

No. 6226.

CO-OPERATIVE HOUSING SOCIETIES ACT 1958.

An Act to consolidate the Law relating to the Formation
Registration and Management of Co-operative
Housing Societies and to the Making by the
Treasurer of Victoria of Certain Guarantees
and Indemnities in connexion with such Societies,
and for other purposes.

[30th September, 1958.]

BE it enacted by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is
to say):—

1. This Act may be cited as the *Co-operative Housing Societies
Act 1958*, and shall come into operation on a day to be fixed
by proclamation of the Governor in Council published in the
Government Gazette, and is divided into Parts and Divisions as
follows:—

Short title,
commence-
ment and
division into
Parts and
Divisions.

Part I.—General ss. 4–6.

- Part II.—Incorporation of Societies ss. 7–44.
Division 1.—Registration, &c. ss. 7–10.
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Division 4.—Privileges, Powers, and Duties ss. 30–44.
- Part III.—Rules, Management, &c. ss. 45–61.
Division 1.—Rules ss. 45–47.
Division 2.—Management ss. 48–57.
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- Part IV.—Administration ss. 62–72.
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- Part V.—Government Guarantees and Indemnities ss. 73–77.
Division 1.—Guarantees ss. 73–75.
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- Part VI.—Miscellaneous ss. 78–98.
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Division 3.—Regulations s. 98.

Repeal.
Schedule.

2. (1) The Act mentioned in the Schedule to the extent thereby expressed to be repealed is hereby repealed accordingly.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under the repealed Act or existing or continuing under such Act immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Act had not been so repealed;

(b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any rule regulation report notice requirement order fee application registration alteration of rules amalgamation statement election certificate

transfer charge acquisition loan advance mortgage agreement return security valuation recommendation guarantee indemnity proceeding penalty liability or right made issued given paid accrued incurred or acquired or existing or continuing by or under such repealed Act before the commencement of this Act, nor shall such repeal affect the operation or effect of sub-section (3) or sub-section (4) of section two or of sub-section (2) of section four of the *Co-operative Housing Societies Act* 1949, or of sub-section (8) of section eighty-three of the *Co-operation Act* 1953.

3. (1) In this Act unless inconsistent with the context or subject-matter— Interpretation.
No. 6138 s. 3.

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

“Co-operative housing society” means a society of persons— “Co-operative housing society.”

(a) which is formed for all or any of the objects referred to in section five of this Act;

(b) which has under its rules a share capital divided into equal shares all of one class and ranking equally; and

(c) which under its rules is to terminate on a specified date or when a specified object is attained or a specified event occurs—

but does not include a Starr-Bowkett society, that is to say, a society in which the order of advances to members is determined either solely or partly by the drawing of lots.

“Officer”, in relation to a society, includes director, secretary, or other person empowered under the rules to act or give directions in regard to the business of the society. “Officer.”

“Part” means Part of this Act. “Part.”

“Prescribed” means prescribed by this Act or the regulations or (where the case so requires) by the rules. “Prescribed.”

“Registrar” means the registrar of co-operative housing societies. “Registrar.”

“Regulations” means regulations made under this Act. “Regulations.”

“Rules” means rules of a society for the time being in force. “Rules.”

“Society” means co-operative housing society. “Society.”

References to
land and
freehold
property to
include
references to
residence
areas under
Land Act.

(2) In this Act—

- (a) any reference to land or freehold property shall be deemed to include a reference to a residence area within the meaning of the *Land Act* 1958;
- (b) any reference to the ownership of land or freehold property or to the owner thereof shall be deemed to include a reference to the right to occupy such a residence area or (as the case may be) to the holder of such a right;
- (c) any reference to a mortgage of land or freehold property shall be deemed to include a reference to an encumbrance, by way of security, of the right to occupy such a residence area; and
- (d) any reference to the registration of a mortgage of land or freehold property shall be deemed to include a reference to the registration, pursuant to regulations made under the said Act, of an encumbrance of the right to occupy such a residence area:

Provided that, in the making of a valuation of a residence area for any of the purposes of this Act, regard shall be had—

- (i) to the limited nature of the tenure of such residence area as provided in the said Act;
- (ii) to the restrictions imposed by or under the said Act upon the occupation and user thereof; and
- (iii) to the fact that under the said Act the holder of the right to occupy such area may become the owner in fee simple of the land comprised therein only upon compliance with the conditions provided in the said Act including the payment of a purchase price of such land to be determined by an appraiser appointed by the Board of Land and Works.

References to
land to
include
references to
residential
occupation
licences under
Land Act
s. 138.

(3) In this Act—

- (a) any reference to land or freehold property shall be deemed to include a reference to a licence to occupy land for residence purposes granted pursuant to section one hundred and thirty-eight of the *Land Act* 1958;
- (b) any reference to the ownership of land or freehold property or to the owner thereof shall be deemed to include a reference to the right granted by such a licence or (as the case may be) the holder of such a licence;

- (c) any reference to a mortgage of land or freehold property shall be deemed to include a reference to a lien, by way of security, on the improvements upon any land in respect of which such a licence is in force; and
- (d) any reference to the registration of a mortgage of land or freehold property shall be deemed to include a reference to the registration, pursuant to regulations made under the said Act, of a lien on improvements as referred to in paragraph (c) of this sub-section:

Provided that in the making of a valuation of such a licence as aforesaid for any of the purposes of this Act, regard shall be had—

- (i) to the limited nature of the right granted by such licence as provided in the said Act;
- (ii) to any restrictions imposed by or under the said Act upon the occupation and user of the land to which the licence relates; and
- (iii) to the fact that under the said Act the holder of the licence may purchase the land to which the licence relates only in accordance with the provisions of the said Act and at a price to be determined by an appraiser to be appointed by the Board of Land and Works.

(4) In this Act and in any regulation made thereunder (whether before or after the commencement of this Act) and in the rules of every society (whether registered before or after the said commencement) any reference, however expressed, to the erection of a dwelling-house on any land shall be deemed to include and always to have included a reference to—

- (a) the constructing forming levelling draining paving flagging macadamizing or otherwise making good of any portion or portions of the streets or roads abutting upon the land upon which the dwelling-house is or will be erected;
- (b) the curbing flagging paving or asphaltting of any portion or portions of the footways or pathways abutting upon any such land;
- (c) the supplying installing and connecting of sewerage fittings and connexions to the dwelling-house;
- (d) the provision of drainage for the land (whether or not wholly upon the land);
- (e) the completing of the erection of the dwelling-house notwithstanding that the foundations footings framework or other portions thereof had already been constructed or commenced; and

References to erection &c. of house to include references to street construction, sewerage, completion of building, &c.

- (f) the adding of one or more rooms out-buildings or other permanent improvements to a dwelling-house in respect of which an advance had previously been made by the society in question—

21st
December,
1948.

and any reference, however expressed, in this Act or in any rules registered or regulations made thereunder after the commencement of the *Co-operative Housing Societies Act* 1948 to the making of an advance for the purchase of any land on which a dwelling-house is situated shall be deemed to include a reference to the making of an advance or any part of an advance for the carrying out of all or any of the acts matters and things referred to in paragraphs (a) to (f) of this sub-section in relation to the land and house purchased.

PART I.—GENERAL.

Co-operative
housing
societies to be
formed and
registered
under this
Act.

No. 6138 s. 4.
Non-
application of
*Building
Societies Act*
and
*Companies
Act* 1938.

4. (1) No co-operative housing society shall carry on business unless it is formed and registered under this Act.

(2) Any society formed and registered under this Act shall not be required to be registered or incorporated under the *Building Societies Act* 1958 or the *Companies Act* 1938, and, except as is expressly provided in this Act, none of the provisions of either of those Acts shall apply to societies formed and registered under this Act.

Objects of
society.
No. 6138 s. 5.

5. (1) A co-operative housing society may be formed for all or any of the following objects:—

(a) to enable each of its members—

- (i) to purchase land and to erect a dwelling-house thereon; or
- (ii) to erect a dwelling-house on land already owned by him; or
- (iii) to purchase land upon which is situated a dwelling-house—

which was erected by or is vested in the Housing Commission of Victoria; or

which was erected by any person within the period of five years immediately prior to the application for the advance in question or (where the member is at the date of the application the tenant of the dwelling-house) within the period of twenty years immediately prior to that date; or

- upon which an advance has been made by the society to another member from whom the land is purchased by the member in question; or
- (iv) where the approval of the Governor in Council given after consideration of a report by the registrar is first obtained—to discharge a mortgage held by another society upon any land; or
- (v) to discharge a mortgage or any other charge or security over or affecting any land which mortgage charge or security was granted or executed by the member in question whilst a member of the society and with the prior approval in writing of the society and of the registrar; and
- (b) for all or any of those purposes to make advances to its members upon the security of freehold property.

(2) In this section “purchase” includes the completion of a purchase under an existing contract of sale but does not include the payment of money in order to discharge an existing mortgage or similar security.

6. A society may, subject to this Act and its rules, raise money on loan for the objects of the society.

Power of society to raise money on loan.
No. 6138 s. 6.

PART II.—INCORPORATION OF SOCIETIES.

DIVISION 1.—REGISTRATION, ETC.

7. (1) A society shall be formed with limited liability.

Liability and Membership.
No. 6138 s. 7.

(2) Unless otherwise provided by the rules, any person who is not under the age of eighteen years shall subject to this Act be eligible to be a member of a society.

(3) A person under the age of twenty-one years who is a member of a society may execute all instruments and give all necessary acquittances (which instruments and acquittances shall be binding and sufficient in law for all purposes), but no such person shall be competent to vote or to be an officer of a society or to be one of the persons by whom a society may be formed.

A member of a society shall not at any time be entitled on any ground relating to his infancy or former infancy to avoid any of his obligations or liabilities as a member of the society or under any mortgage given by him to the society.

(4) No person shall at any one time be a member of more than one society unless—

(a) before becoming a member of each society (other than the one of which he is first a member) he obtains the consent in writing of the registrar; and

(b) all societies of which he is a member have the same registered office:

Provided that in the case of a person who was lawfully a member of two societies before the commencement of the *Co-operative Housing Societies Act 1950* nothing in this sub-section shall be deemed—

5th December,
1950.

(a) to require any consent of the registrar to his membership of either such society; or

(b) to render his membership of either such society unlawful:

Provided further that nothing in this sub-section shall apply to or in respect of any person becoming or being registered as the holder of shares in any society as executor or administrator of a deceased member.

Formation
and
registration of
society.
No. 6138 a. 8.

