

Acts reprinted pursuant to the Amendment Incorporation
Act, 1937

FRIENDLY SOCIETIES ACT, 1919-1956

TOWN PLANNING ACT, 1929-1956

With notes of judicial decisions affecting sections of the reprinted Acts



FRIENDLY SOCIETIES ACT, 1919-1956.

BEING

FRIENDLY SOCIETIES ACT, 1919, No. 1387 OF 1919 [ASSENTED TO 20TH NOVEMBER, 1919.]

AS AMENDED BY

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1921, No. 1483 OF 1921 [ASSENTED TO 7TH DECEMBER, 1921.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1925, No. 1680 OF 1925 [ASSENTED TO 19TH NOVEMBER, 1925.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1931, No. 2018 OF 1931 [ASSENTED TO 12TH NOVEMBER, 1931.]

STATUTE LAW REVISION ACT, 1934, No. 2168 OF 1934 [ASSENTED TO 15TH NOVEMBER, 1934.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1936, No. 2298 OF 1936 [ASSENTED TO 22ND OCTOBER, 1936.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1937, No. 2374 OF 1937 [ASSENTED TO 15TH DECEMBER, 1937.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1938, No. 2425 OF 1938 [ASSENTED TO 19TH DECEMBER, 1938.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1940, No. 32 OF 1940 [ASSENTED TO 21ST NOVEMBER, 1940.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1946, No. 8 OF 1946 [ASSENTED TO 3RD OCTOBER, 1946.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1949, No. 24 OF 1949 [ASSENTED TO 3RD NOVEMBER, 1949.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1950, No. 37 OF 1950 [ASSENTED TO 30TH NOVEMBER, 1950.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1952, No. 19 OF 1952 [ASSENTED TO 30TH OCTOBER, 1952.]

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1954, No. 32 OF 1954 [ASSENTED TO 9TH DECEMBER, 1954.]

AND

FRIENDLY SOCIETIES ACT AMENDMENT ACT, 1956, No. 52 OF 1956 [ASSENTED TO 29TH NOVEMBER, 1956.]

An Act to consolidate certain Acts relating to friendly societies.

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

1. This Act may be cited as the "Friendly Societies Act, 1919-1956". Short title.

Repeal.

2. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed.

Inter-pretation.
Friendly Societies Act, 1886, s. 2, 558, 1892, s. 2.
Cf. U.K. 59 & 60 Vict. c. 25, s. 106.

3. In this Act, except where the context or subject matter requires a different construction—

“society” means and includes any of the friendly societies in this State specified in the second schedule, and includes the whole of the present and future members of the society:

“branch” means and includes all branches now or hereafter established by any society:

“committee of management” means the body of persons appointed to manage and direct the affairs of any society or branch, by whatever name such body may be called:

“secretary” means the officer appointed by any society or branch to act in that capacity, or the clerk or person who keeps the books and accounts of such society or branch:

“officer” means and includes every trustee, treasurer, secretary, and member of the board or committee of management of a friendly society, and of every branch thereof, and every person authorized or appointed by the society to manage its business or part of its business:

609, 1894, s. 4.

“women” includes females of all ages, and “men” includes males of all ages.

Incorporation of societies and branches.
Friendly Societies Act, 1886, s. 3.

4. (1) All persons who are now, or who at any time hereafter, in accordance with the provisions of this Act, become, members of any society specified in the second schedule shall (subject to the provisions hereinafter contained) be a body corporate by the name and style by which such society is specified in the said schedule, and by that name or (where it is requisite to make such distinction) by that name with the name of any branch of such society added thereto—

(a) may carry on the objects and business of such society,

S. 4. THE INDEPENDENT ORDER OF ODDFELLOWS AND OTHERS V. THE INDEPENDENT ORDER OF ODDFELLOWS, BON ACCORD LODGE NO. 11, AND OTHERS (1902) S.A.L.R. 62. A friendly society may sue one of its subordinate branches as the latter, if not an independent corporation, is, at least a corporation *sub modo*, and has distinct corporate privileges and the capacity to be sued. A branch, although included in the incorporation of the society, has a corporate existence of its own. Individual members of a subordinate branch associated with it in a wrongful common design are properly joined with it as defendants.

(b) may sue any person or persons (whether a member or members of the society or not), or any body or bodies politic or corporate, and may be sued in all courts whatsoever, and

(c) may prefer, lay, and prosecute any indictment, information, and prosecution against any person or persons whomsoever for any stealing, embezzlement, fraud, forgery, crime, or offence.

(2) In all indictments, informations, or prosecutions it shall be sufficient to state the moneys, goods and effects, securities, or other property of the society or branch to be the money of the society or branch (as the case may be), and to designate the society or branch by its said corporate name whenever, for the purpose of any allegation of an intent to defraud or otherwise howsoever, such designation is necessary

Cf. U.K.
59 & 60 Vict.
c. 25, s. 51.

(3) Any society or branch shall by its corporate name, according to the right and interest of such society or branch, be able to accept, purchase, and hold real and personal estate of every kind, and to sell, assign, mortgage, exchange, demise, grant, lease, transfer, and convey the same, and also to procure, receive and take, acquire, have, and possess all gifts, benefactions, goods, chattels, and personal property whatsoever.

Cf. U.K.
59 & 60 Vict.
c. 25, s. 47.

(4) Every society and branch shall by its said corporate name have perpetual succession, and a common seal, which shall bear or have inscribed on it the corporate name of the society or branch.

(5) Whenever it is necessary to execute for and on behalf of any society or branch any deed or other instrument in writing, not otherwise specially provided for in this Act, the same shall be executed by having the seal of the society or branch affixed thereto, in the presence of two of the trustees of the society or branch, who shall subscribe their names to such deed or instrument as witnesses to the sealing thereof.

5. (1) The Governor may from time to time by proclamation add the name of any society to the list of societies contained in the second schedule, and from the date mentioned in such proclamation this Act shall be read and construed as if the name of the society so added had been specified in the said schedule at such date.

Power to add
name of any
society to
second
schedule.
1276, 1917,
s. 5.
Cf. U.K.
59 & 60 Vict.
c. 25, s. 1.

(2) The Governor may, from time to time, by proclamation strike out from the list of societies in the second schedule the names of any societies which have become amalgamated pursuant to this Act, and may in manner aforesaid add to

Inserted by
1680, 1925,
s. 2.

the said list the name of any society formed by any amalgamation as aforesaid, and from the date mentioned in such proclamation this Act shall read and be construed as if the names of the societies so struck out or added had not or had (as the case may be) been specified in the said schedule at such date.

Inserted by
2018, 1931,
s. 3.

(3) The Governor may, from time to time, by proclamation add to the list of societies contained in the second schedule, the name of any society formed for any purpose which the Governor may authorize as a purpose to which the provisions of this Act, or such of them as are specified in the authority, ought to be extended, with or without any of the purposes enumerated in section 7. But no such name shall be added as aforesaid which is the same as that of any society specified in the said schedule, or is so similar thereto as to be likely to be mistaken for it.

Inserted by
19, 1952,
s. 2.

(4) The Governor may, from time to time, by proclamation strike out from the list of societies in the second schedule the names of any societies which have been terminated or dissolved and from the date mentioned in such proclamation this Act shall be read and construed as if the names of the societies so struck out had not been specified in the said schedule at such date.

Inserted by
19, 1952,
s. 2.

(5) The Governor may, from time to time, by proclamation strike out from the list of societies in the second schedule the name of any society which has been changed in pursuance of this Act and may in manner aforesaid add to the said list the new name of the society and from the date mentioned in the proclamation this Act shall be read and construed as if at such date the name of the society so struck out had not been specified in the said schedule and the name so added had been specified in the said schedule.

Society to
have regis-
tered office.
558, 1892,
s. 4.
Cf. U.K.
59 & 60 Vict.
c. 25, s. 24.

6. Every society shall have a registered office, to which all communications and notices may be addressed, and shall send to the Public Actuary notice of the situation of such office, and every change therein.

Objects for
which funds
may be
maintained.
Substituted by
52, 1956,
s. 3.

7. (1) It shall be lawful for every society or branch, by voluntary contributions from the members thereof, with or without the aid of donations, to raise and maintain funds

s. 7. ATTORNEY-GENERAL (*Ex relatione* MOORE) v. THE MOUNT GAMBIER UNITED FRIENDLY SOCIETIES DISPENSARY, INCORPORATED (1920) S.A.L.R. 176. Held that a friendly society had no power to supply pharmaceutical supplies to members of the public, other than the persons mentioned in paragraph v of subsection (1), or to supply goods other than those mentioned in the said paragraph. Since this decision paragraph XII of subsection (1) has been enacted.

in the manner provided by this Act for any of the following objects namely:—

- I. subject to this Act, for insuring a sum of money to be paid on the death of a member, or of the husband, widower, wife, widow or child of a member, or for defraying the expenses of burial of a member, or of the husband, widower, wife, widow or child of a member:
- II. for the relief or maintenance of members, their husbands, wives or children, in infancy, old age, sickness, widowhood or widowhood, or any other natural state of which the probability may be calculated by way of average:
- III. for assisting members in distressed circumstances:
- IV. for the endowment at any age of members, their husbands, wives or children and for insuring a sum of money to be paid on death before endowment:
- V. for providing to members or their relatives any of the following services:—
 - (a) medical attendance or treatment;
 - (b) medical comforts, or the selling or supplying of medicines, or the selling or supplying of medical or surgical appliances, requisites or comforts;
 - (c) dental attendance or treatment, or the selling or supplying of false teeth or other dental devices or requisites;
 - (d) physiotherapeutic treatment;
 - (e) chiropodical treatment; or
 - (f) the examination of sight for the purpose of correcting errors of refraction by the prescription of lenses or the selling or supplying of spectacles or other optical appliances:
- VI. for—
 - (i) providing payments to; or
 - (ii) reimbursing to members payments made by them to; or
 - (iii) providing payments to members to be paid by them to—
 - (a) legally qualified medical practitioners, towards the cost of attendance on or treatment by them of members or their relatives;

- (b) pharmaceutical chemists registered under the Pharmacy Act, 1935-1952, towards the cost of medicines or medical or surgical appliances, requisites or comforts sold by them to members or their relatives;
- (c) dentists registered under the Dentists Act, 1931-1936, towards the cost of attendance on or treatment by them of members or their relatives, including the cost of supplying false teeth or other dental devices or requisites to members or their relatives;
- (d) physiotherapists registered under the Physiotherapists Act, 1945-1955, towards the cost of treatment by them of members or their relatives;
- (e) chiropodists registered under the Chiropodists Act, 1950, towards the cost of treatment by them of members or their relatives; or
- (f) legally qualified medical practitioners or opticians registered under the Opticians Act, 1920-1949, towards the cost of the examination of the sight of members or their relatives for the purpose of correcting errors of refraction by the prescription of lenses, including the cost of supplying spectacles or other optical appliances:

vii. subject to this section, for—

- (i) providing payments to; or
- (ii) reimbursing to members payments made by them to; or
- (iii) providing payments to members to be paid by them to—
 - (a) hospitals approved by the society or branch, towards the cost of accommodation or maintenance in hospitals of members, their husbands, wives, children or dependants;

- (b) persons registered as nurses under the Nurses Registration Act, 1920-1954, towards the cost of attendance by them elsewhere than in hospital on members, their husbands, wives, children or dependants; or
- (c) legally qualified medical practitioners or hospitals towards the cost of surgical, therapeutic or other medical treatment by legally qualified medical practitioners in hospitals or elsewhere of members, their husbands, wives, children or dependants:
- viii. for the establishment and maintenance of hospitals, homes, refuges, or other institutions for the treatment, accommodation, relief or care in old age or infirmity of members, their husbands, widowers, wives, widows, children or dependants, or the widowed mothers of deceased members:
- ix. for the payment of the expenses of management which are reasonably necessary for the purposes of the society or branch:
- x. for establishing a fund for the purpose of providing superannuation or retiring benefits for officers of the society or branch who are permanently employed by the society or branch:
- xi. for establishing a guarantee fund for effecting policies of fidelity guarantee assurance of the officers of the society or branch who are required by this Act to be guaranteed:
- xii. for establishing and carrying on, under the management of a pharmaceutical chemist registered under the Pharmacy Act, 1935-1952, the business of a pharmaceutical and dispensing chemist and druggist.

