from the date of his appointment to the next annual meeting, but shall be eligible for reappointment at such annual meeting.

Offence.

(5.) Any Society refusing, neglecting, or failing to comply with the provisions of this section shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds, and in addition to a daily penalty not exceeding two pounds for each and every day during which such offence is continued after a conviction therefor.

Construction
of rules.

(6.) Any rule of any Society which is inconsistent with the provisions of this section shall be void to the extent of the inconsistency, and the rules of every Society shall be construed as if they contained provisions to the effect of subsections one, two, three, and four of this section."

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7. A new section 34B is inserted after section 34A of New s. 34B. the Principal Act, previously inserted :—

“ [34B.] (1.) The Registrar or any person authorised Inspection by Registrar. in that behalf 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 person authorised aforesaid ;
or

(b) Any person hinders or obstructs the Registrar or any such person authorised aforesaid 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 penalty not exceeding twenty pounds.

(3.) The Registrar may require the manager of any 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 penalty not exceeding twenty pounds.”

8. Section thirty-five of the Principal Act is repealed Repeal of and new s. 35. and the following new section thirty-five is inserted in lieu thereof, namely :—

“ [35.] If a majority of the members of a Registered Special audit. Society present at a meeting duly called for that purpose resolve that a special official audit be made of the accounts of such Society, the Registrar may on receipt of a copy of the resolution or resolutions passed by such meeting appoint a certificated accountant to examine into and report upon the accounts, securities, insurances, and general financial condition of the Society.

Moreover the Registrar may on his own authority cause a special audit to be made by a certificated accountant, of the accounts and general financial

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condition of any Society registered under this Act, if he is not satisfied with the annual statement furnished to him.

The costs and expenses of any special audit under this section shall be borne by the Society concerned, and shall be recoverable by the Registrar from the Society as a debt due to the Crown in any court of competent jurisdiction.

A copy of the report of any special audit under this section shall be furnished to the Society concerned with any annotations and/or recommendations and/or directions which the Registrar may deem fit to make, and the Society concerned shall comply with any such directions accordingly."

Amendment
of s. 37.

9. Section thirty-seven of the Principal Act is amended, as follows:—

[Termination
or dissolution
of Society.]

(a) A new provision five is inserted after provision four, as follows:—

“(5) By winding-up by the Court on the petition of the Registrar on the happening of any of the events specified in subsection two of this section.”

(b) In the paragraph commencing with the words “General rules” and ending with the words “are applicable” the words * “*The Companies Act, 1863*” are repealed and the words † “*The Companies Act of 1931*” or any Act amending the same” are inserted in lieu thereof.

[Re-
numbered
s. 37 (1)].

(c) Section thirty-seven of the Principal Act as previously amended shall constitute subsection one of the said section thirty-seven.

(d) A new subsection two is added to the said section namely:—

“(2.) The Registrar may, if he is satisfied that the facts justify him in doing so, apply by petition to the Court 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.

* 27 V. No. 4 (now repealed).

† 22 G. 5 No. 53. See v. 2, p. 10.

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- (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 any 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. A new section 37A is inserted after section New s. 37A. thirty-seven of the Principal Act, as follows:—

"[37A.] (1.) Where the Registrar has reasonable cause to believe that a Society is not carrying on business or in operation, he shall send to the Society by post a letter inquiring whether the Society is carrying on business or in operation.

Cancellation of registration of defunct societies. c.f. the Act 22 Geo. V. No. 53, s. 299.

(2.) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the Society by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that, if an answer is not received to the second letter within one month from the date thereof a notice will be published in the *Gazette* with a view to cancelling the registration of the Society.

(3.) If the Registrar either receives an answer from the Society to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the *Gazette* and send to the Society by post a notice that at the expiration of three months from the date of that notice the name of the Society mentioned therein will, unless cause is shown to the contrary, be struck off the register, and such registration cancelled and the Society will be dissolved.