8. (1) A society may be formed by any twenty or more persons who are not under the age of twenty-one years and who are eligible under this Act and the rules as later approved and registered to be members of the society.

(2) No society shall be registered unless there has been a meeting at which there have been present twenty or more such persons.

(3) At the meeting there shall be presented—

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

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

and, after a date time and place have been fixed for the adjourned meeting, the meeting shall be adjourned for not less than three nor more than six weeks.

(4) Such notice by advertisement as is prescribed shall be given of the date time and place fixed for the adjourned meeting and of the purpose of such adjourned meeting.

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

(6) Within two months after the election of directors an application shall be made in the prescribed manner to the registrar for the registration of the society and shall be accompanied by—

- (a) a statutory declaration or statutory declarations by the persons who acted as chairman and secretary of the meeting as to compliance with the requirements of this section;
- (b) a copy of the statement presented to the meeting;
- (c) two copies of the proposed rules signed by not less than twenty 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 director;
- (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; and
- (f) such other particulars as are prescribed by regulation:

Provided that where before the expiration of the said period of two months a request in writing for the extension of that period is lodged with the registrar and the registrar is satisfied that circumstances beyond the control of the society have precluded and will preclude the making of the application for registration within the said period of two months, the registrar may if he thinks fit by writing extend the period for the making of the application by such further period (not exceeding one month) as he thinks proper, and in any such case the making of the application within such further period shall be deemed and taken to be in compliance with the provisions of this Act.

(7) The statutory declaration or statutory declarations mentioned in sub-section (6) of this section may be accepted by the registrar as sufficient evidence of compliance with the requirements of this section.

(8) If the registrar is satisfied that the society has complied with the provisions of this Act and the regulations, that the proposed rules of the society are not contrary to this Act or to the regulations and are suitable and sufficient for the purposes of the society, and that there are reasonable grounds for believing that the society will be able to carry out its objects successfully, the registrar may, with the approval of the Treasurer of Victoria, register the society and its rules and issue a certificate in the prescribed form to the effect that the society is incorporated under this Act.

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

As to names
of societies.
No. 6138 s. 9.

9. (1) A society may not be registered by a name identical with that by which a society is already registered, or so nearly resembling that name or the name of any subsisting company registered under the *Companies Act* 1938 building society registered under the *Building Societies Act* 1958 or friendly society registered under the *Friendly Societies Act* 1958 as in the opinion of the registrar to be calculated to deceive.

(2) If a society through inadvertence or otherwise is registered by a name identical with that by which a society is already registered, or so nearly resembling that name or the name of any such subsisting company building society or friendly society as in the opinion of the registrar to be calculated to deceive, the society shall, if the registrar so directs, change its name.

(3) A society may change its name by special resolution: Provided that the new name is not identical with that of any society previously registered and still subsisting, or so nearly resembling that name or the name of any such subsisting company building society or friendly society as in the opinion of the registrar to be calculated to deceive, unless the subsisting society company building society or friendly society is in course of being wound up and consents in writing to the registration.

(4) Notice in writing of any change of name, together with the certificate of incorporation, shall be sent to the registrar within such time after the passing of the special resolution as is prescribed.

(5) The registrar shall register the change of name, and shall either note the change on the certificate of incorporation or issue a new certificate of incorporation in lieu thereof in the prescribed form.

(6) The change of name shall be advertised as prescribed.

(7) The change of name shall not affect the identity of the society or any right or obligation of the society or of any member or other person, or render defective any legal proceedings by or against the society.

(8) Any legal proceedings that might have been continued or commenced against the society by its former name may be continued or commenced against it by its new name.

Certificate of
incorporation
conclusive
evidence that
requirements
as to
registration
complied with.
No. 6138 s. 10.

10. A certificate of incorporation under this Act shall be conclusive evidence that all the requirements of this Act in respect of registration and matters precedent or incidental thereto have been complied with:

Provided that nothing in this section shall affect any provision of this Act relating to the winding up or dissolution of the society or the cancellation of its registration.

DIVISION 2.—AMALGAMATION.

11. Any two or more societies registered under this Act may be amalgamated into one society as provided in this Division. Amalgamation of societies.
No. 6138 s. 11.
12. Each society may with the consent of the registrar give notice, in accordance with this Act and the rules of the society, of intention to hold a special general meeting of the society (hereinafter called "the meeting") at which a special resolution for the amalgamation of the society with the other society or societies in question (which shall be specified in the notice) will be proposed. Notice of intention to hold special general meeting for amalgamation.
No. 6138 s. 12.
13. The meetings of the several societies shall be held on the same day or within a period of seven days. Date of holding meetings.
No. 6138 s. 13.
14. At the meeting of each society a special resolution shall be proposed for the amalgamation of the society with the other society or societies in question in accordance with a written scheme of amalgamation presented to the meeting; and, after a date time and place has been fixed for the adjourned meeting, the meeting shall be adjourned for not less than three weeks and not more than six weeks. Presentation of scheme of amalgamation at meeting and adjournment.
No. 6138 s. 14.
15. Such notice by advertisement or otherwise as is prescribed or, in the absence of any prescription, as is required by the registrar shall in the case of each society be given of the date time and place fixed for the adjourned meeting and of the purpose of the adjourned meeting. Advertisement of adjourned date of meeting.
No. 6138 s. 15.
16. During the interval between the meeting and the adjourned meeting the proposed scheme of amalgamation shall be available for inspection by all members of each society at the office of each society at all times at which such office is open for business. Scheme to be open for inspection.
No. 6138 s. 16.
17. The adjourned meetings of the societies concerned shall be held on the same day or within a period of seven days. Date of holding adjourned meetings.
No. 6138 s. 17.
18. If at the adjourned meeting of each society the special resolution for amalgamation in accordance with the proposed scheme (either with or without modifications) is carried by a majority of not less than three-quarters of such members of the society entitled under the rules to vote as are present in person, an application in respect of each society shall within one month Passing of resolution and application for registration of resolution and scheme.
No. 6138 s. 18.

after the passing of the special resolution be made in the prescribed manner to the registrar for the registration of the special resolution and the scheme of amalgamation, accompanied by—

- (a) a statutory declaration or statutory declarations by the persons who acted as chairman and secretary of the meeting as to compliance with the foregoing requirements of this section;
- (b) a copy of the written scheme of amalgamation presented to the meeting, incorporating such modifications, if any, as were adopted at the adjourned meeting;
- (c) the prescribed fee for the publication of notice of amalgamation as hereinafter provided; and
- (d) such other matters or particulars as are prescribed.

Registration
of resolution
and scheme
of
amalgamation.
No. 6138 s. 19.

19. If when application has been so made in respect of each society the registrar is satisfied—

- (a) that the foregoing provisions of this Division have been substantially observed in respect of each society;
- (b) that the special resolution in favour of the proposed amalgamation has been duly passed by each society corresponding in all material particulars with the resolution or resolutions passed by the other society or societies;
- (c) that the scheme of amalgamation referred to in the resolution in the case of each society (including any modifications thereof adopted at the adjourned meeting) corresponds in all material particulars with that referred to in the resolution or resolutions of the other society or societies (including any such modifications);
- (d) that every bank friendly society or other body to whom a guarantee under Division one of Part V. of this Act has been given and is in force with respect to any loan made to any of the societies consents to the amalgamation; and
- (e) that the rules incorporated in the scheme are not contrary to this Act or the regulations and are suitable and sufficient for the purposes of the society—

the registrar shall register the special resolution and the scheme of amalgamation in respect of each society.

20. When any such resolution and scheme of amalgamation have been so registered in respect of each society the societies to which they relate shall as on and from the day fixed for the amalgamation in the said scheme be amalgamated into one society under the name specified therefor in the said scheme without any further or other authority than this Act; and the registrar shall as on and from the said date register the amalgamated society and the rules thereof incorporated in the scheme and issue a certificate in the prescribed form to the effect that the amalgamated society is incorporated under this Act and cancel the registrations of each of the amalgamating societies, and the registrar shall also cause notice of the amalgamation in the prescribed form to be published in the *Government Gazette* and in a daily newspaper circulating in the district in which the office of the amalgamated society is situated.

Amalgamation
of societies
and
registration of
amalgamated
society.
No. 6138 s. 20.

21. Every scheme of amalgamation the subject of a special resolution proposed for registration pursuant to the foregoing provisions of this Division shall contain—

Statements
and provisions
to be
contained in
scheme of
amalgamation.
No. 6138 s. 21.

- (a) a statement of the time at which the amalgamation is to take effect (being not less than two months and not more than three months after the passing of the later or latest of the special resolutions for amalgamation);
- (b) a statement of the name of the amalgamated society (hereinafter called the "new society") which shall be in accordance with the provisions of section nine of this Act but shall not be identical with the name of any of the amalgamating societies (hereinafter called the "former societies");
- (c) a statement of the situation of the office of the new society;
- (d) a copy of the rules of the new society;
- (e) a statement of the date from which the new society is to be deemed to have commenced operations and of its proposed notional term;
- (f) (where the dates of commencement of operations, notional terms, share values or share subscriptions of the former societies were not the same) provision for payment of back subscriptions by, credit for, or other financial arrangements in respect of, the former members of any or all of the former societies so as to bring them on to a common financial basis in conformity with the rules and notional term of the new society;

- (g) provision for the management and control of the business and operations of the new society pending the election of a board of directors pursuant to the rules of the new society; and
- (h) such other matters and particulars as are prescribed or as the registrar in any particular case requires.

New society
to be
successor of
former
societies.
No. 6138 s. 22.

22. As on from and after the date upon which the societies are amalgamated pursuant to the foregoing provisions of this Division the new society shall be deemed to be the successor in law of each of the former societies.

Effects of
amalgamation.
No. 6138 s. 23.