In paragraphs v and vi of this subsection "relative" means the husband, widower, wife, widow, child, father, mother, brother, sister, nephew or niece of a member or the widowed mother of a deceased member or the ward of a member (being an orphan).

This subsection shall be read subject to the Pharmacy Act, 1935-1952.

(2) No insurance under the provisions of this Act shall assure the payment to or on the death of any member, or on any contingency, or for any of the purposes for which the payment of sums may be assured under this Act, of any sum exceeding one thousand pounds, nor any annuity at a rate exceeding five pounds five shillings a week, nor any sum in sickness exceeding seven pounds seven shillings a week: Provided that a person shall not as a member of two or more societies or branches be assured by those societies or branches for the payment to or on the death of that person or on any contingency of a gross sum of more than one thousand pounds.

(3) Any society or branch may require a member or a person claiming through a member to make and produce to the society or branch a statutory declaration that the total amount for which the member is or was assured by one or more societies or branches for the payment of sums assured under this Act to or on the death of the member or on any contingency does not exceed one thousand pounds.

(4) A society or branch shall not contract with any member to make any payments pursuant to paragraph vii of subsection (1) of this section in respect of a person other than the member, the husband or wife of the member, or any specified child or children or other specified dependant or dependants of the member.

(5) A society or branch shall not contract with any member to make payments under subparagraph (c) of paragraph vii of subsection (1) of this section to any legally qualified medical practitioner in respect of the treatment as mentioned in that subparagraph of any member or the husband, wife, child or dependant of the member if the society or branch has undertaken to make payments for such treatment from any fund raised pursuant to the provisions of this section other than that subparagraph.

(6) If—

(a) any member makes voluntary contributions to a society or branch for the purposes set out in subparagraph (a) of paragraph vii of subsection (1) of this section; and

(b) the member, or the husband or wife, or a specified child or dependant, of the member, as the case may be, is accommodated as a patient in a hospital approved by the society or branch; but

(c) no payment is made to the hospital or amount reimbursed or paid to the member by virtue of that subparagraph or such a payment or reimbursement is made but to an amount less than the amount for which the contributions of the member were made,

the committee of management of the society or branch may subject to this subsection, unless prohibited from so doing by the general laws or rules of the society, pay to the member such amount as the committee thinks fit.

The total amount so paid together with any amount paid to the hospital or reimbursed or paid to the member shall not exceed the amount for which the contributions of the member were made. *

(7) Subject to subsection (8) of this section, a society or branch shall maintain separate funds for the purposes of each of the following provisions of subsection (1) of this section, namely, paragraphs i to iv, and vii, to xii, and subparagraphs (a) to (f) of paragraph v and (a) to (f) of paragraph vi.

(8) On application in that behalf the Public Actuary may authorize a society or branch to maintain one fund for the purposes of two or more of the provisions mentioned in subsection (7) of this section.

(9) Where at the commencement of the Friendly Societies Act Amendment Act, 1956, a society or branch is maintaining a fund for any object mentioned in a provision mentioned in subsection (7) of this section, this section shall, subject to this subsection, apply as though the fund had been raised pursuant to this section, and the society or branch may maintain the fund for any additional object mentioned in that provision.

Where the fund is maintained at the said commencement for any two or more objects for which separate funds would be required pursuant to subsection (7) of this section, the society or branch may continue to so maintain the fund.

* * * * *

s. 7a inserted by 2298, 1936 and repealed by 52, 1956, s. 3.

7b. (1) Any society may, subject to the general laws or rules of the society, become registered as an organization under any law of the Commonwealth relating to the provision of hospital, medical or other benefits or may take such other measures as are necessary to enable the society to be authorized to act under any such law.

Power to society to participate in Commonwealth medical, hospital, etc., schemes. Inserted by 19, 1952, s. 4.

(2) Any such society may, subject to the general laws or rules of the society, out of the appropriate fund or funds of the society make any payments for the purpose of securing to the members, their husbands, wives, widows, children, fathers, mothers, brothers, sisters, nephews, nieces, widowed mothers of deceased members and wards of members (being orphans) any of the benefits to which they may be entitled under any such law. The society may receive from the Commonwealth any amount which, under any such law, is payable to the society in repayment (whether in whole or in part) of any payments made by the society as aforesaid. Any amount so received shall be paid by the society into the fund or funds from which the payments aforesaid were made by the society.

Societies may establish branches.
Friendly Societies Act, 1886, s. 5.
Of U.K. 59 & 60 Vict. c. 25, ss. 18, 20.

8. (1) Every society may establish branches thereof, to be called districts, lodges, courts, camps, tents, or such other name as the society establishing the same may think proper to confer; and may alter, vary, and abolish any branch.

(2) Every branch shall be governed by this Act, and by the general laws or rules of its particular society, and by such other laws or rules for the management of such branches as are made in conformity therewith.

Power to admit members with limited rights.
Inserted by 19, 1952, s. 5.

8a. (1) Every society may, subject to the general laws or rules of the society, admit persons to the membership of the society upon condition that the persons so admitted shall have the right to contribute only to any specified fund or funds of the society.

(2) Notwithstanding anything in the general laws or rules of the society, any person admitted to membership upon a condition such as is referred to in subsection (1) shall have the same rights as other members of the society to vote at meetings of the society on any question relating to the fund or funds to which the person so admitted to membership contributes.

Superannuation fund.
Friendly Societies Act, 1886, s. 6.
Amended by 52, 1956, s. 4.

9. Every society shall have power to establish a superannuation fund for the temporary or permanent relief of its members who have subscribed to such fund for three years: Provided that—

i. there shall not be a greater sum than five pounds five

s. 8. THE INDEPENDENT ORDER OF ODDFELLOWS AND OTHERS V. THE INDEPENDENT ORDER OF ODDFELLOWS, BON ACCORD LODGE NO. 11, AND OTHERS (1902) S.A.L.R. 62. Unless provided in the rules of the society, there is no power for a branch to secede. A mere right to secede does not confer a power in the seceding branch to take away the funds constituted under the rules of the order.

shillings per week paid to any member as a super-annuation; and

- ii. the rate of payment by each member weekly to assure the receipt of such sum shall be duly certified by the committee of management of the society, and duly confirmed by any general meeting of the society.

9a. (1) Subject to this section, a society may, out of a separate loan fund to be formed by any one or more of the following things, namely, contributions or deposits of its members or money transferred or borrowed from another fund of the society in accordance with this Act, make loans to members of the society as provided by the general laws or rules of the society.

Small loan fund.
Inserted by 52, 1956, s. 5.

(2) Subject to the general laws or rules of the society and this section, a loan under this section may be made with or without security or sureties or both.

(3) A loan shall not be made without security beyond the amount fixed by the general laws or rules of the society.

(4) A member shall not at any time be indebted to the fund for more than one hundred pounds.

(5) The society shall not at any time hold in the fund on deposit from the members a total amount which exceeds the amount indicated by the general laws or rules or two-thirds of the total sums owing to the fund by the members who have borrowed from the fund, whichever is the less.

(6) The society shall not make a loan under this section out of money contributed for any other purpose of the society, except where the money has been transferred or lent to the fund in accordance with this Act.

(7) The society shall not lend any money from the fund to an officer of the society taking part in the management of the fund.

(8) Interest paid to the society by members on loans made to them from the fund shall form part of the fund.

(9) A society may, notwithstanding any other provision of this Act, with the consent of the Public Actuary, lend to the fund money from any other fund maintained by the society on such terms and conditions as may be approved by the Public Actuary.

The total amount so lent to the fund shall not at any time exceed two thousand pounds.

(10) A society shall before establishing a fund under this section make general laws or rules for the management of the fund and fixing an amount for the purposes of subsection (3) of this section.

Societies may make general laws or rules.

Friendly Societies Act, 1886, s. 8.
Cf. U.K. 59 & 60 Vict. c. 25, s. 9
(3).

10. (1) Every society may—

(a) from time to time make, rescind, alter, and vary general laws or rules for the internal government of the society, and such general laws or rules shall have the effect of law, and be binding upon every branch or member of the society; and

(b) by any such laws or rules inflict a penalty of not more than five pounds five shillings for the infringement thereof, and may provide for the suspension or expulsion of any branch or member from the benefits of such society.

(2) Such general laws or rules shall, amongst other things, make provision for the matters referred to in the third schedule.

Inserted by 2374, 1937, s. 3.

(2a) Any society having branches may, by its general laws or rules, make provision for the establishment out of the funds of the society or otherwise of a reserve to make good losses caused by the dishonesty or neglect of any officer of any branch of the society, or of any person appointed to an office of any branch of the society.

Substituted by 2018, 1931, s. 4.

Cf. U.K. 59 & 60 Vict. c. 25, s. 13.

(3) No such general laws or rules, or the rescission, alteration, or variation of any such general laws or rules, shall be valid until the same has been registered by the Public Actuary; for which purpose six copies of the same, signed by the secretary of the society, shall be sent to the Public Actuary, accompanied by the prescribed fee.

Substituted by 2018, 1931, s. 4.

(4) On receiving the said copies as aforesaid, the Public Actuary shall transmit one copy to the Crown Solicitor, who, if he is of opinion that the general laws or rules in question,

s. 10. THE INDEPENDENT ORDER OF ODDFELLOWS AND OTHERS v. THE INDEPENDENT ORDER OF ODDFELLOWS, BON ACCORD LODGE No. 11, AND OTHERS (1902) S.A.L.R. 62. A rule providing that a branch which is expelled shall forfeit its property to the controlling authority is not *ultra vires*. Rules have statutory efficiency equivalent to an Act of Parliament as regards the society and its members. Held that a rule of a branch lodge providing that the lodge's "contingent fund" shall be kept separate from its other funds and used for the purpose of relieving distress, and for such other purposes as the lodge shall by law or resolution determine, did not authorize the passing of a resolution to withdraw the fund from the lodge funds and distribute it among some of its subscribers, as such resolution contravened the rules and constitution of the lodge.

ATTORNEY-GENERAL (*Ex relatione* MOORE) v. THE MOUNT GAMBIER UNITED FRIENDLY SOCIETIES DISPENSARY, INCORPORATED (1920) S.A.L.R. 176. Held that subsection (4b) does not apply to rules which are *ultra vires*.

or the rescission, alteration, or variation thereof is not contrary to this Act or the general law of South Australia, shall certify to the Public Actuary accordingly.