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(4.) At the expiration of the time mentioned in the notice the Registrar may unless cause to the contrary is previously shown by the Society strike its name off the register and cancel the registration and shall publish notice thereof in the *Gazette*, and on the publication in the *Gazette* of this notice the Society shall be dissolved :

Provided that—

- (a) The liability (if any) of every director, managing officer and member of the Society shall continue and may be enforced as if the Society had not been dissolved ; and
- (b) Nothing in this subsection shall affect the power of the court to wind up a Society the name of which has been struck off the register and registration cancelled.

(5.) If a Society or any member or creditor thereof feels aggrieved by the Society having been struck off the register and its registration cancelled, a judge of the Supreme Court, on the application of the Society, or member or creditor thereof before the expiration of six years from the publication in the *Gazette* of the notice aforesaid may, if satisfied that the Society was at the time of the striking-off and cancellation of registration carrying on business or in operation, or otherwise that it is just that the Society be restored to the register order the name of the Society to be restored to the register, and upon an office copy of the order being delivered to the Registrar for registration the Society shall be deemed to have continued in existence as if its name had not been struck off and the registration cancelled ; and the judge may by the order give such directions and make such provisions as seem just for placing the Society and all other persons in the same position as nearly as may be as if the name of the Society had not been struck off and its registration cancelled.

(6.) A letter or notice to be sent under this section to a Society may be addressed to the Society at its registered office, or if no office has been registered, to the care of some director or officer of the Society or if there is no director or officer of the Society whose name and address are known to the Registrar may be sent to each of the persons who subscribed to the application for registration addressed to him at the address mentioned in such application.”

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11. A new section 43A is inserted after section New s. 43A. forty-three of the Principal Act, as follows :—

“ [43A.] All penalties imposed by this Act may be Recovery of penalties. recovered in a summary way under **“The Justices Acts, 1886 to 1941.”*”

Proceedings for the recovery of a penalty imposed by this Act may be instituted at any time within six months after the commission of the offence or within four months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.”

12. Section forty-four of the Principal Act is Amendment of s. 44. amended by adding thereto the following paragraph, namely :—

“ This section shall not apply to any return of mortgages furnished in accordance with the provision of paragraph (ii.) of subsection three of section 34A of this Act.”

13. Section forty-five of the Principal Act is Repeal of and new s. 45. repealed and the following section is inserted in lieu thereof :—

“ [45.] (1.) The Governor in Council may from time to time make regulations providing for all or any purposes whether general or to meet particular cases that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act. [Regulations.]”

Without limiting the generality of this subsection regulations may be made—

- (a) Prescribing the fees (if any) to be paid for matters or things to be transacted or for inspection of documents, and prescribing such other forms, declarations, notices, and fees in and for such purposes as may be deemed fit and proper.
- (b) In respect of all matters or things required or permitted by this Act to be prescribed.
- (c) Imposing penalties not exceeding in any case fifty pounds for a breach of the regulations.

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(2.) All regulations made or purporting to have been made under this Act shall be published in the *Gazette*, and thereupon shall be of the same effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

(3.) Any regulation made under this Act may be repealed or modified by a subsequent regulation.

(4.) Every regulation made under this Act shall be laid before Parliament within fourteen days after its publication in the *Gazette* if Parliament is in session ; and if not, then within fourteen days after the commencement of the next session.

If Parliament passes a resolution disallowing any such regulation of which resolution notice has been given at any time within fourteen sitting days thereof after such regulation has been laid before it, such regulation shall thereupon cease to have effect but without prejudice to the validity of anything done in the meantime or to the power to make any further or other regulation.

For the purposes of this subsection " sitting days " means days upon which Parliament actually sits for the despatch of business."

Existing
Regulations.

14. All regulations made or purporting to be made under the Principal Act and in force at the passing of this Act are hereby ratified and confirmed and shall continue in force as valid regulations made under *"*The Building Societies Acts, 1886 to 1942,*" until repealed or modified pursuant to such last-mentioned Acts.

* 50 V. No. 34 and amending Acts. See v. 8, p. 1016 (and this Act).