23. Without limiting the generality of the last preceding section, as on from and after the said date and without any further or other authority than this Act—

- (a) all persons who were members of the former societies immediately before the amalgamation shall be members of the new society and shall be bound by rules of the new society and the scheme of amalgamation;
- (b) all real and personal property whatsoever belonging to any of the former societies immediately before the amalgamation (including all choses in action and all interests rights benefits and advantages appurtenant to connected with or relating to any property) shall be vested in the new society;
- (c) the liabilities of each of the former societies in respect of outstanding principal moneys together with outstanding and future interest thereon shall be transferred to and be borne and discharged by the new society, and where immediately before the amalgamation the payment of any such moneys and interest was charged upon all the property and assets of any of the former societies the said payment shall be charged upon all the property and assets of the new society;
- (d) all contracts deeds bonds agreements mortgages indemnities and other instruments and documents lawfully made or entered into by or on behalf of any of the former societies or binding any of the former societies and in force immediately before the said amalgamation shall subject to this Division be as binding and of as full force and effect in every respect as they would have been in favour of or against the former society if there had been no amalgamation, and may be enforced as fully and effectually as if the same had been made or entered into by or on behalf of the new society;

- (e) every guarantee given under this Act in relation to any liability of any of the former societies shall until discharged continue in full force in relation to the corresponding liability of the new society and may be enforced in all respects as if it had originally been given in relation to that liability of the new society;
- (f) all debts lawfully incurred or owing by or to any of the former societies and due and owing immediately before the said amalgamation shall be deemed to have been incurred by or owing by or to the new society and may be recovered from or by the new society accordingly;
- (g) all actions causes of action proceedings and claims (including any arbitration thereon or appeal therefrom or proceeding or matter arising thereon) immediately before the amalgamation pending or existing by or against any of the former societies shall not abate or be discontinued or in any way prejudicially affected by reason of the amalgamation, but may be continued prosecuted and enforced by or against the new society as they might have been by or against the former society if there had been no amalgamation;
- (h) except so far as they are altered or modified expressly or by necessary implication by the scheme of amalgamation, the rights interests duties obligations and liabilities of the members of each of the former societies existing in relation to that society immediately before the said amalgamation shall continue in existence in relation to the new society and shall not be otherwise affected or abated by the amalgamation;
- (i) all authorities permits and notices issued made or granted by any of the former societies and subsisting immediately before the amalgamation shall unless the same are sooner suspended cancelled or revoked continue in force for the period for which they were issued made or granted as if issued made or granted by the new society;
- (j) all acts matters and things of a continuing nature made done or commenced by or on behalf of any of the former societies and immediately before the amalgamation of any force or effect or capable of acquiring any force or effect shall be deemed and taken to have been made done or commenced by or on behalf of the new society; and

- (k) any reference in any Order in Council regulation by-law notice demand order legal or other proceeding deed contract agreement mortgage indemnity guarantee instrument or document to any of the former societies shall if not inconsistent with the context or subject-matter be deemed and taken to refer to the new society.

DIVISION 3.—MEMBERS AND FUNDS.

Members of
societies.
No. 6138 s. 24.

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

(2) No rights of membership shall be exercised by any member until he has made such payment to the society in respect of membership or acquired such share or interest as is provided in the rules of the society in that behalf.

(3) A person shall cease to be a member in any of the following circumstances, that is to say—

- (a) where his shares are transferred to another person in accordance with the rules of the society, and the transferee is registered as holder in his place;
- (b) where his shares are forfeited in accordance with the rules of the society;
- (c) where his shares are sold by the society under a power conferred by the rules of the society, and the purchaser is registered as holder in his place;
- (d) where he becomes bankrupt or insolvent under any law relating to bankruptcy or insolvency and the official receiver or assignee disclaims in accordance with the provisions of such law;
- (e) on death:

Provided that the estate of the deceased person shall remain liable and his executor or administrator shall be and may be registered as the holder of the shares as such executor or administrator (whether eligible to be a member of the society or not) until some eligible person is registered as the holder of the shares by transfer from the executor or administrator or until the shares are withdrawn or discharged in accordance with this Act and the rules of the society, and while any such executor or administrator is so registered he shall be deemed to be and shall have the rights

and obligations of a member of the society for all purposes other than voting at meetings of the society and becoming a director thereof;

- (f) where the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (g) where he ceases to be a member in accordance with the rules of the society;
- (h) where the value of his shares is repaid or a refund in respect of his subscriptions is made to him in accordance with the rules of the society.

(4) Where shares are held by the executor or administrator of a deceased member, the Board may in its discretion by notice in writing to the executor or administrator call upon him to transfer the shares to an eligible person or to withdraw or discharge the shares within six months after receipt of the notice or within such further time as the Board may in any particular case allow, and unless the shares are so transferred withdrawn or discharged they may at the discretion of the society be forfeited and dealt with as forfeited shares in accordance with this Act and the rules of the society.

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

Capital and
shares.
No. 6138 s. 25

(2) The capital shall be divided into shares of a fixed amount, which shall be specified in the rules, and all the shares shall be of one class, ranking equally.

(3) In every society the rules shall provide that an advance is to be made to a member only on condition that the member subscribes for shares of a nominal value equivalent to the amount of the advance.

(4) Any balance unpaid in respect of shares at the time of allotment shall be paid by periodic subscriptions or in such manner as is specified in the rules.

(5) No member shall hold more than such proportion of the shares in a society as is prescribed by the rules.

(6) A member shall subscribe for such minimum number of shares as is prescribed by the rules.

(7) A share may be held by two or more persons jointly and, in such case, notices for the purposes of the society may be given to the joint holder whose name appears first on the register of shares in respect of the share.

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

26. (1) A member shall be liable to the society for the amount, if any, unpaid on the shares held by him, together with any charges and other moneys payable by him to the society as prescribed by this Act or the rules of the society.

Liability of
members.
No. 6138 s. 26

Liability of
members &c.
in relation to
certain
insurance
payments.

(2) Where a member has effected with some insurance company or some society registered under the *Friendly Societies Act 1958* (which company or society is hereinafter called "the insurer") a contract of insurance or similar agreement, in a form approved by the registrar after consideration of a report thereon from the Government Statist, with the object of providing, in the event of the death of the member, a sum of money for or towards the discharge of the member's liability to the society, then the society shall be empowered to receive from the member the periodical premiums or contributions payable by him in respect of that contract or agreement and to pay them whether directly or indirectly to the insurer, and if the member defaults in payment of any such premium or contribution to make payment thereof whether directly or indirectly to the insurer on his behalf and to recover the amount thereof from the member, and any amount so paid by the society on behalf of the member shall be a debt due to the society and the provisions of this Act shall apply in relation thereto accordingly.

The society may make either by itself or in conjunction with any other society or societies any contract or arrangement relating to or connected with the carrying into effect of this sub-section and may carry out any such contract or arrangement.

Cancellation
of shares.
No. 6138 s. 27.

27. A society may cancel any share purchased by or forfeited to the society in accordance with the rules of the society.

Society's
charge on
shares &c.
No. 6138 s. 28.

28. A society shall have a charge upon the share or interest in the capital of a member or past member in respect of any debt due from the member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of the debt.

Provision for
payment of
sum due on
unadvanced
shares of
deceased
member
without
production of
probate or
letters of
administra-
tion.
No. 6138 s. 29.

29. Notwithstanding anything to the contrary in the rules of any society, where a member of a society to whom an advance has not been made dies and upon the withdrawal of his shares there is payable by the society a sum not exceeding Two hundred pounds, then the society may—

- (a) after the expiration of two months from the death of the said member if probate or letters of administration have not been produced to the secretary and notice in writing of intention to apply therefor has not been received by the secretary; or
- (b) after the expiration of three months from the death of the said member if such notice of intention to apply has been received by the secretary within the period of two months from the death but probate or letters of administration have not been produced to the secretary—

pay the said sum to the person or persons appearing to the directors to be entitled thereto according to law as on the intestacy of the deceased member and any such payment shall be

valid and effectual with respect to any demand against the society or the directors by any other persons as the said member's next of kin legatees or personal representatives, but such next of kin legatees or personal representatives shall nevertheless have the right to recover the whole or any portion of any such sum so paid from the person or persons who have received the same from the society.

DIVISION 4.—PRIVILEGES, POWERS, AND DUTIES.

30. A society shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and shall have power to enter into contracts, to institute and defend actions suits and legal proceedings, and to do all things necessary for the purpose of its constitution.

Society to be
a body
corporate.
No. 6138 s. 30.

31. No fee shall be chargeable for the registration of a society or of its rules or of any alteration of its rules.

Exemption
from fees.
No. 6138 s. 31.

32. A society may acquire by lease purchase donation devise bequest or otherwise any real or personal property for any objects of the society and may sell or lease any such real or personal property.

Acquisition
of property.
No. 6138 s. 32.

33. (1) With the approval of the registrar a society may raise money on loan in such manner as it thinks fit, and in particular, without limiting the generality of the foregoing, by legal or equitable mortgage charged upon the undertaking of the society or upon all or any part of the property and rights (both present and future) of the society, including its unpaid capital, subscriptions, payments in respect of advances and other moneys.

Raising loans.
No. 6138 s. 33.

(2) A society shall not be authorized to receive money on deposit.

(3) A society shall not raise money on loan so that it has on loan at any time an aggregate amount exceeding One hundred pounds unless a higher aggregate amount has been approved by special resolution of the society.

(4) Except as may be provided in any agreement made in relation to a guarantee executed by the Treasurer of Victoria under this Act, no person lending money to a society shall be bound to see to the application thereof or be in any way affected or prejudiced by the fact that such society in borrowing such money has contravened the provisions of this or any other section of this Act or the rules of the society.

(5) Where the Treasurer of Victoria pursuant to Division one of Part V. of this Act executes a guarantee in favour of any bank friendly society or approved body guaranteeing the repayment of any loan to be made by such bank friendly society or approved body to any society registered under this Act, then

As to loans by
banks
friendly
societies &c.

notwithstanding anything to the contrary in any Act or in any memorandum or articles of association or rules, such bank friendly society or approved body shall be deemed to be empowered to make such loan out of any funds held by it which it is authorized to invest and in respect of which investment on loan as aforesaid is not specifically prohibited by the terms of any trust governing such funds.

Registration
of mortgages
given by
societies as
security for
loans.

(6) Any mortgage given as security for any money raised on loan by a society under the powers conferred by this section may within thirty days after its execution be registered by filing in the office of the registrar a true copy thereof verified by statutory declaration.

(7) The registrar shall cause to be entered in a register to be kept by him for the purpose short particulars (including the names of the parties and the consideration) of every copy mortgage so filed with him with a memorandum of the date hour and time at which each of them is so filed, and that date hour and time shall in the case of each mortgage be the date hour and time of registration.

(8) The registrar may at any time, upon evidence being given to his satisfaction that the debt for which any registered mortgage was given has been paid or satisfied, or that a discharge of mortgage as to the whole or any part of the property mortgaged has been executed, cause a memorandum to that effect to be entered in the register.

(9) The register so kept and every copy mortgage filed as aforesaid shall be open to inspection at the office of the registrar by any person on payment of the prescribed fee (if any).

As to
priority of
registered and
unregistered
mortgages &c.