(4a) On the receipt of any such certificate the Public Actuary shall, if he is satisfied that the general laws or rules, or the rescission, alteration, or variation thereof is not contrary to the provisions of this Act, and does not adversely affect the financial soundness of any fund of the society, and is also satisfied that the same has been duly made in accordance with the constitution of the society, register the same.

Inserted by
2018, 1931,
s. 4 and
amended by
52, 1956,
s. 6 (1).

(4b) One of the copies aforesaid shall, upon registration, be signed by the Public Actuary in confirmation thereof and be returned to the secretary of the society, and thenceforward the general laws or rules, and the alteration or variation thereof, as the case may be, shall have the same force and efficacy as regards the society affected thereby and its members as if hereby enacted, and such copies respectively shall be received in all courts or elsewhere as evidence of such general laws or rules without further proof.

Inserted by
2018, 1931,
s. 4.

(5) Copies of such general laws or rules shall be laid before both Houses of Parliament within fourteen days after the confirmation thereof, if Parliament is then sitting, or if not, then within fourteen days after the commencement of the next ensuing session of Parliament.

(6) A society may from time to time reprint the general laws or rules of the society so that the reprint gives effect to all rescissions of any of the laws or rules and incorporates therein all the alterations and variations thereof. Any such reprint may be submitted to the Public Actuary, who, if satisfied that the reprint is a correct reprint of the general laws or rules of the society, may indorse a certificate upon the reprint to that effect. The society may thereupon, without fee, deposit with the Public Actuary six copies of the reprint signed by the secretary of the society and the reprint shall then be deemed to have been registered by the Public Actuary and subsection (4b) of this section shall apply with respect thereof.

Inserted by
37, 1950,
s. 4.

(7) If at any time the Chief Secretary is satisfied that it is desirable that general laws or rules should be made by a society (whether for the purpose of making new laws or rules or for rescinding, altering or varying any existing laws

Inserted by
37, 1950,
s. 4.

s. 10 (4a). Subsection (2) of section 6 of the Friendly Societies Act Amendment Act, 1956, provides that the amendment made by subsection (1) of that section shall apply on the receipt after the commencement of that Act by the Public Actuary of a certificate given whether before or after the commencement of that Act by the Crown Solicitor pursuant to subsection (4) of section 10 of this Act.

or rules) and that it is not practicable for a meeting of the society to be held for the purpose of making the laws or rules, the Chief Secretary may, on the recommendation of the Public Actuary, by notice in writing authorize the committee of management of the society to make such general laws or rules or, as the case may be, to rescind, alter or vary such laws or rules as are specified in the notice.

The committee of management shall thereupon be deemed to be empowered, on behalf of the society, to make general laws or rules or to rescind, alter or vary the laws or rules to the extent authorized by the notice and, subject to the following provisions of this subsection, all laws and rules when so made shall, on compliance with the preceding provisions of this section, be deemed to be general laws and rules of the society.

If pursuant to this section any general laws or rules are made by the committee of management of a society, the laws or rules shall be submitted for approval at the first annual general meeting of the society held after the making of the laws or rules.

If the laws or rules are not so submitted or if at the meeting a resolution approving the laws or rules is not carried, then the laws or rules shall, as from the time the general meeting is concluded, be deemed to have been rescinded.

Protection of
rights of
certain
withdrawing
members.
Inserted by
2425, 1938,
s. 3.

10a. (1) The committee of management of each society shall before the first day of March, nineteen hundred and thirty-nine, draw up and submit to the Public Actuary draft rules of the society setting out what rights benefits or advantages will be granted to members in respect of their past contributions in cases where such members notify the society that they are unable to continue to contribute to the society as voluntary members by reason of their obligations under the National Health and Pensions Insurance Act, 1938, of the Commonwealth.

(2) Any such draft rules may, *inter alia* notwithstanding subsection (2) of section 27 of this Act provide for—

- (a) transferring to a general reserve fund, money from any fund established by the society or any branch thereof, for assuring sickness or death benefits:
- (b) the distribution of any such general reserve fund.

Where any draft rules provide for so transferring money, but do not provide for the distribution of the reserve fund, the committee of management of the society shall before the thirty-first day of December, nineteen hundred and thirty-nine, draw up and submit to the Public Actuary additional draft rules providing for the distribution of the said reserve fund.

(3) If the Public Actuary approves of any draft rules submitted by any committee of management he shall give to that committee written notice of his approval and that committee shall within one month after the receipt of the notice pass and make rules in accordance with the draft.

(4) If the Public Actuary does not approve of any draft rules he shall give the committee of management not less than one month's notice of the time and place where he will confer with the committee or any accredited representatives of the committee as to the rules which should be made.

If the committee or its representatives attend in accordance with the notice and an agreement is reached between the Public Actuary and a majority of the committee or of the representatives thereof as to the rules which should be made, the committee shall make the rules within one month after the agreement is reached.

(5) For the purpose of this section the committee of management of a society shall be deemed to have full power to make rules on behalf of the society, and any rules so made shall be deemed to have been made by the society.

(6) Subsections (3), (4b) and (5) of section 10 of this Act shall apply to any rules made under this section.

(7) The Public Actuary may extend the time prescribed by this section for doing anything, and any such extended time shall be deemed to be the time prescribed by this section.

10b. (1) Subject to subsection (2) the committee of management of any society may, from time to time, vary the entrance fees and subscriptions payable to the society and the benefits payable by or provided by the society.

Powers of
committee of
management
as to entrance
fees, etc.
Inserted by
19, 1952,
s. 6.

(2) If the committee of management of any society varies the entrance fees or subscriptions payable to the society or the benefits payable by or provided by the society then, whether the variation is made pursuant to the powers conferred by subsection (1) or whether the variation is made pursuant to powers given to the committee of management

by the general laws or rules of the society, the variation shall be submitted for approval at the first annual general meeting of the society held after the making of the variation.

If the variation is not so submitted or if at the meeting a resolution approving the variation is not carried, then the variation shall, as from the time the general meeting is concluded, cease to have any force or effect.

Funds to be deposited in bank until invested.

Friendly Societies Act, 1886, s. 7.

Amended by 1680, 1925, s. 4, by 19, 1952, s. 7, and by 52, 1956, s. 7 (a).

11. (1) The funds of every society and branch, until invested as hereinafter provided for, shall be deposited in one of the chartered or incorporated banks in the State, or in the Savings Bank of South Australia, in the name and to the credit of the society or branch.

(2) Subject to subsection (3) of this section such funds shall only be withdrawn by cheques, signed by two trustees and countersigned by the secretary or treasurer of the society or branch or by a person authorized by the committee of management of the society to countersign such cheques. The committee of management of any society may from time to time authorize any one person to countersign cheques for the withdrawal of such funds and may from time to time withdraw any such authority. If any person is so authorized by the committee of management to countersign cheques no other person shall be so authorized so long as the authority aforesaid is not withdrawn.

Inserted by 52, 1956, s. 7 (b).

(3) A payment from a fund maintained pursuant to paragraph VI or VII of subsection (1) of section 7 may be made by a cheque signed by one trustee and countersigned as mentioned in subsection (2) of this section.

Mode of investment of funds.

Friendly Societies Act, 1886, s. 9.

558, 1892, s. 20.

1276, 1917, s. 6.

Cf. U.K. 17 & 18 Vict. c. 56, s. 5.

Cf. U.K. 59 & 60 Vict. c. 25, s. 44.

12. (1) The trustees for the time being of every society or branch shall, from time to time, with the consent of the society or branch, lay out and invest such part of all such sums of money as are at any time collected, given, or paid to and for the purposes of the society or branch, as may not be wanted for the immediate use thereof, or to meet the usual accruing liabilities of the society or branch, in the corporate name of the society or branch, according to the right and interest of the society or branch therein respectively—

(a) on the security of South Australian Government bonds or Treasury bills or otherwise in any loan raised or guaranteed by the authority of the Parliament of South Australia; or

- (b) in any securities of, or guaranteed by, the Government or the Parliament of the Commonwealth of Australia; or
- (c) upon fixed deposit in any bank; or
- (d) upon the bonds of the Corporation of the City of Adelaide, or upon the debentures of any municipal corporation of the State; or
- (e) on mortgage of freehold property; or
- (f) in the purchase of any freehold property in the State;

and may from time to time, with such consent as aforesaid, alter or transfer such securities and funds, and make sale thereof respectively:

Provided that—

- I. all securities for any loan to the Government of the Commonwealth or this State, or to any municipal corporation, shall be payable to the society or branch named therein, and shall not be transferable except under its seal witnessed by three of the trustees of the society or branch and countersigned by the secretary of the society or branch; and the person issuing such bonds, bills, or debentures is hereby authorized to issue the same accordingly; Amended by
2018, 1931,
s. 5.
- II. in the case of the Independent Order of Oddfellows, Manchester Unity Friendly Society, it shall be lawful for the trustees to lend to any member of such society on the security of any policy of assurance effected on his own life, provided that the amount of such loan shall not exceed the actual estimated value of such policy at the time such loan is made; Manchester
Unity of
Oddfellows
Act, 1874,
s. 9.
- III. the trustees may, out of money available for investment as mentioned in this subsection in a fund maintained pursuant to paragraph I, II, or IV of subsection (1) of section 7, lend to a member on the security of an assurance effected on the life of the member with the society or branch an amount not exceeding ninety per centum of the surrender value of the assurance fixed by the Public Actuary. Inserted by
52, 1956,
s. 8.

(2) All dividends, interest, and proceeds which from time to time arise from the moneys so laid out or invested as aforesaid shall be brought into account by such trustees, and shall be applied to and for the use of the society or branch, according to the rules thereof.

Of. U.K.
17 & 18 Vict.
c. 56, s. 7.

(3) It shall be lawful for such trustees, with the consent of the society or branch as aforesaid, to purchase, hire, or take upon lease any room or premises for the purpose of holding therein the meetings of the society or branch, or for the transaction of business relating thereto, and to hold the same in trust for the use of the society or branch, and to sell, exchange, let, and demise the same in whole or in part.

Power to
branches to
forward sur-
plus funds to
parent society
for invest-
ment.
558, 1892,
s. 6.

13. With the consent of any branch, the trustees thereof may forward to the board of directors or trustees of its society, with the consent of the society, any sum or sums of money belonging to the branch which are not required for the immediate use thereof, for investment by such board of directors or trustees, and upon such terms as may be mutually agreed upon: Provided that such moneys shall only be invested upon such securities as are authorized by this Act.

Trustees not
to accept
certain
securities.
558, 1892,
s. 19.

14. Any director or trustee advancing the money of any society on the security of any land the fee-simple of which is vested in any one of the trustees of the society within one year from the time of the giving of such security shall be liable to a penalty of not less than one pound nor more than ten pounds.

Society or
branch not
to lend to
trustee.
Inserted by
52, 1956,
s. 9.

14a. A society or branch shall not lend any money to a trustee of the society or branch respectively.

Appointment
of trustees
and secre-
taries, how
evidenced.
Friendly
Societies Act,
1886, s. 10.

15. (1) Upon the appointment of every new trustee or secretary of any society or branch, the name and description of such trustee or secretary shall be entered in the minute-book of the society or branch, in the form set forth in the fourth schedule, and such entry shall be signed by such trustee or secretary.

(2) Every such entry, or in case of the loss or destruction of such entry, secondary evidence thereof, shall be *prima facie* evidence for all purposes that the person therein named as trustee or secretary was duly appointed as trustee or secretary, as the case may be, and entitled to act in that capacity.

(3) If and so soon as any trustee, secretary, or treasurer for the time being calls a meeting of his creditors, or executes a deed of assignment for the benefit of his creditors, or is adjudicated insolvent, his office of trustee, secretary, or treasurer shall then and thereupon become vacant.

16. (1) Upon payment to the trustees for the time being of any society or branch of all moneys due upon any mortgage, further charge, or other security vested in the society or branch, or which may hereafter be given to the society or branch, for moneys advanced by the society or branch, it shall be lawful for such trustees to indorse or cause to be indorsed upon any such mortgage, further charge, or other security, a receipt in the form set forth in the fifth schedule.

Receipts indorsed on mortgages to be sufficient discharge.
Friendly Societies Act, 1886, s. 12 (part).
Of U.K.
59 & 60 Vict. c. 25, s. 53.

(2) Such receipt shall vest the estate of and in the property comprised in such mortgage, further charge, or other security, in the person or persons for the time being entitled to the equity of redemption therein, and shall be sealed with the seal of the society or branch in the presence of two of such trustees thereof, who shall subscribe their names to such receipt as witnesses to the sealing thereof, and such receipt shall be countersigned by the secretary of the society or branch.

(3) No person shall be obliged or concerned to inquire whether the persons whose names are subscribed to any such receipt as witnesses to the sealing thereof are trustees as aforesaid, nor whether such receipt has been duly signed and sealed as aforesaid, nor whether the moneys expressed in such receipt to be received have been actually paid to such trustees.

17. (1) If any mortgagor or other person who gives to any society or branch any mortgage or security for money, or the heirs, executors, administrators, or assigns of any such mortgagor or other person, at any time during the continuance of the mortgage or security pay any sum of money on account or in part payment of the principal sum thereby secured either a receipt in the form set forth in the sixth schedule for the amount so paid, shall be forthwith indorsed upon the mortgage deed, or other instrument constituting the security, and be signed by two of the trustees for the time being of the society or branch, and countersigned by the secretary thereof, in the presence of the mortgagor for the time being, or his duly authorized agent, or, unless the mortgagor requires a receipt as aforesaid, a receipt in the said form, with such modifications as may be necessary, shall be given upon a separate instrument, signed by two of the trustees for the time being of the society or branch, and countersigned by the secretary thereof.

Partial discharges.
Friendly Societies Act, 1886, s. 12 (part).
Amended by 2018, 1931, s. 6.

(2) Until such receipt has been so indorsed or given and signed, the society or branch shall not be liable or accountable for any sum of money which may be so paid as aforesaid,

or be bound to recognize or acknowledge the payment thereof, and no such payment shall be pleaded or set up either at law or in equity as against the claim of the society or branch in respect of the principal or interest moneys secured by such mortgage or instrument, nor shall any such payment operate to discharge the lands and hereditaments over which such mortgage or security was given, or any part or portion thereof, from such mortgage or security, or from the moneys thereby secured, or any part thereof.

Officers having custody of moneys to give security.

Friendly Societies Act, 1886, s. 13.
Of. U.K. 59 & 60 Vict. c. 25, s. 54.

Proviso added by 2374, 1937, s. 4.

18. (1) Every paid officer or other person appointed to any office touching or concerning the receipt, management, or custody of any of the moneys of any society or branch (except the trustees thereof), shall, before he is admitted to take upon himself the execution of his office, effect a policy of insurance with any guarantee society or company approved by the trustees of the society or branch for the just and faithful execution of such office, and for rendering a just and true account of all moneys received and paid by him on account of the society or branch during the time he continues to hold such office, and whether upon re-election thereto or otherwise, in such sum of money, not being less than fifty pounds, as such trustees deem expedient: Provided that if the Public Actuary is of opinion that by reason of the arrangements made by any society having branches for safeguarding its funds held by branches, or by reason of the small risk of loss of such funds, or for any other adequate reason it is proper to grant an exemption from this section in respect of the society, he may by a written certificate exempt all or any of the officers of any branch of the society, or all or any of the other persons appointed to offices in any branch of the society, from the obligation to comply with this section. Every such certificate shall be for such period and on such terms and conditions as the Public Actuary thinks fit.

(2) Every such policy of assurance shall be given to the society or branch in its corporate name, and shall, on completion, be forthwith transmitted by the secretary to the Public Actuary for deposit.

(3) The Public Actuary shall, if required, without fee or reward, make a copy of the said policy of assurance, and transmit such copy (duly certified) to the trustees of the society or branch entitled thereto, to be kept with the books and accounts of the society or branch.

(4) Every treasurer, trustee, and other officer shall be personally responsible and liable only for all moneys actually received by him on account of or for the use of the society or branch of which he is an officer.

19. (1) The trustees of every society or branch shall be bound to see that the security provided for in section 18 is duly given, and that the premiums or other payments necessary to keep the same on foot and valid are duly made.

Trustees to be personally liable to see that security is given.
Friendly Societies Act, 1886, s. 14.

(2) If such trustees allow any officer or person who is required by the said section to give the security therein mentioned to take upon himself the execution of his office without the required policy of assurance having been duly effected, and kept on foot by the punctual payment of the premium thereon, every such trustee shall be liable to a penalty of not less than two pounds nor more than twenty pounds.

20. (1) If any officer, member, or other person, being or representing himself to be a member of any society, or the nominee, executor, administrator, or assignee of a member thereof, or any person whomsoever, by false representation or imposition obtains possession of any moneys, securities, books, papers or other effects of any society or branch, or, having the same in his possession, withholds or misapplies the same or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of the society or branch, any justice may, upon complaint made by any person on behalf of the society or branch, summon the person against whom such complaint is made to appear at a time and place to be named in such summons, and any special magistrate or two justices present at the time and place mentioned in such summons shall proceed to hear and determine the said complaint in a summary manner.

Penalty for fraudulently obtaining or withholding property of society or branch.
Friendly Societies Act, 1886, s. 15.

(2) If the said special magistrate or justices determine the said complaint to be proved against such person, he or they shall adjudge and order him to deliver up all such moneys, securities, books, papers, or other effects of the society or branch, or to repay the amount of money applied improperly, and, if he or they think fit, to pay to the complainant, for the use of the society or branch, a further sum of money not exceeding twenty pounds, together with costs, and in default of such delivery of effects, or repayment of any such amount of money or payment of such further sum of money and costs as aforesaid, the said special magistrate or justices may order the said person so convicted to be imprisoned, with or without hard labour, for any period not exceeding three months.

(3) Nothing herein contained shall prevent any society or branch from proceeding by indictment or information against any such person.

(4) No such person shall be proceeded against by indictment if a conviction has previously been obtained for the same offence under the provisions of this Act.

Minors may become members.

Friendly Societies Act, 1886, s. 21.
Of U.K.
59 & 60 Vict. c. 25, s. 36.
Of U.K.
8 Edw. 7 c. 32, s. 2.

21. Any person under the age of twenty-one years may be elected or admitted as a member of any society, and any such person so elected or admitted may, and is hereby empowered to, execute all necessary instruments and to give all necessary acquittances: Provided that during his nonage he shall not be competent to hold any office as trustee, financial secretary, or treasurer of any society or branch.

Provisions of Friendly Societies Acts to apply to women.
609, 1894, ss. 2, 3.

22. (1) The provisions of all Acts relating to friendly societies shall be deemed as and from the passing thereof respectively to have extended and applied to women as well as to men, and to husbands and widowers as well as to wives and widows, so as to enable women to avail themselves of the provisions of the said Acts.

(2) All general laws and rules heretofore made by any friendly society, so far as they provide for the admission of women as members of such society, are hereby validated and confirmed as from the making thereof.

Money payable on death.
Substituted by 52, 1956, s. 10 (1).

23. (1) Subject to this section, a society may make general laws or rules with respect to the payment of money payable on the death of a member of the society or a branch thereof, or on the death of the husband, widower, wife, widow or child of any such member, and without limiting the generality of the foregoing powers with respect to all or any of the following matters:—

- (a) for payment to a person nominated by any such member or by the widower or widow of any such member;
- (b) generally with respect to the making, revocation and effect of a nomination;
- (c) for payment to any person whether at the discretion of the trustees of the society or branch, or otherwise;
- (d) for payment of funeral expenses.

(2) The general laws or rules may apply with respect to money payable on every death occurring after the general laws or rules take effect.

s. 23. Subsection (2) of section 10 of the Friendly Societies Act Amendment Act, 1956, provides that where money is payable by a society or branch on a death occurring after the commencement of that Act, the money shall, unless general laws or rules made under section 23 as now enacted and applicable thereto have taken effect, be payable as if the said section 10 had not been passed.

(3) The general laws or rules shall not provide for payment pursuant to a nomination of an amount exceeding two hundred pounds.

(4) Where the trustees of any society or branch, after the death of any member thereof or the husband, widower, wife, widow or child of a member thereof, have paid any money to any person who at the time of the payment appears to the trustees to be entitled thereto under general laws or rules of the society made pursuant to this section, the payment shall be valid and effectual with respect to any demand from any other person against the funds of the society or branch, or against the trustees thereof; but nevertheless the last-mentioned person shall have his lawful remedy for the money so paid against the person who has received the same.

24. (1) Subject to subsection (3) of this section, the trustees or other officers of any society or branch shall not pay any sum of money which may have been assured and become payable on the death of any member thereof or the husband, widower, wife, widow or child of a member thereof, unless the person applying for payment of the sum produces and delivers to such trustees or other officers a document which appears to be—

Proof of death.
Substituted by 52, 1956, s. 11.

- (a) a certified copy of an entry of the death in an official register of deaths kept within or outside the State under the hand and seal of the person whose duty it is to keep the register;
- (b) an extract of any such entry under the hand of any such person; or
- (c) a certificate given whether within or outside the State by a medical practitioner entitled by law to practice as such in the place where the certificate is given or a coroner.

(2) A certificate for the purposes of paragraph (c) of subsection (1) of this section shall be in such form as is prescribed by the general laws or rules of the society.

(3) A sum may be paid without the production of any document as mentioned in subsection (1) of this section if, from the nature of the circumstances, it is impossible to procure any such document.

Treasurer and others to render accounts, etc.

Friendly Societies Act, 1886, s. 17. Cf. U.K. 59 & 60 Vict. c. 25, s. 55.

25. (1) Every person who has or receives any part of the moneys, effects, or funds of or belonging to any society or branch, or in any manner has been or is entrusted with the management, disposal, or custody thereof, or of any securities, books, papers, or property relating to the same, his executors, administrators, and assigns respectively shall, upon demand made of, or notice in writing given to, or left at the last usual place of residence of such person, in pursuance of any order of not less than two trustees or three members of the committee of management of the society or branch, give in his account at the next usual meeting of the society or branch, or to such trustees or committee of management, to be examined and allowed or disallowed; and shall on the like demand or notice forthwith pay over all the moneys in his hands, and assign and transfer or deliver all securities and effects, books, papers, and property in his hands or custody, to the trustees for the time being, or to such other person as such trustees or committee of management appoint.