(10) A mortgage shall not, unless registered in accordance with this section, be of any validity as against any subsequent mortgagee whose mortgage is duly registered in accordance with this section before the registration of such first-mentioned mortgage except in the case of fraud; and, except in the case of fraud, the priority of all mortgages duly registered in accordance with this section shall be determined by the order of registration and not of date, and shall not be affected by notice actual or constructive of any unregistered mortgage or of any contract therefor, and the knowledge that any such mortgage, or contract is in existence shall not of itself be imputed as fraud; and every second or subsequent mortgage shall, if duly registered in accordance with this section, become, upon such registration and upon satisfaction of all prior mortgages registered in accordance with this section, a first mortgage.

As to
registration of
mortgages
already given.
14th May,
1946.

(11) Where before the commencement of the *Co-operative Housing Societies Act 1946* any such mortgage as aforesaid has been given by a society and has not been wholly satisfied, and a true copy of the mortgage has been filed in accordance with

sub-section (6) of this section within thirty days after the commencement of the said Act, the mortgage shall, except in the case of fraud, be deemed to have been registered as at the date of execution thereof, and the particulars and memorandum thereof shall be entered in the register accordingly, and the provisions of sub-sections (8), (9), (10), and (12) of this section shall apply with respect to such mortgage accordingly.

(12) A judge of the Supreme Court, on being satisfied that the omission to register a mortgage within the time required by this section or the omission or mis-statement of any particular with respect to any such mortgage or in any memorandum of satisfaction was accidental or due to inadvertence or to some other sufficient cause or is not of a nature to prejudice the position of creditors or members of the society or that on any other grounds it is just and equitable to grant relief, may on the application of the society or any person interested and on such terms and conditions as seem to the judge just and expedient order that the time for registration be extended or (as the case may be) that the omission or mis-statement be rectified.

Power to judge of Supreme Court to extend period for registration &c.

(13) Nothing in the last seven preceding sub-sections shall apply to any mortgage solely of specific land duly registered in accordance with the *Property Law Act 1958* or the *Transfer of Land Act 1958*.

Provisions for registration of mortgages not to apply to mortgages of specific lands registered under the *Property Law Act* or the *Transfer of Land Act*.

34. (1) A society shall not make any advance to any person who is not a member of the society.

As to advances by societies.
No. 6138 s. 34.

(2) A society shall not make any advance to a member of the society—

(a) except for the purpose of enabling such member—

(i) to purchase land and erect a dwelling-house thereon; or

(ii) to erect a dwelling-house on land already owned by him; or

(iii) to purchase land upon which is situated a dwelling-house—

which was erected by or is vested in the Housing Commission of Victoria; or

which was erected by any person within the period of five years immediately prior to the application for the advance or (where the member is at the date of the application the tenant of

the dwelling-house) within the period of twenty years immediately prior to that date; or

upon which an advance has been made by the society to another member from whom the land is purchased by the member in question;

- (iv) (where the approval of the Governor in Council given after consideration of a report by the registrar is first obtained) to discharge a mortgage held by another society upon any land; or
- (v) to discharge a mortgage or any other charge or security over or affecting any land which mortgage charge or security was granted or executed by the member whilst a member of the society and with the prior approval in writing of the society and of the registrar;
- (b) unless such land is within such distance from the registered office of the society as may be prescribed by the regulations or the registrar and the Treasurer of Victoria consent to the making of the advance; and
- (c) unless the board is satisfied that the member intends to reside in the dwelling-house erected or to be erected on such land and is not already the owner of more than one dwelling-house (other than the dwelling-house in relation to which the advance is to be made).

As to mortgages securing advances by societies.

(3) A society shall not make any advance on the security of any property which is subject to a prior mortgage, unless the prior mortgage is in favour of the society.

(4) Every mortgage executed as security for an advance by a society shall, where the land the subject of the security is under the *Transfer of Land Act* 1958, be registered under that Act, and, where such land is under the general law, be registered in the office of the Registrar-General.

(5) Any property to which a society may become absolutely entitled by foreclosure surrender or other extinguishment of the right of redemption shall as soon afterwards as may be conveniently practicable be sold or converted into money.

Contracts by society.
No. 6138 e. 35.

35. (1) Contracts on behalf of a society may be made varied or discharged as provided in this section.

(2) Any contract which, if made between private persons, would be by law required to be in writing and under seal, may be made on behalf of the society in writing under the common seal of the society, and the contract may in the same manner be varied or discharged.

(3) Any contract which, if made between private persons, would be by law required to be in writing and signed by the party to be charged therewith, may be made on behalf of the society in writing, signed by any person acting under the express or implied authority of the society, and the contract may in the same manner be varied or discharged.

(4) Any contract which, if made between private persons, would be by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the society by any person acting under the express or implied authority of the society, and the contract may in the same way be varied or discharged.

(5) Any contract made according to the provisions of this section shall be effectual in law and shall be binding upon the society and all other parties thereto.

36. (1) The name of a society shall include the words "co-operative housing society" as part of the name and the word "limited" as the last word of the name.

As to name
and address
of society.
No. 6138 s. 36.

(2) The name of a society shall be inscribed in legible characters on its seal, and shall be stated in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, cheques, promissory notes, endorsements, orders for money, receipts, and other documents required in the business of the society.

(3) The name of the society with a statement that the society is registered under this Act shall be painted or affixed, and kept painted or affixed, on the outside of its office in a conspicuous place and in letters which are clearly legible.

(4) The office of the society shall be registered as prescribed, and notice of any change of address shall be transmitted to the registrar within fourteen days after the change.

37. Any document may be served on a society by leaving it at the registered office of the society with some person apparently in the service or employment of the society or by sending it by post addressed to the society at its registered office.

Service of
documents on
society.
No. 6138 s. 37.

38. The rules of a society shall bind the society and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed

Effect of
rules.
No. 6138 s. 38.

his name and affixed his seal thereto, and there were contained in the rules a covenant on the part of each member and his personal representatives to observe all the provisions of the rules, subject to the provisions of this Act and the regulations.

Registers and
accounts.
No. 6138 s. 39.

39. (1) A society shall keep such registers and accounts as are prescribed.

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

- (a) a register of the directors members and shares;
- (b) a register of any loans raised and securities given by the society; and
- (c) a register of any advances made and securities taken by the society.

(3) The registers shall be kept in such manner and shall contain such particulars as are prescribed.

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

Inspection of
registers &c.
No. 6138 s. 40.

40. A society shall have at its office and open at all reasonable hours to inspection by any member or creditor without fee—

- (a) a copy of this Act and the regulations;
- (b) a copy of the rules of the society;
- (c) a copy of the last audited balance-sheet and final accounts, together with the report of the auditor;
- (d) the prescribed register of directors members and shares; and
- (e) the prescribed register of loans raised and securities given by the society.

Returns.
No. 6138 s. 41.

41. (1) A society shall, within fourteen days after any change in the membership of the board, transmit to the registrar information of the change.

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

- (a) a list of the directors for the year then current;
- (b) a statement of the assets and liabilities of the society at the close of that financial year and of the accounts of the society for that financial year;
- (c) a copy of any report by the auditor on such accounts; and
- (d) such other returns as are prescribed.

(3) A society shall, when so required by notice in writing by the registrar, furnish to the registrar within the time specified in that behalf in the notice a full list in the prescribed form of all of its members as at the end of the financial year then last past or such other particulars as are specified in the notice with respect to the membership of the society.

42. (1) A society shall furnish to any person intending to become a member a list of the charges payable under the rules by a member to the society.

Charges.
No. 6138 s. 42.

(2) A person who becomes a member of the society shall be liable to pay only the charges mentioned in the list and any charges which may be imposed by any subsequent registered alteration of the rules.

(3) The charges may be altered by special resolution.

43. The rules of a society shall not allow of voting by proxy.

No voting by
proxy
No. 6138 s. 43.

44. (1) For the purposes of this Act "special resolution" means a resolution which is passed by a majority of not less than three-quarters of such members of the society entitled under the rules to vote as may be present in person at any general meeting of which notice specifying the intention to propose the resolution has been duly given according to the rules.

"Special
resolution."
No. 6138 s. 44.

(2) At any such general meeting, unless a poll is demanded, a declaration by the chairman that the resolution has been carried shall be conclusive evidence of the fact.

(3) A copy of the special resolution, signed by the chairman of the meeting and countersigned by the secretary, shall be sent to the registrar within one month after the passing of the special resolution, and shall be registered by him and until the copy is so registered the special resolution shall not take effect:

Provided that where before the expiration of the said period of one month a request in writing for the extension of that period is lodged with the registrar and the registrar is satisfied that circumstances beyond the control of the society have precluded and will preclude the sending of the copy of the special resolution to the registrar within the said period of one month, the registrar may if he thinks fit by writing extend the period for the sending of the copy of the special resolution by such further period (not exceeding one month) as he thinks proper, and in any such case the sending of the copy of the special resolution within such further period shall be deemed and taken to be in compliance with the provisions of this Act:

Provided further that a special resolution for the expulsion of any member from a society shall not be registered unless the registrar is satisfied that in all the circumstances of the case the expulsion is reasonable and that the proceedings in respect of the expulsion have been properly and fairly conducted.

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

PART III.—RULES, MANAGEMENT, ETC.

DIVISION 1.—RULES.

Model rules.
No. 6138 a. 45.

45. (1) Model rules for a society shall be prescribed by regulation.

(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.

(3) Where a society is formed under this Act, in so far as any rules tendered for registration are not inconsistent with or do not exclude or modify the model rules as then in force, such model rules shall be deemed to form part of the rules of the society in the same manner and to the same extent as if they were contained in the rules tendered and registered.

(4) No alteration of the model rules shall apply to any society which is established before the regulation prescribing the alteration comes into operation, unless the society by special resolution adopts the alteration in its rules.

Rules of a
society.
No. 6138 a. 46.