(2) In case of any neglect or refusal to deliver such account, or to pay over such moneys, or to assign, transfer, or deliver such securities and effects, books, papers, and property in manner aforesaid, any two or more justices may, upon the complaint of any trustees or other officer of the society or branch, hear and determine the matter of such complaint in a summary way, and make such order therein as to such justices in their discretion seems just.

Property of societies or branches in hands of officers to be protected from execution, etc.

Friendly Societies Act, 1886, s. 18. Cf. U.K. 59 & 60 Vict. c. 25, s. 35.

26. If any person appointed to or employed in any office in any society or branch, and being entrusted with the keeping of the accounts or having in his hands or possession by virtue of his said office or employment or being responsible for any moneys or effects belonging to the society or branch or any deeds or securities relating to the same—

- (a) dies or
- (b) becomes bankrupt or insolvent, or
- (c) has any execution or attachment or other process issued against his lands, goods, chattels or effects or property or estate, or
- (d) makes any assignment, disposition, or other conveyance thereof, for the benefit of his creditors,

his heirs, executors, administrators, or assigns, or the Official Receiver, or the trustee or other persons having legal right, or the Sheriff or other officer executing such process, or any person having the possession of any such moneys, effects,

deeds, or securities, shall, within forty days after demand made in writing by not less than two trustees or three members of the committee of management of the society or branch, deliver and pay over all moneys, deeds, securities, and other effects belonging to the society or branch to such person as such trustees or committee appoint.

27. (1) In all societies and branches all moneys received or paid on account of each and every particular fund shall be kept separate and distinct, and shall be entered in a separate account distinct from the moneys received and paid on account of any other fund and the moneys belonging to one fund shall not be used in any manner for the advantage or otherwise of any other fund.

Separate account to be kept of each fund.

610, 1894, s. 4.

Amended by 52, 1956, s. 12 (a).

(2) Notwithstanding anything contained in subsection (1) hereof, the Chief Secretary may, on the application in writing of a society, by writing under his hand authorize the transfer of moneys from any one fund to any other fund of such society or of a branch thereof, and such society or branch may thereupon make such transfer: Provided that no society or branch shall make any transfer of moneys from any fund of such society or branch which assures sickness or death benefits to the members thereof unless the Chief Secretary upon the recommendation of the Public Actuary, and upon a report of the Public Actuary that there is a surplus in the fund, authorizes the transfer.

Chief Secretary may authorize transfers from one fund to another fund.

1276, 1917, s. 4.

Amended by 2018, 1931, s. 7.

(2a) Notwithstanding anything contained in subsection (1) or (2) of this section, where the general laws or rules of a society provide that a specified proportion, or not more than a specified proportion, of the contributions payable under those laws or rules for any benefit or to any fund may be paid to the management fund, the society or branch may transfer an amount in accordance with those laws or rules to the management fund without further authority than this subsection.

Inserted by 52, 1956, s. 12 (b).

(3) Where the Public Actuary is satisfied that any moneys of a society or a branch have been appropriated, used, or transferred from any fund which assures sickness or death benefits, contrary to the provisions of this section he may, by notice in writing, direct the trustees of the society or branch to restore the moneys to the said fund within such time as he may notify in his direction. Any trustees failing to comply with the terms of any such direction shall, together with the secretary and other officers of the society or branch, be severally liable to a penalty not exceeding ten pounds.

Inserted by 1680, 1925, s. 6.

Appropriation
and transfer
of surplus
funds.

Of. N.Z. 12,
1909, s. 41.

Inserted by
2018, 1931,
s. 8 and
amended by
37, 1950,
s. 5 (a).

27a. (1) Notwithstanding the provisions of section 27 a society which has been reported by the Public Actuary to possess a surplus at the last quinquennial valuation may, with the consent in writing of the Chief Secretary and of the Public Actuary, appropriate so much of the surplus as can be safely used to all or any of the following purposes:—

- I. An increase of sickness benefits:
- II. An increase of funeral benefits:
- III. A reduction in the contributions of members:
- IV. Assistance to members in distressed circumstances:
- V. Management purposes of the society or any branch thereof:
- VI. Any purpose for which the society may, pursuant to this Act, apply any of its moneys and which is approved by the Public Actuary.

Inserted by
37, 1950,
s. 5 (b).

(2) When a portion of any fund is so appropriated for the purposes of any other fund, a transfer from the one fund to the other of the moneys so appropriated may, with the like consents as aforesaid, be made by the society.

(3) It shall be a condition of any such appropriation that a certificate in such form as satisfies the Public Actuary as to the value of the investments of the society is sent to the Public Actuary with the application for his consent to the appropriation.

(4) The provisions of the proviso to subsection (2) of section 27 shall not apply to any appropriation or transfer made pursuant to this section.

Appointment
of trustees
and auditors.

Of. U.K.
59 & 60 Vict.
c. 25, s. 25.

Inserted by
2018, 1931,
s. 8.

27b. (1) After the passing of the Friendly Societies Act Amendment Act, 1931, all trustees and auditors of every society or branch shall, subject to subsection (2) hereof, be appointed by a resolution or a ballot passed or taken at a general meeting of the society or branch duly convened for that or some other purpose.

(2) If a casual vacancy occurs in the office of trustee or auditor, the committee of management of the society or branch, may, subject to the laws and rules of the society or branch, appoint some person to fill the vacancy. But any such appointment shall continue only until the next general meeting of the society or branch, when a person shall be appointed to the office as provided by subsection (1) hereof.

(3) No member of the committee of management of any society or branch shall hold office as auditor of that society or branch, and no trustee of a society or branch shall hold

office as auditor of that society or branch. The Chief Secretary may, by notice in writing, exempt any branch from the requirements of this subsection, and may, by notice in writing, revoke any such exemption.

(4) The provisions of subsections (1) and (2) of this section shall not apply to any person holding office as a trustee or auditor of any society or branch at the passing of the Friendly Societies Act Amendment Act, 1931, and every such person shall continue to hold such office according to the laws or rules of the society or branch: but the provisions of the said subsections shall apply upon the determination of the term of office of any such person.

28. (1) Once at least in every half-year every society and every branch thereof shall submit its accounts for audit to two or more auditors, to be appointed in accordance with the rules of the society; or, if no provision is contained in such rules relative to the appointment of auditors, in accordance with rules made under the provisions of this Act.

Audit of accounts. 558, 1892, s. 5. Cf. U.K. 59 & 60 Vict. c. 25, s. 26. Amended by 2018, 1931, s. 9 (a).

(2) The auditors shall have access to the books and accounts of every society or branch, and—

(a1) shall obtain from every bank in which any moneys of the society or branch are deposited particulars of the amounts so deposited at the time of the half-yearly audit;

Inserted by 2018, 1931, s. 9 (b).

(a) shall examine the general statements of the receipts and expenditure, funds, and effects of the society and branch, and verify the same with the accounts and vouchers relating thereto; and

(b) shall either sign the same as found correct, duly vouched, and in accordance with law, or specially report to the society in what respect they find them incorrect, unvouched, and not in accordance with law.

29. On or before the first day of September in every year every society shall send to the Public Actuary a general statement of the receipts and expenditure, funds, and effects of the society so audited, which shall show separately—

Annual returns to be sent to Public Actuary. 1276, 1917, s. 7. Cf. U.K. 59 & 60 Vict. c. 25, s. 27. Amended by 2018, 1931, s. 10 (2), and by 52, 1956, s. 13 (1) (a).

(a) the income and expenditure in respect of the several funds of the society during the preceding financial year:

s. 29. Subsection (2) of section 13 of the Friendly Societies Act Amendment Act, 1956, provides that the amendments made by that section shall have effect with respect to a general statement for the last financial year of a society ending before 1st September, 1957, or for any succeeding year.

- (b) a copy of the auditor's report, if any, on such general statement:
- (c) the name and address, and the calling or profession of each of such auditors:
- (d) a list of the names, dates of entry, manner of entry, and dates of birth of all members who entered the society by initiation, clearance or otherwise during the preceding financial year:
- (d1) a list of the members who died or ceased to be members during the preceding financial year:
- (d2) a list of members in respect of whom benefits were paid during the preceding financial year, the amounts of the benefits, and the periods of sickness or other contingencies in respect of which the benefits were paid: and
- (e) such other information as the Public Actuary from time to time prescribes.

Substituted
by 52, 1956,
s. 13 (1) (b).

Inserted by
52, 1956,
s. 13 (1) (b).

Inserted by
52, 1956,
s. 13 (1) (b).

Quinquennial
valuations.
610, 1894,
s. 3.
Cf. U.K.
59 & 60 Vict.
c. 25, s. 28.

30. (1) Every society shall, once at least in the period of five years next after the seventeenth day of December, nineteen hundred and seventeen, or after the incorporation or establishment of the society or branch, and once at least in every succeeding five years, cause its assets and liabilities to be valued by the Public Actuary or a valuer appointed by the society and approved of by the Chief Secretary.

(2) Every society shall at the same time forward to the Public Actuary a list of the names and occupations of all its members, together with the age of each member at the time of the previous quarterly or half-yearly balancing of accounts, specifying the date thereof.

(3) The Public Actuary or such valuer shall send to the Chief Secretary a report on the condition of the society, and an abstract to be made by him of the results of his valuation, together with a return containing such information with respect to the benefits assured and contributions receivable by the society, and of its funds and effects, debts, and credits, as the Chief Secretary may from time to time require.

(4) Every such valuation shall be called the quinquennial valuation, and the report thereon shall be signed by the

Public Actuary or such valuer, and, if signed by such valuer, he shall state therein his full name, address, and calling or profession.

30a. (1) If upon the quinquennial valuation and report, the Public Actuary is of opinion that the financial position of the society or any branch should be improved, he shall submit a report to the Chief Secretary who may, by notice in writing, call upon the society or branch to submit proposals for improving its financial position.

Power to submit proposals to improve financial position.
Cf. Qld. 13, 1913, s. 23.
Inserted by 2018, 1931, s. 11.

(2) If such proposals are not submitted within three months from the giving of notice as aforesaid, or if the proposals submitted are, in the opinion of the Public Actuary, not satisfactory, the Chief Secretary may, by notice in writing, call upon the society or branch to reduce benefits to such an extent or raise contributions to such a rate as, in his opinion, is necessary.

(3) If any society or branch fails to comply with any requirement of the Chief Secretary under this section, every member of the committee of management of the society or branch shall be liable to a penalty not exceeding ten pounds.

31. (1) Any valuer, member, or person having an interest in the funds of a society may inspect the books thereof at all reasonable hours, at the registered office of the society or at any place where the same are kept.

Inspection of books.
558, 1892, s. 9.
Cf. U.K. 59 & 60 Vict. c. 25, s. 40.

(2) No such member or person, unless he is specially authorized by a resolution of the society to do so, shall have the right to inspect the loan account of any borrower without the written consent of such borrower.

32. Every member or person interested in the funds of the society, on his application, shall be supplied at cost price with a copy of any balance-sheet or other document duly audited containing the same particulars as to the receipts and expenditure, funds and effects, of the society as are contained in the annual return.

Copies of annual returns to be supplied.
Friendly Societies Act, 1886, s. 10.
Cf. U.K. 59 & 60 Vict. c. 25, s. 39.

33. Every society at its registered office and every branch at its place of meeting shall keep a copy of the last annual balance-sheet for the time being, and of the Public Actuary's or valuer's report of the last quinquennial valuation for the time being, together with the report of the auditors, and have such balance-sheet and reports available for inspection.

Copy of annual balance-sheet and quinquennial report to be exhibited.
Friendly Societies Act, 1886, s. 11.
Cf. U.K. 59 & 60 Vict. c. 25, s. 29.

Branches to be included in returns.

Friendly Societies Act, 1886, s. 12.

34. In the case of a society having branches, there shall be included in the returns and valuation required by this Act returns and valuations in respect of all the branches of the society.

Branches to supply information to principal secretary.

Friendly Societies Act, 1886, s. 13.

35. It shall be the duty of every branch to prepare and forward to the secretary of the society such returns and documents relating to the branch as may be required by the secretary for the purposes of this Act, and to supply him with all such information as may be required to enable him to examine the returns to be furnished to the Public Actuary, and also with all such information as may be required to enable a valuation of the assets and liabilities of the society to be made in terms of this Act.

Public Actuary to be appointed.

Friendly Societies Act, 1886, s. 14.

36. The Governor shall appoint some person to be a Public Actuary, who shall perform the duties assigned to him by this Act.

Public Actuary's duties.

Friendly Societies Act, 1886, s. 15, 1276, 1917, s. 7.

37. (1) It shall be the duty of the Public Actuary to investigate the annual returns and make quinquennial valuations of the assets and liabilities of every society and of every branch thereof; but any society may employ a valuer, as provided in section 30, in which case the Public Actuary shall investigate the valuations and reports of such valuer, together with the returns sent to the Public Actuary as aforesaid; and in either case he shall, so soon after the said quinquennial valuation as practicable, report to the Chief Secretary—

- (a) on the assets and liabilities of the society:
- (b) as to the sufficiency or insufficiency of the subscriptions, income, and capital to pay for the objects or purposes intended to be secured by the society to its members, or to the husband, wife, child, or kindred of a member:
- (c) as to the necessity of any increase or decrease in the subscriptions or payments by a member towards the funds of the society, or as to any increase or decrease of the sums payable by the society for relief, maintenance, endowment, contribution in case of death, burial expenses, or other lawful purposes; and
- (d) as to any defects in the administration of the society's funds, and the efficiency or inefficiency of management, or the sufficiency or insufficiency of any return, audit report, or valuation.

(2) A society which has been reported by the Public Actuary to possess any surplus at the last quinquennial valuation, and whose scale of contributions for new members is certified to be sufficient, may apply all interest over and above four per centum per annum accruing from capital funds invested to such purposes as may be approved by the society.

Appropriation of certain surplus.
Amended by 32, 1954, s. 4 (1).

38. The Public Actuary may, with the approval of the Governor, from time to time—

Returns to be prepared and published.
558, 1892, s. 16.
Of U.K. 59 & 60 Vict. c. 25, s. 2 (2).

- (a) prepare and cause to be circulated for the use of the societies model forms of accounts, balance-sheets, and valuations:
- (b) collect from the returns under this Act and from other sources, and publish and circulate, either generally or in any particular part of the State, or otherwise make known, such information on the subject of the statistics of life and sickness as are applicable to the business of friendly societies:
- (c) publish generally, or in particular parts of the State, such portions of any return and valuation and such other information as may be useful to the members of or to persons interested in friendly societies; and
- (d) cause to be constructed and published tables for the payment of sums of money on death, in sickness, or old age, or any other contingency forming the objects and purposes set forth in this Act, and which may appear to be calculable; but the adoption of such tables by any society shall be optional.

39. It shall be lawful for the Public Actuary or any person authorized by him to inspect all accounts, books, papers, deeds, memoranda, returns, reports, and valuations of which he may require the inspection, and to make such extracts and copies therefrom as in his opinion may be necessary for any of the purposes of this Act.

Inspection by Public Actuary.
Friendly Societies Act, 1886, s. 17.
Amended by 2018, 1931, s. 12.

s. 37 (2). Subsection (2) of section 4 of the Friendly Societies Act Amendment Act, 1954, provides that subsection (2) of section 37 as amended by subsection (1) of the said section 4 shall apply to interest accruing at any time after the commencement of the Friendly Societies Act Amendment Act, 1954, whether the report by the Public Actuary on the last quinquennial valuation was made or the scale of contributions for new members was certified to be sufficient before or after the said commencement.

Penalties for offences.
558, 1892,
s. 18.

40. (1) Any officer who—

- (a) neglects to send or forward any notice, statement, return, information, report, or valuation required by this Act to be forwarded, or to submit the account of his society for audit, or to obtain the quinquennial valuation of his society's assets and liabilities; or
- (b) wilfully obstructs or hinders any auditor, valuer, actuary, officer, member, or person in the performance of any duty, or refuses or neglects to produce any books, papers, deeds, memoranda, returns, reports, or valuations to the inspection whereof any such auditor, valuer, actuary, officer, member, or person is entitled; or
- (c) neglects to supply any member or person, on his application, with any return to which such member or person is entitled; or
- (d) fails to exhibit any balance-sheet, quinquennial valuation, or report required by this Act to be exhibited,

shall, for every day during which such offence, omission, or neglect is continued, be liable to a penalty of not more than five pounds.

(2) It shall be the duty of the Public Actuary to require every society and each of its officers to comply with the provisions of this Act.

Societies or branches may unite for carrying out specific purposes.
1021, 1910,
s. 5.
Cf. U.K.
59 & 60 Vict.
c. 25, s. 70.
Amended by
1483, 1921,
s. 2 (2), and
by 52, 1956,
s. 14.

41. (1) Any societies and/or branches (whether branches of the same or of different societies), may, without terminating their respective separate existences, unite, upon such terms as are mutually agreed, for the purpose of carrying out any one or more of the objects mentioned in paragraphs v, viii, xi, and xii of section 7, if a resolution in that behalf is duly carried by each of the said societies and/or branches in accordance with the general laws or rules by which it is governed.

(2) Thereupon, and upon compliance with section 45, such societies and/or branches shall, for the said purpose, become a body corporate by such name as is adopted by the said resolution, and the same results shall follow from such incorporation as if such body corporate had been a society specified in the second schedule, and this Act shall be read

and construed as if such body corporate had been specified in the said schedule: Provided that such incorporation shall not—

- i. terminate or affect the separate existence of any of such societies and/or branches, nor
- ii. affect any rights of any creditor of, or other person having any claim against, any of such societies and/or branches, nor
- iii. render the funds of any of such societies and/or branches liable for the debts and obligations of such body corporate, except to the extent (if any) provided by the resolution to unite as aforesaid, nor
- iv. require any society or branch to contribute thereto in respect of any of its members who from time to time do not desire the benefits of such incorporation.

42. Any society or branch shall have the right to withdraw from any society or branch formed for the purpose of providing benefits under section 7, and with which it has become united or incorporated under section 41, if a resolution in that behalf has been duly carried by the said society or branch desiring to so withdraw in accordance with its general laws or rules, and upon such withdrawal the liability of such society or branch shall cease, and such society or branch shall thereupon forfeit all its interest in the said united or incorporated body.

Right of society or branch to withdraw.
1021, 1910.
s. 6.
Of U.K.
59 & 60 Vict.
c. 25, s. 21.
Amended by
52, 1956,
s. 15.

43. (1) For the purpose of carrying out any one or more of the objects of a society or branch, such society or branch, if a resolution in that behalf is duly passed in accordance with the general laws or rules by which such society or branch is governed may, with the consent of any other society or branch, without becoming incorporated with such other society or branch—

Society or branch may contribute to funds, or take part in government of another society or branch.
Friendly Societies Act, 1886, s. 7.
Of U.K.
59 & 60 Vict.
c. 25, s. 22.

- i. contribute to a fund of such other society or branch, provided that such fund is applicable to purposes which are the same as, or similar to, the purposes of the fund from which the contribution is made, or
- ii. take part, by duly appointed delegates, in the government of such other society or branch.

(2) Upon any such contribution, the funds so contributed shall, without prejudice to any rights of any creditor of, or other person having any claim against, the society or branch

making the same, cease to be the funds of such society or branch, and shall form part of the funds of the society or branch to whom the same is contributed.

Contributions to be deemed to be wanted for the immediate use of society or branch.
Friendly Societies Act, 1886, s. 8.

44. No contribution made by a society or branch in accordance with section 41 or section 43 shall be deemed "not to be wanted for the immediate use thereof" within the meaning of section 12.

Amalgamation of societies.
Cf. Vic. 2656, 1915, s. 23 (III).
Cf. U.K. 59 & 60 Vict. c. 25, s. 70.
Inserted by 1680, 1925, s. 7.

44a. (1) Any two or more societies may by resolution of both or all of the societies become amalgamated together as one society with or without any dissolution or division of the funds of the societies or either of them.

(2) No resolution by any society for any amalgamation under this section shall be valid unless the resolution is—

- (a) agreed upon by the committees of management of all the societies proposed to become amalgamated; and
- (b) confirmed by not less than three-fourths of the votes recorded by members of each society or of the representatives of the branches of the society at a general meeting duly convened for that or some other purpose.

(3) No amalgamation shall prejudice any right of a creditor of either or any society party thereto, nor shall the rights of any person who may be a member of both or any of the amalgamating societies be affected by the amalgamation.

(4) Upon any amalgamation as aforesaid all property real and personal had, or possessed, or vested in the amalgamating societies and any branches thereof shall, by virtue of this Act, pass and be deemed to be the property of and vested in the amalgamated society as if the right or title thereto had originally been vested in that society, and the amalgamated society shall be deemed the registered proprietor of any such property as may be under The Real Property Act, 1886, as if the name thereof appeared or was entered as such registered proprietor in the register book.

Change of name of society.
Inserted by 19, 1952, s. 8.

44b. (1) Any society may by resolution of the society change the name of the society.

(2) No resolution by any society for the change of the name of the society shall be valid unless the resolution is—

- (a) agreed to by the committee of management of the society; and

(b) confirmed by not less than three-fourths of the votes recorded by members of the society or of the representatives of the branches of the society at a general meeting duly convened for that or some other purpose.

(3) The change of name of a society shall not affect any rights or obligations of the society, or render defective any legal proceedings instituted by or against the society, and any legal proceedings which might have been continued or commenced by or against the society in its former name may be continued or commenced against it by its new name.

45. (1) A copy of every resolution for any of the purposes mentioned in section 41 of this Act, signed by the chairman of the meeting at which the same was carried and countersigned by the secretary of the society or branch, and sealed with its seal, and a copy of every resolution made pursuant to section 44a or section 44b, shall be forwarded to the Public Actuary to be registered by him, and no such resolution shall take effect until such copy is so registered.

Copy of resolution to be registered.
1021, 1910, s. 9.
Amended by 1680, 1925, s. 8, and by 19, 1952, s. 9.

(2) The Public Actuary shall not register any such resolution unless he is satisfied that it is not contrary to this Act or the general laws or rules by which the society or branch is governed, and that it was carried in conformity with all provisions in that behalf of such Act and general laws or rules. The Public Actuary shall not register any such resolution for the change of the name of a society if the new name of the society is the same as that of any society specified in the second schedule or is so similar thereto as to be likely to be mistaken for it.