46. (1) The rules of a society shall be divided into paragraphs numbered consecutively, and shall set forth—

- (a) the name of the society;
- (b) where the office of the society is to be situated;
- (c) the objects of the society;
- (d) the nominal value of each share in the society;
- (e) the maximum proportion of the shares which may be held by a member;
- (f) the fixed date on which or the object or event on the attainment or occurrence of which the society is to terminate;
- (g) the periodic subscriptions by which or the manner in which shares are to be paid for and the penalties for late payment;
- (h) the minimum number of shares to be subscribed for by a member;
- (i) the manner in which shares may be transferred;

- (j) the manner in which the funds of the society are to be managed, and, in particular, the mode of drawing and signing cheques drafts bills of exchange promissory notes and other documents for and on behalf of the society;
- (k) the manner in which an application for an advance is to be made, the conditions with which an applicant is to comply, the manner in which an advance is to be made and repaid, the conditions upon which a member may pay the amount due by him before the expiration of the period for which the advance is made, and the terms upon which a mortgage may be redeemed;
- (l) the mode and conditions of admission to membership, and the payment to be made or the share or interest to be acquired before the exercise of the rights of membership;
- (m) the rights and liabilities of members, and of the estates of deceased members and of members whose estates have been sequestrated or assigned;
- (n) whether or not shares may be withdrawn, and if so, upon what terms;
- (o) the manner in which the value of shares is to be ascertained for repayment;
- (p) the circumstances in which members may be expelled, the rights and liabilities of expelled members, and provision for the forfeiture of shares and for the cancellation of forfeited shares;
- (q) the number of directors, the qualification of directors, and the manner of electing remunerating and removing directors and filling a vacancy, whether directors are to be elected annually or half-yearly, the period for which directors are to hold office, and whether directors are to retire by rotation or otherwise;
- (r) the powers and duties of the board and the quorum for meetings of the board;
- (s) the intervals between general meetings of the society, the manner of calling general and special meetings, the requisite notices of meetings, and the quorum for meetings, of the society;
- (t) the procedure at meetings of the society, including the rights of members in voting thereat, and the manner of voting;

- (u) the manner of appointing remunerating and removing officers (other than directors) of the society, the powers and duties of officers, and the security to be given by any officer having the receipt or charge of any moneys belonging to the society;
- (v) whether the accounts of the society are to be audited annually or more frequently, the manner of appointing remunerating and removing auditors, the powers and duties of auditors, and in particular their powers and duties with respect to the inspection of securities belonging to the society;
- (w) provision for the custody of securities belonging to the society;
- (x) the charges, including any charges on admission or for management expenses or otherwise, which are to be payable by a member to the society;
- (y) the manner of altering and rescinding the rules, and of making additional rules;
- (z) provision for the custody and use of the seal of the society;
- (aa) the manner in which the society may be wound up; and
- (bb) such other matters as are prescribed by this Act or the regulations.

(2) Any person shall be entitled to obtain from a society a copy of its rules on payment of a sum not exceeding Two shillings and sixpence.

(3) The rules of a society shall not provide for the expulsion of any member from the society otherwise than by a special resolution.

Alteration
of rules.
No. 6138 s. 47.

47. (1) The rules of a society shall not be altered unless the alteration has been approved by a special resolution.

(2) The society shall within one month after such approval apply to the registrar to have the alteration registered and the application shall be made as prescribed:

Provided that where before the expiration of the said period of one month a request in writing for the extension of that period is lodged with the registrar and the registrar is satisfied that circumstances beyond the control of the society have precluded or will preclude the making of the application to have the alteration registered within the said period of one month, the registrar may if he thinks fit by writing extend the period for the said application by such further period (not exceeding one month) as he thinks proper, and in any such case the making of the application within such further period shall be deemed and taken to be in compliance with the provisions of this Act.

(3) If the registrar is satisfied that the alteration is not contrary to this Act or the regulations and that the rules as altered are suitable and sufficient for the purposes of the society, the registrar shall register and certify the alteration as prescribed, and until the alteration is so registered and certified the alteration shall not take effect.

(4) The rules of the society shall be read subject to any alteration so registered and certified.

(5) In this Act, alteration of a rule includes addition to a rule and rescission of a rule.

DIVISION 2.—MANAGEMENT.

48. (1) The business and operations of a society shall be managed and controlled by a board of directors, and for that purpose the board, except as provided in this section, shall have and may exercise the powers of the society as if they had been expressly conferred on the board by a general meeting of the society.

Board of
directors.
No. 6138 s. 48.

(2) The powers of the board shall be subject to any restrictions imposed thereon by this Act or the regulations or by the rules of the society.

(3) Every director acting in the business or operations of the society pursuant to the rules or to a resolution duly passed by the board shall be deemed to be the agent of the society for all purposes within the objects of the society.

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

(5) A director shall not be held liable to the society for any loss that the society may sustain, unless the loss was due to his misconduct or negligence or to his failure to comply with any of the provisions of this Act or of the regulations or of the rules of the society.

(6) The directors shall be elected at a general meeting of the society in accordance with the rules of the society:

Provided that the first directors shall be elected at the meeting for the formation of the society.

(7) The number of directors shall not be less than five and no person shall be qualified to be a director unless he is a member of the society.

(8) Meetings of the board shall be held as often as may be necessary for properly conducting the business and operations of the society, but shall be held at least once in every two calendar months, and a quorum of a meeting of the board shall be as prescribed by the rules of the society but shall not in any case be less than half the number of directors.

(9) The chairman of the board shall be elected by the board in accordance with the rules of the society, and shall hold office and retire, and may be removed from office, as prescribed by the rules of the society.

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

(11) The office of a director shall be vacated in such circumstances, if any, as may be prescribed by the rules of the society, and in any of the following cases, that is to say—

- (a) if he becomes bankrupt or insolvent or assigns his estate for the benefit of or compounds with his creditors;
- (b) if he becomes a lunatic or lunatic patient within the meaning of the *Mental Hygiene Act* 1958;
- (c) if he is convicted of any offence under this Act, or if he is convicted of any indictable offence or of any offence punishable on summary conviction for which he is sentenced to imprisonment otherwise than in default of payment of a fine;
- (d) if he absents himself from three consecutive ordinary meetings of the board without its leave;
- (e) if within two months after any money becomes due by him to the society he does not pay the same;
- (f) if he ceases to be a member of the society;
- (g) if by notice in writing to the board he resigns his office;
- (h) if he is removed from office by resolution of a general meeting of the society; or
- (i) if he has, except as provided in this section, a direct or indirect pecuniary interest in any agreement with the society otherwise than as a member of, and in common with the other members of, another company or corporate body consisting of more than twenty persons.

(12) The provisions of paragraph (i) of the last preceding sub-section shall not be deemed to extend to any advance to the director made by the society in accordance with a special resolution.

(13) A director shall not vote upon any question in which he has any direct or indirect pecuniary interest otherwise than as a member and in common with the other members of the society, and if he votes, his vote shall not be counted.

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

49. (1) This section shall apply to and in respect of—

Appointment
of director by
Treasurer in
certain cases.
No. 6138 a. 49

(a) every society for the repayment of any loan to which the Treasurer of Victoria has executed a guarantee under this Act; and

(b) every society with which the Treasurer of Victoria has entered into an agreement of indemnity under this Act.

(2) The said Treasurer may, from time to time, by notification published in the *Government Gazette*, appoint a person to be a director of any society to which this section applies and may by the like notification remove any such director.

(3) The provisions of this Act (other than this section) and of the rules of the society relating to the qualification disqualification remuneration removal from office and term of office of directors and to the vacation of office by directors shall not apply to or in respect of a director appointed under this section.

(4) A director appointed under this section shall hold office as an additional director and shall not be counted in ascertaining the number of directors for the election of whom provision is made in the rules of the society.

(5) Subject to sub-section (3) of this section a director appointed under this section shall have all the powers, rights, authorities, functions, privileges, immunities, duties, obligations, and liabilities of a director elected in accordance with the rules of the society.

(6) A director appointed under this section shall, unless he is an officer of the public service, be paid such fees as are prescribed by the regulations.

Annual
meeting.
No. 6138 s. 50.

50. (1) The annual general meeting of the society shall be held within three months after the close of the society's financial year, or within such further time as may be allowed by the registrar or prescribed by the regulations.

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

(3) At any meeting of the society no item of business shall be transacted unless a quorum of members entitled under the rules to vote is present during the time when the meeting is considering that item, and the quorum shall be as prescribed by the rules of the society.

Voting by
members.
No. 6138 s. 51.

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

(2) Every member of a society entitled under the rules to vote shall, irrespective of the number of shares held by him, have one vote.

Minutes.
No. 6138 s. 52.

52. Minutes of every meeting of the board, and of every meeting of the society, shall be kept and confirmed as prescribed.

Officers.
No. 6138 s. 53.

53. (1) A director or other officer shall not borrow from the society, and the society shall not make any advance to a director or other officer, except by special resolution of the society, and if any advance is made in contravention of this sub-section the members of the board who authorized the advance shall be jointly and severally liable for any loss on the advance occasioned to the society.

(2) A director or other officer may be paid such fees as are fixed by a general meeting of the society but not exceeding in any case such maximum amounts as are prescribed by the regulations.

(3) Every officer having the receipt or charge of any money of the society shall give security as prescribed by the regulations for rendering a just and true account of all money received and paid by him for the society, and for payment of all money due from him to the society.

54. A director or other officer of a society shall not, except where specifically authorized by a special resolution of the society—

Certain
dealings by
directors &c.
prohibited.
No. 6138 s. 54.

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

55. (1) This section shall apply to and in respect of—

Dismissal of
director &c.
after inquiry
in certain
cases.
No. 6138 s. 55.

- (a) every society for the repayment of any loan to which the Treasurer of Victoria has executed a guarantee under this Act; and
- (b) every society with which the Treasurer of Victoria has entered into an agreement of indemnity under this Act.

(2) The Treasurer of Victoria may appoint a person to hold an inquiry and to report to him with respect to—

- (a) any matter relating to the carrying out of the provisions of this Act conferring powers or imposing duties on a society to which this section applies; or
- (b) any act or omission of any director or officer of a society to which this section applies, where such act or omission relates to the carrying out of the provisions of this Act conferring powers or imposing duties on the society or to the office or position held by the director or officer or to the powers or duties of that office or position.

(3) For the purposes of any such inquiry the person holding the inquiry shall have the powers and authorities conferred on a sole commissioner by sections seventeen to twenty of the *Evidence Act* 1958 and the provisions of the said Act and of any other Act or law relating to inquiries under the said sections shall, so far as applicable and with such adaptations as are necessary, extend and apply to and with respect to inquiries under this section.

(4) The Treasurer of Victoria may, after consideration of the report of the person holding an inquiry under this section, direct that the office or position in a society of the director or officer

to whom the report relates shall be vacated, and that such director shall not be eligible to hold office as a director of that society, or (as the case may require) that such officer shall not be eligible for appointment or employment as an officer of that society.