45a. (1) A society may terminate or be dissolved in any of the following ways:—

- i. Upon the happening of any event declared by the laws or rules to be the termination of the society:
- ii. By the consent of five-sixths in value of the members (excluding honorary members if any) testified by their signature to the instrument of dissolution together with the written consent of every person for the time being receiving or entitled to receive any relief or other benefit from the funds of the society unless the claim of such person is first duly satisfied or adequate provision made for satisfying such claim:
- iii. By the award of the Public Actuary in the cases specified in section 45f.

Dissolution of societies.
Cf. Vic. 3686, 1928, s. 24.
Cf. U.K. 59 & 60 Vict. c. 25, s. 78.
Inserted by 2018, 1931, s. 13.

Cf. U.K.
59 & 60 Vict.
c. 25, s. 79.

- (2) The instrument of dissolution shall set forth—
- (a) the liabilities and assets of the society in detail:
 - (b) the number of members and the nature of their interests in the society respectively:
 - (c) the claims of creditors (if any) and the provision to be made for their payment:
 - (d) the intended appropriation or division of the funds and property of the society, unless the same is stated in the instrument of dissolution to be left to the award of the Public Actuary.

(3) Alterations in the instrument of dissolution may be made with the like consents as hereinbefore provided certified in the same manner.

(4) A statutory declaration shall be made by one of the trustees or by three members and by the secretary of the society that the provisions of this Act have been complied with, and shall be sent to the Public Actuary with the instrument of dissolution, and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of a misdemeanour.

(5) The instrument of dissolution and all alterations therein shall be registered in manner herein provided for the registration of laws and rules and shall be binding upon all members of the society.

(6) In addition to the methods hereinbefore provided for the termination or dissolution of a society, a society which is unable to pay its debts within the meaning of Part XI. of The Companies Act, 1934, may be wound up under the provisions of the said Part XI. on the application of a creditor of the society. For the purposes of the said Part XI. the society shall be deemed to be an unregistered company, and all the provisions of the said Part shall apply to and in respect of any such application by a creditor of the society, but in any such winding-up the Public Actuary shall be appointed as liquidator.

Amended by
2298, 1936,
s. 5.

45b. The Public Actuary shall cause a notice of the dissolution to be advertised at the expense of the society in the manner provided by this Act for advertising an award of the Public Actuary for dissolution, and unless within three months from the date of the *Gazette* in which such advertisement appears a member or other person interested in or having any claim on the funds of the society commences

Notice of
dissolution.
Cf. U.K.
59 & 60 Vict.
c. 25, s. 80
(7).

Inserted by
2018, 1931,
s. 18.

proceedings to set aside the dissolution of the society, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the instrument of dissolution shall be considered to have been duly obtained without proof of the signatures thereto.

45c. (1) The value of members shall be ascertained by giving one vote to every member and an additional vote for every five years that he has been a member, but to no one member more than five votes on the whole.

Voting values.
Inserted by
2018, 1931,
s. 13.

(2) No instrument of dissolution shall direct or contain any provision for a division or appropriation of the funds of the society, or any part thereof, otherwise than for the purpose of carrying into effect the objects of the society as declared in the laws or rules thereof for the time being, unless the claim of every member or person claiming any relief or other benefit from the funds thereof is first duly satisfied or adequate provision is made for satisfying such claim.

Cf. U.K.
59 & 60 Vict.
c. 25, s. 79
(4).

45d. Any officer or person aiding or abetting in the dissolution of a society otherwise than as in this Act provided shall be guilty of an offence against this Act, and be liable to a penalty not exceeding twenty pounds.

Penalties.
Inserted by
2018, 1931,
s. 13.

45e. If any member of a dissolved society or person claiming any relief or other benefit from the funds thereof is dissatisfied with the provisions made for satisfying his claim, such member or other person may apply to the local court of full jurisdiction nearest to the usual or principal place of business of the society for relief or other order, and the court shall have the same powers in the matter as in regard to the settlement of disputes under this Act. The provisions of sections 47, 48, and 49 shall, *mutatis mutandis*, apply to every such application.

Power to
appeal to local
court.
Inserted by
2018, 1931,
s. 13.

45f. (1) Upon the application of one-fifth of the whole number of members of any society, or of one hundred members in the case of a society of one thousand members and not exceeding ten thousand, or of five hundred members in the case of a society of more than ten thousand members, made in writing under their hands setting forth that the funds of the society are insufficient to cover the benefits assured and the grounds upon which such insufficiency is alleged, and requesting an investigation into the affairs of the society or branch with a view to the dissolution thereof,

Dissolution by
award of
Public
Actuary.
Cf. U.K.
59 & 60 Vict.
c. 25, ss. 76,
80.
Inserted by
2018, 1931,
s. 13.

the Public Actuary may, by himself, or by any actuary or public auditor whom he may appoint in writing under his hand, investigate the affairs of the society, giving nevertheless not less than two months' previous notice in writing to the society whose affairs are to be investigated, at the registered office of the society.

(2) If upon such investigation it appears that the funds of the society are insufficient to meet existing claims thereon, or that the rates of contribution fixed in the rules of the society are insufficient to cover the benefits assured to be given by the same, the Public Actuary may, if he considers it expedient so to do, award that the society is dissolved and that its affairs be wound up and direct in what manner the assets of the society shall be divided or appropriated: Provided always that the Public Actuary may suspend his award for such period as he deems necessary to enable the society to make such alterations and adjustments of contributions and benefits as will in his judgment prevent the necessity of such award of dissolution being made.

(3) The Public Actuary proceeding under this section shall have all the same powers and authorities enforceable by the same penalties as in the case of an inspection by him under this Act.

(4) Every award under this section, whether for dissolution or distribution of funds, shall be final and conclusive on the society in respect of which the same is made and on all members of the same and other persons having any claim on the funds of the society without appeal, and shall be enforced in the same manner as a decision on a dispute under this Act, and the expenses of every investigation and award and of publishing every notice of dissolution shall be paid out of the funds of the society before any other appropriation thereof is made.

(5) Notice of every award for dissolution shall within twenty-one days after the same has been made be advertised by the Public Actuary in the *Gazette* and in some newspaper circulating in the neighbourhood in which the registered office of the society is situated, and unless within three months from the date of the *Gazette* in which the advertisement appears a member or other person interested in or having any claim on the funds of the society commence proceedings to set aside the dissolution of the society consequent upon such award and the dissolution is set aside accordingly, the society shall be legally dissolved from the date of the advertisement, and the requisite consents to the application to the Public Actuary shall be considered to have been duly obtained without proof of the signatures thereto.

45g. Notice shall be sent to the Public Actuary of any proceedings to set aside the dissolution of a society not less than seven days before it is commenced by the person taking the proceedings, and of any order setting a dissolution aside by the society or branch within seven days after the order is made.

Notice of proceedings to set aside dissolution.
Cf. U.K. 59 & 60 Vict. c. 25, s. 83.
Inserted by 2018, 1931, s. 13.

46. (1) Every dispute between branches of any society or between any member or members of any society or branch, or between any person claiming through or under a member or under the rules of any society or branch, and the society or branch, or the trustees, committee of management, treasurer, or other officer thereof, or between the assigns of a member and the society, branch, trustees, committee, treasurer, or other officer, shall be decided, and the costs and expenses attending the decision of such dispute be awarded and paid, in manner directed by the rules of the society or branch.

Disputes, how to be determined.
Friendly Societies Act, 1886, s. 22.
Cf. U.K. 59 & 60 Vict. c. 25, s. 68.

(2) The decision and award so made shall be binding and conclusive on all parties, without appeal to any court of law.

47. (1) If—

(a) the rules of any society or branch direct that disputes shall be settled by arbitration, but no arbitrators have been appointed or no award made within such time as is prescribed by such rules, after complaint to the officers of the society or branch; or

Jurisdiction of local courts in certain cases.
Friendly Societies Act, 1886, s. 23.
Cf. U.K. 59 & 60 Vict. c. 25, s. 68 (5) (6).

(b) either party fails or neglects to comply with or conform to any award made by the arbitrators under any such rules; or

(c) such rules direct such disputes to be decided before a local court; or

(d) no mode of proceedings is specified in such rules;

then, and in any of such cases, all applications for the removal of any trustee or other officer, or for any other relief, order, or direction, or for the settlement of any dispute that may arise or may have arisen in the society, or for the enforcement of any such award as aforesaid, shall be made to the local court of full jurisdiction nearest to the usual or principal place of business of the society or branch.

(2) Such court shall, upon the application of any person interested in the matter, entertain such application and grant such orders and directions in relation to the matter of such application as such court thinks fit, or as may be made or granted by the Supreme Court in its equitable jurisdiction.

(3) The decision of such local court upon such application, touching any of the matters aforesaid, shall be final and conclusive.

Mode of proceeding in local court.

Friendly Societies Act, 1886, s. 24.
Cf. U.K. 59 & 60 Vict. c. 25, s. 68
(7).

48. The mode of proceeding under section 47 shall be as follows:—

- I. Where any member of any society, or his legal representative, seeks to recover from the society, or any branch thereof, or from any of the officers of the society or branch, any sum of money, whether the same is a liquidated demand or not, or to enforce any such award as aforesaid, the proceedings shall be commenced by plaint, and shall be conducted in all other respects according to the practice of local courts in the case of ordinary plaints.
- II. Where the application is for the removal of a trustee or other officer, or for an order for compelling the performance or omission of any act or otherwise, and where the relief sought would, but for this Act, come within the equitable jurisdiction of the Supreme Court, then—
 - (a) the applicant shall file with the clerk of the court a short statement, in writing, setting forth the facts and praying for the relief to which he deems himself entitled, and shall also leave with the clerk of the court a copy thereof for each defendant, and such clerk shall forthwith cause a copy to be served on the defendant, with a notice to appear as in ordinary cases;
 - (b) the defendant, if he desires to appear, shall file with the clerk of the court a short statement of his defence, and the case shall be set down for trial in the usual way;
 - (c) if the defendant does not appear in due course the plaintiff may sign judgment, the effect of which shall be that on the trial the defendant shall be precluded from denying any of

the facts set forth in the plaintiff's statement, and the clerk of the court shall thereupon set down the cause for trial as in cases for assessment of damages, and the court, upon such trial, may make such order as it thinks fit.

49. (1) When any local court makes any order for the performance or omission of any particular act as aforesaid, it may also order that if the defendant, for a time to be mentioned in such order, refuses or neglects to perform or abstain from the act mentioned, he shall pay to the plaintiff a sum of money to be therein specified, not exceeding one hundred pounds, and such order shall be duly entered by the clerk as the judgment of the court.

Orders of local courts, how enforced.
Friendly Societies Act, 1886, s. 25.

(2) In case the defendant, after the expiration of the time mentioned in such order, continues to neglect or refuse as aforesaid, the plaintiff may at once proceed to enforce such order by all or any of the means by which judgments of such court may for the time being be enforceable, and no such order shall be removed by *certiorari* or otherwise into any superior court of record.

(3) In any case where any local court gives judgment against any society or branch for any sum of money, and there are not sufficient moneys, goods, or chattels of the society or branch whereon execution can be levied for such sum and costs, then and in such case such judgment may be satisfied by being levied on and by the seizure and sale of any of the moneys, goods, and chattels of any of the trustees for the time being of the society or branch: Provided that whatever sum of money is paid by any such trustee, or is levied on his goods and chattels as aforesaid, shall be repaid, with all damages accruing to him in consequence thereof, out of the moneys belonging to the society or branch, or out of the first moneys which are thereafter received by the society or branch.