(5) The office or position shall be deemed to have become vacant as from the date upon which notices of the direction of the Treasurer of Victoria, addressed to the director or officer to whom the same relate and to the society of which he is a director or an officer, and signed by or on behalf of the Treasurer of Victoria, are delivered at or posted to the registered office of the society.

Audit &c.
No. 6138 & 56.

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

(2) The auditor shall be a person licensed by the Companies Auditors' Board and approved by the registrar, but an officer of the society shall not be capable of being appointed its auditor.

(3) The auditor shall have a right of access to the books accounts vouchers and documents of the society, and may require from the directors and other officers such information and explanation as may be necessary for the performance of his duties as auditor.

(4) In making his report to the members of the society and in signing any statement of assets and liabilities or of accounts to be presented to the members or transmitted to the registrar, the auditor shall state—

(a) whether he has obtained the information and explanation required by him;

(b) whether in his opinion the statements are properly drawn up so as to exhibit a true and correct view of the financial position of the society according to the information at his disposal and explanation given to him and as shown by the books of the society; and

(c) whether the rules relating to the administration of the funds of the society have been observed.

(5) A copy of the balance-sheet and final accounts for the period covered by the audit, both duly audited, together with a copy of the auditor's report to the members of the society, shall be transmitted to each member with the notice of the annual general meeting, or, in the alternative, if the rules of the society so provide, the notice of the annual general meeting may include a notice that the balance-sheet and final accounts as aforesaid and the auditor's report may be inspected by members at the office of the society for such period before the meeting as may be prescribed by the rules.

(6) Any member may inspect his own account in the books of the society at any reasonable time on payment of a fee not exceeding Two shillings.

(7) The Treasurer of Victoria may at any time require and authorize the Auditor-General to audit the accounts of any society and, when so required and authorized, the Auditor-General shall have in respect of such accounts all the powers conferred on him by any law relating to the audit of the public accounts, and shall at the completion of any such audit report thereon to the Treasurer of Victoria.

57. (1) The financial year of a society shall end at the conclusion of the last pay day of the society before the thirtieth day of June, or with the written approval of the registrar at any other time between the thirty-first day of March and the thirtieth day of June.

Financial
year.
No. 6138 s. 57.

(2) The first financial year of the society shall be deemed to be from the date of registration of the society to the conclusion of the said pay day, or such other time as is approved as aforesaid, in the following year.

DIVISION 3.—VALUATIONS.

58. (1) No advance to a member of a society shall be made upon the security of any freehold property unless a valuation of that property in accordance with this Division of this Part is first obtained by the board.

Valuations of
property to be
made by
sworn
valuators &c.
No. 6138 s. 58.

(2) Every valuation of freehold property for the purposes of any advance to be made by a society upon the security of that property shall be made by a sworn valuator appointed under section seven of the *Transfer of Land Act* 1958 or other person possessing the necessary qualifications for and experience in the valuing of land and dwelling-houses erected or to be erected thereon and in either case approved as a valuator for the purposes of this Act by the registrar (whether generally or in respect of any particular valuation).

(3) Every valuator's report to the board on any property shall be verified in the prescribed manner and shall set forth full particulars with respect to the property and the manner in which the valuation is arrived at and such further particulars as are prescribed.

(4) If the board is not satisfied with the accuracy of any valuation or of any of the particulars set forth in the valuator's report, the board shall cause a further valuation or (where the case so requires) further valuations to be made and, where two or more valuations have been so made, the lower or lowest of such valuations shall be deemed the valuation for the purposes of the advance to be made by the society.

Provision for
further
valuation.

(5) No valuator shall value any property offered as a security for an advance in which such valuator or the wife or husband or any relation by blood or marriage of such valuator is directly or indirectly interested.

(6) Any valuator who knowingly and wilfully—

(a) contravenes the provisions of the last preceding sub-section; or

(b) makes any false and fraudulent valuation—

shall, without prejudice to proceedings for any other offence for which he may be liable, be guilty of an offence against this Act and liable to a penalty of not more than Two hundred pounds.

DIVISION 4.—WINDING UP, ETC.

Winding up
voluntarily or
by court &c.
No. 6138 s. 59.

59. (1) A society may be wound up voluntarily or by or subject to the supervision of the court or upon a certificate of the registrar.

Application
of certain
provisions of
*Companies
Act 1938* to
such windings
up.

(2) In the case of a voluntary winding up or a winding up by or subject to the supervision of the court the society may be wound up in the manner and in the circumstances in which a company formed or registered under Part I. of the *Companies Act 1938* may be wound up, and the provisions of that Act relating to such a winding up shall so far as applicable apply to and in respect of the winding up of the society with such adaptations as are necessary and in particular so that—

(a) any reference in the provisions of that Act to the Registrar-General shall be deemed to be a reference to the registrar under this Act; and

(b) any reference in the provisions of that Act to a special resolution or extraordinary resolution shall be deemed to be a reference to a special resolution under this Act.

Filling
vacancy in
office of
liquidator.

(3) Where a society is being wound up voluntarily and a vacancy occurs in the office of liquidator which in the opinion of the registrar is unlikely to be filled in the manner provided in the *Companies Act 1938* the registrar may appoint a person to be liquidator.

Winding up
on certificate
of registrar.

(4) In the case of a winding up upon a certificate of the registrar the society may be wound up if the registrar certifies that any of the following events has occurred, that is to say:—

(a) that the number of members is reduced to less than twenty and the registrar and the Treasurer of Victoria are satisfied that it is desirable and expedient that the society be wound up;

- (b) that the society has not commenced business within a year of registration or has suspended business for a period of more than six months;
 - (c) that the specified date on which the society is to terminate has arrived;
 - (d) that the specified object or specified event upon the attainment or occurrence of which the society is to terminate has been attained or has occurred (as the case may be);
 - (e) that the registration of the society has been obtained by mistake or fraud;
 - (f) that the society exists for an illegal purpose; or
 - (g) that the society has wilfully and after notice from the registrar violated the provisions of this Act or of the regulations or of the rules of the society.
- (5) The registrar shall not so certify unless—
- (a) the event has been proved to his satisfaction; and
 - (b) in the case of any of the matters referred to in paragraphs (e) (f) and (g) of the last preceding sub-section, the Governor in Council consents to the issue of the certificate.

(6) Where the registrar so certifies he may appoint a person to be the liquidator of the society and such liquidator shall give such security and be entitled to receive such fees as are prescribed.

Appointment
of liquidator.

(7) Where the registrar has so certified and has appointed a liquidator the provisions of Part I. of the *Companies Act 1938* relating to a members' voluntary winding up of a company formed or registered under that Act shall, so far as applicable and with such adaptations as are necessary and in particular with the adaptations referred to in sub-section (2) of this section, apply to and with respect to the winding up of the society:

Application
of certain
provisions of
*Companies
Act 1938*
to such
windings up.

Provided that—

- (a) any vacancy occurring in the office of liquidator shall be filled by appointment by the registrar; and
- (b) the winding up shall be deemed to commence at the date of the certificate of the registrar.

(8) The provisions of sections two hundred and ninety-four to three hundred and two of the *Companies Act 1938* shall so far as applicable apply to and with respect to societies registered under this Act with such adaptations as are necessary and in particular so that any reference in those provisions to the Registrar-General shall be deemed to be a reference to the registrar under this Act.

Application
of certain
provisions of
*Companies
Act 1938* to
dissolution of
societies.

(9) In this section "the court" means the Supreme Court or a judge thereof.

Liability of
members and
past members
in winding up.
No. 6138 s. 60.

60. (1) Where a society is being wound up, every present and past member of the society shall be liable to contribute to the assets of the society up to the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member together with any charges payable by him to the society, for payment of the debts and liabilities of the society and the costs charges and expenses of the winding up and for payment of such sums as may be required for the adjustment of the rights of the contributories among themselves, with the qualifications set out in this section:

Provided that in the winding up of any society a member shall not be liable to pay the amount unpaid on the shares in respect of which he is liable except at the time or times and subject to the conditions expressed in the rules of the society relating to the payment of share capital by instalments and, where an advance has been made, in the mortgage securing the advance.

(2) A past member shall not be liable to contribute to the assets of the society if he has ceased to be a member for one year or upwards before the commencement of the winding up.

(3) A past member shall not be liable in respect of any debt or liability of the society contracted after the time at which he ceased to be a member.

(4) A past member shall not be liable to contribute unless it appears that the existing members are unable to make the contributions required to be made by them in order to satisfy all just demands upon the society.

Dissolution
and
cancellation.
No. 6138 s. 61

61. (1) A society shall not be dissolved nor the registration of the society cancelled until a certificate signed by the liquidator or by the secretary or some other officer of the society approved by the registrar has been transmitted to the registrar that all property vested in the society has been duly conveyed or transferred by the society to the persons entitled.

(2) As soon as practicable after the society is dissolved, the registrar shall register the dissolution and cancel the registration of the society.

PART IV.—ADMINISTRATION.

DIVISION 1.—REGISTRY.

Registrar and
registry of
co-operative
housing
societies.
No. 6138 s. 62.

62. (1) There shall be a registrar of co-operative housing societies, and an office of the registrar.

(2) The registrar and all other persons employed in or in connexion with the office of the registrar shall be appointed pursuant to and shall hold their office or employment under and subject to the *Public Service Act 1958*.

(3) The registrar shall have such duties powers and authorities as are prescribed by this Act or by the regulations.

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

63. All certificates rules and documents required to be registered under this Act or to be transmitted to the registrar for record shall be kept in the office of the registrar.

Documents
&c. to be kept
in office of
registrar.
No. 6138 s. 63.

64. The Treasurer of Victoria may, on the recommendation of the Co-operative Housing Advisory Committee under this Act, authorize the payment, out of moneys made available by Parliament for the purpose, of amounts for the purpose of meeting expenses relating to the dissemination of information concerning the formation registration and operation of co-operative housing societies.

Payments to
meet expenses
relating to
giving of
information
concerning
formation of
societies.
No. 6138 s. 64.

65. (1) On any application for registration of a society or of any rule or document under this Act the registrar may require from the applicant such information and evidence as is reasonable in order to show that the application should be granted.

Power to
registrar to
require
evidence &c.
No. 6138 s. 65.

(2) The registrar may require from any society such information and evidence as is reasonable in order to show that the society is *bona fide* carrying on business in accordance with the provisions of this Act.

(3) The registrar may require from a society such evidence as he thinks proper of all matters required to be done and of the particulars in any document required to be transmitted to him under this Act.

66. (1) The registrar may inspect, or may authorize in writing any officer employed in or in connexion with the office of the registrar or any officer of the public service or any accountant or actuary to inspect, any minutes registers books and documents of any society.

Inspection of
books &c.
No. 6138 s. 66.

(2) The registrar or any person so authorized may require any director or officer of the society to produce to him all the minutes registers books and documents of the society, and any person so required who fails without reasonable excuse to comply with the requirement shall be guilty of an offence against this Act and liable to a penalty of not more than One hundred pounds.

(3) Any bank in which a society keeps an account shall, when so required in writing by the registrar, furnish to the registrar a statement of such account and any other particulars required by the registrar to be so furnished.

(4) No bank shall incur any liability, whether in respect of any breach of trust or otherwise, by reason only of the furnishing of any statement or particulars pursuant to this section.

Saving.

Special
meeting and
inquiry on
application of
board &c.

No. 6138 s. 67.

67. (1) The registrar shall on the application of a majority of the board or of not less than one-third of the members of any society—

- (a) call a special general meeting of the society; or
- (b) hold an inquiry into the affairs of the society.

(2) The application shall be supported by such evidence as the registrar directs for the purpose of showing that the applicants have good reason for requiring the meeting or inquiry, and that the application is made without malicious motive.

(3) Such notice of the application shall be given to the society as the registrar directs.

(4) The applicants shall give such security for the expenses of the meeting or inquiry as the registrar directs.

(5) The registrar may direct at what time and place any such meeting is to be held and what matters are to be discussed and determined at the meeting, and shall give such notice to members of the holding of such meeting as he deems fit notwithstanding any provision in the rules of the society as to the giving of such notice.

(6) The meeting shall have all the powers of a meeting called in accordance with the rules of the society, and shall have power to appoint its own chairman, notwithstanding any rule of the society to the contrary.

(7) The registrar may appoint an inspector for the purpose of any such inquiry.

(8) All expenses of and incidental to the meeting or inquiry shall be defrayed by the applicants or out of the funds of the society or by any officer or member or former officer or member of the society as the registrar directs, or in any two or more of such ways in such proportions as the registrar directs, and may be recovered in any court of petty sessions as a civil debt recoverable summarily or in any other competent court.

Inquiry by
registrar or
inspector.
No. 6138 s. 68.

68. (1) The registrar may without any application hold an inquiry or appoint an inspector to hold an inquiry into the affairs of any society.

(2) Upon the completion of any inquiry under this section or the last preceding section the registrar may if he thinks fit call a special general meeting of the society.

(3) The provisions of sub-sections (5), (6), and (8) of the last preceding section shall so far as applicable apply to and with respect to any such meeting.

69. For the purposes of any inquiry into the affairs of a society the registrar or any inspector appointed for the purpose shall have the powers and authorities conferred by sections fourteen to sixteen of the *Evidence Act* 1958 upon a board appointed by the Governor in Council and upon the chairman of such a board, and the provisions of the said Act or any other Act or law relating to an inquiry under the said sections shall, so far as applicable and with such adaptations as are necessary, extend and apply to and with respect to any such inquiry into the affairs of a society.

Powers of registrar or inspector upon inquiry.
No. 6138 s. 69.

70. Any person may on payment of the prescribed fee—

- (a) inspect at the office of the registrar the registration and rules of any society;
- (b) obtain from the registrar a certificate of the registration of any society and a certified copy of the rules or of any part of the rules of any society; and
- (c) with the permission of the registrar, inspect at his office and obtain from him a certified copy of any other registered document, or of any part thereof.

Inspection of documents at registry.
No. 6138 s. 70.

71. The registrar shall as soon as possible after the end of each financial year make to the Treasurer of Victoria a report of his proceedings and of the principal matters transacted by him and of the administration of this Act generally during that financial year, and such report shall be laid before both Houses of Parliament.

Annual report by registrar.
No. 6138 s. 71.

DIVISION 2.—CO-OPERATIVE HOUSING ADVISORY COMMITTEE.

72. (1) There shall be a Co-operative Housing Advisory Committee constituted by the Governor in Council and consisting of five members.

Constitution of Co-operative Housing Advisory Committee.
No. 6138 s. 72.

(2) Of such members—

- (a) one shall be the registrar who shall be chairman of the committee;
- (b) one shall be an officer of the Treasury of Victoria nominated from time to time by the Treasurer of Victoria (whether generally or in respect of any particular meeting);
- (c) one shall be a person appointed by the Governor in Council for such term as the Governor in Council thinks fit;

- (d) one shall be a person appointed by the Governor in Council for such term as the Governor in Council thinks fit from a panel of the names of not less than three persons submitted to the Minister by the governing body of the Federation of Co-operative Housing Societies of Victoria; and
- (e) one shall be a person appointed by the Governor in Council for such term as the Governor in Council thinks fit from a panel of the names of not less than three persons submitted to the Minister jointly by such of the banks friendly societies or other persons or bodies in whose favour the Treasurer of Victoria has executed guarantees pursuant to Part V. of this Act as the Treasurer of Victoria by writing invites to join in such submission.

(3) If at any time the said governing body or the banks friendly societies and other persons or bodies invited to make a joint submission fail to submit to the Minister a panel of names within one month after the receipt of a request in writing signed by the Minister in that behalf, then the Governor in Council may without such submission appoint any person to be a member of the committee and the person so appointed shall for all purposes be deemed to be duly appointed.

(4) The Governor in Council may at any time remove any appointed member of the committee.

Functions of
committee.

(5) It shall be the function of the committee—

- (a) to submit recommendations to the Treasurer of Victoria with respect to—
 - (i) the regulations and model rules to be made under this Act;
 - (ii) any action to be taken for promoting encouraging and assisting in the formation of societies;
 - (iii) proposals to promote the building of dwelling-houses by co-operative effort;
 - (iv) proposals to improve the methods of operations of societies;
 - (v) proposals relating to financing the operations of societies and, in particular, to the execution of guarantees and the undertaking of indemnities under this Act, including the terms and conditions to be inserted therein and any other action to be taken for the protection of the Consolidated Revenue in relation thereto; and

(vi) such other matters as are prescribed or as are referred to the committee by the Treasurer of Victoria; and

(b) to exercise such other powers and to perform such other duties as are conferred or imposed on the committee by this Act or by the regulations.

(6) Meetings of the committee shall be convened and conducted as prescribed.

(7) Each member of the committee shall be paid such fees as are prescribed.

PART V.—GOVERNMENT GUARANTEES AND INDEMNITIES.

DIVISION 1.—GUARANTEES.

73. (1) The Treasurer of Victoria may, with the approval of the Governor in Council, execute a guarantee in favour of any bank or of any society registered under the *Friendly Societies Act* 1958 (in this Division of this Part referred to as a "friendly society") or of any other person or body corporate or unincorporate (including any trustee), approved by the Treasurer of Victoria (in this Division of this Part referred to as an "approved body") guaranteeing the repayment of any loan to be made by the bank friendly society or approved body to any society registered under this Act.

Power to
Treasurer to
guarantee
society's
indebtedness
to bank &c.
No. 6138 s. 73.

(2) No guarantee shall be executed pursuant to this Division of this Part guaranteeing the repayment of any loan to be made to a society unless the society has first entered into an agreement with the Treasurer of Victoria with respect to the conduct of the affairs of the society while the guarantee is in force and containing such provisions and conditions as are prescribed or as the Treasurer of Victoria thinks fit and, in particular, a condition that while the guarantee is in force—

Provision
relating to
agreement
with respect
to conduct of
and advances
by society
while
guarantee in
force.

(a) the society will not make to any member any advance the amount of which, reduced by the value of the share capital of that member, exceeds eighty per centum of the value of the land and the dwelling-house erected or to be erected thereon which comprise the security for such advance, unless the Treasurer of Victoria has entered into an agreement of indemnity under Division two of this Part in respect of that advance to that member; and

(b) the society will not make to any member, in respect of whom such an agreement of indemnity has been entered into, any advance the amount of which, reduced by the value of the share capital

of the member, exceeds ninety-five per centum of the value of the land and the dwelling-house erected or to be erected thereon which comprise the security for such advance.

(3) For the purposes of the last preceding sub-section the value of the share capital of a member of any society shall be ascertained in such manner as the Co-operative Housing Advisory Committee directs.

Provisions
relating to
guarantees.
No. 6138 s. 74.

74. The following provisions shall apply to and in respect of any guarantee authorized to be executed by this Division of this Part:—

- (a) The guarantee shall be in such form and subject to such terms and conditions as are prescribed or as the Treasurer of Victoria determines;
- (b) The guarantee may include the interest charges and expenses chargeable by the bank friendly society or approved body (as the case may be) against the principal debtor in the usual course of its business and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt guaranteed and such interest charges and expenses;
- (c) The bank friendly society or approved body (as the case may be) shall obtain take and hold such securities (if any) for the payment of the principal debt as the Treasurer of Victoria may require;
- (d) The guarantee shall not be enforceable against the Treasurer of Victoria or against the Consolidated Revenue unless and until the bank friendly society or approved body (as the case may be) has fully exercised its rights and remedies under all securities (other than the guarantee itself) held by or for it in respect of the debt guaranteed, or unless the bank friendly society or approved body (as the case may be) has under the provisions of the securities executed by the society in favour of the bank friendly society or approved body (as the case may be) or of any of such securities become entitled to appoint a receiver of the undertaking and assets of the society; and
- (e) The bank friendly society or approved body (as the case may be) shall not without the consent in writing of the Treasurer of Victoria assign or encumber the benefit of the guarantee.

75. (1) The Treasurer of Victoria shall not execute any guarantee under this Division of this Part where such guarantee would involve him in a liability which when added to the total liabilities subsisting in respect of other guarantees executed under this Division of this Part would in the aggregate exceed the amount of Sixty million pounds.

Aggregate liability under guarantees limited to £60,000,000.

No. 6138 s. 75.

(2) Such sums as may from time to time become due and payable by the Treasurer of Victoria under any guarantee authorized by this Division of this Part shall be paid out of Consolidated Revenue (which is hereby to the necessary extent appropriated accordingly).

Provision for meeting guarantees.

DIVISION 2.—INDEMNITIES.

76. (1) Where a society proposes to make an advance to a member upon the security of any land and a dwelling-house erected or to be erected thereon and the amount of the advance reduced by the value of the share capital of the member exceeds eighty per centum of the value of the land and the dwelling-house ascertained in such manner as the Co-operative Housing Advisory Committee directs but does not exceed ninety-five per centum of the said value or of the sum of Three thousand pounds, whichever is the lesser, then the Treasurer of Victoria may enter into an agreement with the society proposing to make the advance and may by such agreement undertake to indemnify the society against such of the loss sustained by the society in respect of that advance as is directly attributable to the fact that the amount of the advance reduced by the value of the share capital of the member exceeded eighty per centum of the value of the land and dwelling-house ascertained as aforesaid.

Power to Treasurer to indemnify societies against loss in certain cases.

No. 6138 s. 76.

(2) Any such agreement shall operate and have effect until the registrar certifies to the Treasurer of Victoria that the amount owing to the society by the member in respect of the advance to which the agreement relates, reduced by the value of the share capital of the member, is not more than sixty-six and two-thirds per centum of the value of the land and dwelling-house as ascertained in accordance with the last preceding sub-section.

(3) The value of the share capital of a member of any society shall, for the purposes of this Division of this Part, be calculated in such manner as the Co-operative Housing Advisory Committee directs.

(4) Any direction given under the last preceding sub-section shall be given in relation to the society specified in the direction and shall not be altered while any agreement with that society under this Division of this Part has effect.

Aggregate liability under indemnities limited to £800,000.

No. 6138 s. 77.

77. (1) The Treasurer of Victoria shall not enter into any agreement under this Division of this Part where the agreement would involve him in a liability which when added to the total liabilities subsisting in respect of other agreements entered into under this Division of this Part would in the aggregate exceed the amount of Eight hundred thousand pounds.

Provision for meeting indemnities.

(2) Such sums as may from time to time become due and payable by the Treasurer of Victoria under any agreement authorized by this Division of this Part shall be paid out of Consolidated Revenue (which is hereby to the necessary extent appropriated accordingly).

PART VI.—MISCELLANEOUS.

DIVISION 1.—EVIDENCE.

Certificates &c.
No. 6138 s. 78.

78. (1) Any certificate of incorporation given by the registrar shall be received in evidence as if it were the original certificate.

(2) Every certificate of incorporation or other official document relating to a society signed by or bearing the seal of the registrar shall be received in evidence without further proof.

(3) Judicial notice shall be taken of the signature and seal of any person who holds or has held the office of registrar, if the signature or seal purports to be attached to any certificate or other official document.

(4) The provisions of this section shall extend to any copy of the rules of a society certified by the registrar to be a true copy of its registered rules.

Rules.
No. 6138 s. 79.

79. A printed copy of the rules of a society purporting to be certified by the secretary of the society to be a true copy of its registered rules shall be *prima facie* evidence of the rules.

Registers.
No. 6138 s. 80.

80. The register of directors members and shares of a society shall be *prima facie* evidence of the particulars directed or authorized by or under this Act to be inserted therein.

Minutes.
No. 6138 s. 81.

81. (1) Every entry in the minutes purporting to be a minute of the business transacted at a meeting of a society or of the board, and to be signed by the chairman at a subsequent meeting, shall be *prima facie* evidence that the business as therein recorded was transacted at the meeting and that the meeting was duly convened and held.

(2) An entry in the minutes of a meeting of a society to the effect that a resolution was carried, or was lost, shall be *prima facie* evidence of the fact without proof of the number or proportion of votes recorded for or against the resolution.

82. A copy of any entry in a book of a society regularly kept in the course of business shall, if certified by statutory declaration of the secretary to be a true copy of the entry, be received in evidence in any case where and to the same extent as the original entry itself is admissible.

Entries in
books.
No. 6138 s. 82.

83. The provisions of this Division of this Part shall be read and construed as in aid of and not in derogation from any other Act or law relating to evidence judicial notice or the proof of documents.

Saving.
No. 6138 s. 83.

DIVISION 2.—OFFENCES.

84. (1) A society shall be guilty of an offence, if it fails—

- (a) to paint or affix or to keep painted or affixed the name of the society on the outside of its office as required by this Act;
- (b) to keep any register or account, or to make any entry therein, as required by or under this Act;
- (c) to have at its office and open to inspection a copy of this Act and the regulations, or of the rules, or of the last balance-sheet and final accounts together with the report of the auditor, or any register, as required by this Act; or
- (d) to transmit to the registrar any notice or return as required by this Act.

Failure to
display name
of society,
keep rules &c.
transmit
returns and
furnish
information.
No. 6138 s. 84.

(2) A society shall be guilty of an offence if it refuses or fails to furnish within the specified time any information lawfully required by the registrar or by any other person authorized in that behalf under this Act.

(3) Where the society is guilty of any offence under this section, the society and every director or officer of the society who knowingly and wilfully authorizes or permits the default shall be liable to a penalty of not more than Five pounds for every day during which the default continues.

85. Any person who knowingly continues to exercise the powers of a director of a society after his office as director has been vacated and any director of a society who knowingly permits or suffers any such person to exercise the powers of a director shall be guilty of an offence and liable to a penalty of not more than One hundred pounds.

Acting as
director
after office
vacated.
No. 6138 s. 85.

86. (1) A society shall be guilty of an offence if it contravenes any restriction imposed by this Act or the regulations or its rules on its power to carry on business, and, in particular, if it raises money on loan or makes any advance except as authorized by this Act and the regulations and its rules.

Carrying on
unlawful
business.
No. 6138 s. 86.

(2) Where the society is guilty of any offence under this section, the society shall be liable to a penalty of not more than One hundred pounds and every director or officer who knowingly and wilfully authorizes or permits such contravention shall be guilty of an offence and liable to a penalty of not more than Fifty pounds.

Carrying on
business with
too few
members.

No. 6138 s. 87.

87. (1) If a society continues to carry on business where the number of its members is reduced below twenty for a period of one month after the number is so reduced, every person who is a director of the society during the time that it continues to carry on business after such period and is aware that it is so carrying on with less than twenty members shall be guilty of an offence and liable to a penalty of not more than Five pounds for every day during which the offence continues:

Provided that this sub-section shall not apply in respect of any director—

(a) who, immediately upon becoming aware that the number of members is reduced below twenty, gives notice in writing of that fact to the registrar if such notice has not already been given; and

(b) who thereafter while the number remains so reduced complies with any directions of the registrar with respect to the conduct of the business of the society.

(2) Every person who is guilty of any offence under sub-section (1) of this section shall in addition be liable to satisfy all obligations of the society incurred during such time, and may be sued for the same without any other member being joined in the action.

Using wrong
name &c.
No. 6138 s. 88.

88. (1) If a society in any manner uses any name other than its registered name, it shall be guilty of an offence and liable to a penalty of not more than Five pounds for every day during which the offence continues.

(2) If an officer of a society or a person on its behalf issues or authorizes the issue of any notice advertisement or other official publication of the society, or signs or authorizes to be signed on behalf of the society any bill of exchange, cheque, promissory note, endorsement, order for money, receipt, or other document required in the business of the society, wherein its name does not appear in legible characters, he shall be guilty of an offence and liable to a penalty of not more than Ten pounds.

Improper
sealing.
No. 6138 s. 89.

89. If any officer of a society or any person on its behalf uses any seal purporting to be the seal of the society, wherein its name does not appear in legible characters, he shall be guilty of an offence and liable to a penalty of not more than Fifty pounds.

90. If before a society is registered any person takes any money in consideration of the allotment of any share or interest in the society, he shall be guilty of an offence and liable to a penalty of not more than Fifty pounds.

Taking money
before
registration.
No. 6138 s. 90.

91. If any person gives to any member of a society or to any person intending or applying to become a member of a society a copy of any rules or any alterations of the same other than those which have been duly registered representing that the same are binding on the members of the society, or if any person makes any alteration in any of the rules of the society after they have been registered, and circulates the same representing that they have been duly registered, when they have not been so registered, he shall, without prejudice to proceedings for any other offence for which he may be liable, be guilty of an offence and liable to a penalty of not more than One hundred pounds.

False copies
of rules.
No. 6138 s. 91.

92. If any person wilfully makes, orders, or allows to be made any entry or erasure in, or omission from, any balance-sheet or account of a society or any book register return or document required to be kept, sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall, without prejudice to proceedings for any other offence for which he may be liable, be guilty of an offence and liable to a penalty of not more than One hundred pounds.

False entries.
No. 6138 s. 92.

93. If any person, by false representation or imposition, obtains possession of any property of a society, or having the same in his possession, withholds or misapplies the same or wilfully applies any part thereof to purposes other than those specified or authorized by the rules of the society or by this Act, he shall, without prejudice to proceedings for any other offence for which he may be liable, be guilty of an offence and liable to a penalty of not more than One hundred pounds.

Imposition
and
misapplication
of moneys &c.
No. 6138 s. 93.

94. Any officer of a society who accepts any commission fee or reward, whether pecuniary or otherwise, from any person for or in connexion with a transaction of such person with the society, shall, without prejudice to proceedings for any other offence for which he may be liable, be guilty of an offence and liable to imprisonment for a term of not more than six months or to a penalty of not more than One hundred pounds.

Improper
commissions
&c.
No. 6138 s. 94.

95. Any society or person which or who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and, where no penalty is expressly provided therefor, shall be liable to a penalty of not more than Twenty-five pounds.

Contra-
ventions for
which no
penalty
provided
No. 6138 s. 95.

Recovery of
fines,
penalties &c.
No. 6138 s. 96.

96. Proceedings for any offence against this Act or the regulations may be instituted by the registrar or by any person aggrieved and any fine or penalty paid or recovered in respect thereof shall be paid into the Consolidated Revenue.

Civil
remedies in
case of
contra-
vention.
No. 6138 s. 97.

97. If a society in making any advance or raising any loan contravenes or fails to comply with any provision of this Act or the regulations or any rule of the society, the civil rights and liabilities of the society or any other person in respect of the recovery of the advance or loan shall not be affected or prejudiced by the contravention or failure, save that the money shall become immediately payable, and the same remedies may be had for the recovery of the advance or loan and for the enforcement of any security therefor as if there had not been any such contravention or failure.

DIVISION 3.—REGULATIONS.

Regulations.
No. 6138 s. 98.

98. (1) The Governor in Council may make regulations for or with respect to prescribing any matter or thing authorized or required to be prescribed by this Act or necessary or expedient to be prescribed for the purposes of this Act and may by any such regulation prescribe a penalty (not in any case exceeding Twenty pounds) for any contravention of or failure to comply with any such regulation.

Publication.

(2) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament, and a copy of all such regulations shall be posted to each member of Parliament.

Section 2.

SCHEDULE.

Number of Act.	Title of Act.	Extent of Repeal.
6138 ..	<i>Co-operative Housing Societies Act</i> 1958	The whole.