50. (1) In case any member of any society has been expelled therefrom, and the award of any arbitrators appointed in accordance with the rules of the society, or the order of any local court, directs that he shall be reinstated, it shall be lawful for such arbitrators to award, or local court to order, in default of such reinstatement, such a sum of money to be paid to such member by the trustees of the society as to such arbitrators or local court may seem just and reasonable.

Expelled members may be reinstated or in default be awarded compensation.
Friendly Societies Act, 1886, s. 26.

(2) Such sum of money, if not paid, shall be recoverable from the society, or the treasurer, trustee, or other officer thereof, if such order is made by a local court, in the manner hereinbefore provided, and if by arbitrators, then by action on such award in any court of competent jurisdiction.

51. Every person shall be guilty of a misdemeanour who, being a trustee, secretary, officer, or member of any society or branch—

- (a) fraudulently takes or applies to his own use any of the money or other property of the society or branch; or
- (b) as such trustee, secretary, officer or member, uses or possesses himself of any of the money or other property of the society or branch otherwise than in payment of a just debt or demand; or
- (c) with intent to defraud, omits to make, or to cause to be made, a full and true entry thereof in the books and accounts of the society or branch; or
- (d) with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings, or securities belonging to the society or branch; or
- (e) knowingly makes or concurs in the making of any false entry, or permits any material omission in any book, or circulates or publishes, or concurs in making, circulating or publishing any written or printed statement or account which he knows to be false in any material particular, with intent to deceive or defraud any member or creditor of the society or branch, or with intent to induce any person to become a member thereof, or to entrust or advance any money or property to the society or branch, or to enter into any security for the benefit thereof; or
- (f) with intent to defraud, affixes or impresses the seal of the society or branch to or upon any document whatsoever.

52. Every person found guilty of a misdemeanour under this Act may be sentenced to be imprisoned for any term not exceeding two years, with or without hard labour, or may be fined, as the court thinks fit.

Certain fraudulent acts to be misdemeanours.

Friendly Societies Act, 1886, s. 27.
Cf. U.K. 59 & 60 Vict. c. 25, ss. 84-7.

Penalty for misdemeanour.
Friendly Societies Act, 1886, s. 28.

53. Any person who—

- (a) forges the signature of any trustee, secretary, or other officer of any society or branch, or
- (b) forges or counterfeits the seal of any society or branch, or
- (c) utters any document or instrument whatsoever, having thereon affixed thereto the stamp or impression of any such forged or counterfeit seal, or any forged or counterfeit stamp or impression made or apparently intended to resemble the stamp or impression of the seal of any society or branch, knowing the same to be forged or counterfeited, or
- (d) forges, or alters, or utters, knowing the same to be forged or altered, any document or instrument having the stamp or impression of the seal of any society or branch thereon, or affixed thereto,

Forgery of seal, etc., to be a felony.
 Friendly Societies Act, 1886, s. 29.
 Cf. U.K. 59 & 60 Vict. c. 286, ss. 84, 87.

shall be guilty of felony, and shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding seven years, and to be kept to hard labour or solitary confinement for the whole or any part of such period.

54. All penalties imposed by this Act shall (except where otherwise directed) be paid—one-half to the informant or complainant, and one-half to the Treasurer, on behalf of His Majesty, His heirs and successors, for the public use of the State; unless the information or complaint is laid at the instance or by the direction of the trustees or other officers of any society or branch, in which case the whole of the penalty inflicted shall be paid to such trustees or other officers in aid of the funds of the society or branch.

Distribution of penalties.
 Friendly Societies Act, 1886, s. 30.

55. The provisions of an Act passed in the thirty-ninth year of the reign of King George the Third, intituled “An Act for the more effectual suppression of societies established for seditious and treasonable purposes, and for better preventing treasonable and seditious practices,” and an Act passed in the fifty-seventh year of the reign of King George the Third, intituled “An Act for the more effectually preventing seditious meetings and assemblies,” shall not extend to any society or branch governed by this Act, or to any meeting of the members or officers thereof.

Sedition Acts not to apply.
 Friendly Societies Act, 1886, s. 32.

Existing societies may become incorporated.

Friendly Societies Act, 1886, s. 33.

56. Any body of persons existing as a friendly society before the seventeenth day of November, eighteen hundred and eighty-six, may become incorporated with any society governed by this Act: Provided that the terms and conditions under which such body of persons desire to be so incorporated prove upon investigation satisfactory to the committee of management of such last-mentioned society.

Regulations.

558, 1892,

s. 21.

Of U.K.

59 & 60 Vict.

c. 25, s. 99.

57. The Governor may from time to time make regulations prescribing—

- (a) the time and manner in which any act, deed, matter, or thing required by this Act to be done, and for the doing of which no time or procedure is provided, shall be done:
- (b) the fees to be paid by any society in respect to any of the matters to be done and performed for the society by any auditor or valuer:
- (c) the form and contents of any notice, account, return, statement, report, valuation, or other document by this Act required to be prepared, served, rendered, declared, or verified:
- (d) the mode and time of preparing, publishing, serving, executing, rendering, declaring, or verifying any such notices and documents as last aforesaid:
- (e) all other matters and things arising under and consistent with this Act, and not therein expressly provided for, and for otherwise fully and effectually carrying out and giving effect to the various objects, purposes, powers, and authorities of this Act, and guarding against evasions and violations thereof; and
- (f) for fixing penalties for the breach of any regulation, not exceeding the sum of ten pounds.

Summary procedure for offences.

Friendly Societies Act, 1886, s. 22.

Amended by 2018, 1931, s. 14.

58. All proceedings in respect of offences against any provision of this Act (other than section 45a, 51, or 53) shall be disposed of summarily.

Appeal.

Friendly Societies Act, 1886, s. 31. 558, 1892, s. 23.

59. There shall be an appeal in respect of proceedings in respect of offences against this Act.

SCHEDULES.

THE FIRST SCHEDULE.

Sec. 2.

Reference to Act.	Title or Short Title of Act.
No. 22 of 1852	An Act to Regulate Friendly Societies.
Private Act	The Manchester Unity of Oddfellows Act, 1874.
Private Act	The Manchester Unity of Oddfellows Amendment Act, 1887.
Private Act	The Friendly Societies Act, 1886.
No. 558 of 1892	The Friendly Societies Amendment Act, 1892.
No. 593 of 1894	An Act to Rectify a Mistake in the Friendly Societies Act, 1886.
No. 609 of 1894	The Friendly Societies Amendment Act, 1894.
No. 610 of 1894	The Friendly Societies Amendment Act, 1894.
No. 952 of 1908	The Friendly Societies Amendment Act, 1908.
No. 1021 of 1910	The Friendly Societies Amendment Act, 1910.
No. 1276 of 1917	Friendly Societies Further Amendment Act, 1917.

THE SECOND SCHEDULE.

Sec. 4.

The South Australian Ancient Order of Foresters Friendly Society.	<p>Manchester Unity Act of 1867, <i>et seq.</i> Friendly Societies Act, 1886, Schedule A. Amended by proclamations, Gazette, 5th May, 1921, p. 981, 7th June, 1928, p. 1209, 15th January, 1931, p. 65, 14th May, 1936, p. 1002, 10th December, 1953, p. 1403 and 28th June, 1956, p. 1614.</p>
The South Australian Grand United Order of Oddfellows Friendly Society.	
The South Australian United Ancient Order of Druids Friendly Society.	
The Independent Order of Odd Fellows.	
The South Australian District, No. 81, Independent Order of Rechabites, Friendly Society.	
The Albert District, No. 83, Independent Order of Rechabites, Salford Unity.	
The Cosmopolitan Friendly Benefit Society.	
Australian Natives' Association.	
Hibernian Australasian Catholic Benefit Society, Adelaide District, No. 7.	
South Australian Grand United Order of Free Gardeners.	
The Federal Friendly Benefit Society of South Australia.	
Protestant Alliance Friendly Society of Australasia Grand Council of South Australia.	
The United Friendly Societies' Council.	
National Health Services Association of South Australia.	
Australian Medical Hospital and General Assurance Society.	
Manchester Unity Independent Order of Oddfellows.	

THE THIRD SCHEDULE.

Sec. 10.

1. The place where the business of the society shall from time to time be carried on.
2. The whole of the objects for which the society is established.
3. The purposes for which the funds of the society or any branch thereof shall be applicable.

Friendly Societies Act, 1886,
 Schedule B.
 Cf. U.K.
 59 & 60 Vict.
 c. 25, First Schedule.

THE FIFTH SCHEDULE.

Sec. 16.

Received from _____ this _____ day of _____ 19 _____, the sum of _____ being in full satisfaction and discharge of all moneys due upon the within security or obligation.

Friendly Societies Act, 1886, Schedule D.

Witness to the sealing hereof with the seal of the _____

(L.S.)

} Trustees.
Secretary.

THE SIXTH SCHEDULE.

Sec. 17.

Received from _____ this _____ day of _____ 19 _____, the sum of _____ on account and in part payment of the moneys due upon the within security or obligation.

Friendly Societies Act, 1886, Schedule E.

Witness to the sealing hereof with the seal of the _____

(L.S.)

} Trustees.
Secretary.



TOWN PLANNING ACT, 1929-1956.

BEING

TOWN PLANNING ACT, 1929, No. 1945 OF 1929 [ASSENTED TO
15TH JANUARY, 1930.]

AS AMENDED BY

TOWN PLANNING ACT AMENDMENT ACT, 1955, No. 55 OF 1955
[ASSENTED TO 8TH DECEMBER, 1955.]

AND

TOWN PLANNING ACT AMENDMENT ACT, 1956, No. 46 OF 1956
[ASSENTED TO 22ND NOVEMBER, 1956.]

An Act to repeal the Town Planning and Development Act, 1920, and the Control of Subdivision of Land Act, 1917, and to enact other provisions in lieu thereof.

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

Short title.
Cf. U.K.
22 & 23
Geo. 5 c. 48.

1. This Act may be cited as the "Town Planning Act, 1929-1956", and shall come into operation on a date to be fixed by proclamation.

Interpreta-
tion.

2. In this Act, unless some other meaning is clearly intended—

"area" means a municipality or district council district:

"committee" means the Town Planning Committee constituted by this Act;

"council" means a municipal or district council:

"Crown lands" means and includes all lands in the State, except—

I. lands reserved for or dedicated to any public purpose:

II. lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown:

III. lands subject to any agreement, lease, or licence lawfully granted by or on behalf of the Crown, and includes all lands which, having been granted or held under agreement or lease, have been or are surrendered, or having been reserved or dedicated,

Inserted by
55, 1955,
s. 3 (a).

have been or are lawfully resumed by proclamation; and all lands which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted or revert to, or have been or are acquired by, the Crown:

“metropolitan area” means the area comprised within the municipalities of Adelaide, Brighton, Burnside, Campbelltown, Enfield, Glenelg, Henley and Grange, Hindmarsh, Kensington and Norwood, Marion, Mitcham, Payneham, Port Adelaide, Prospect, St. Peters, Thebarton, Unley, Walkerville, West Torrens and Woodville, the District Council District of Salisbury, and the area comprised within the Garden Suburb:

Inserted by 55, 1955, s. 3 (b).

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

Inserted by 55, 1955, s. 3 (b).

“plan of subdivision” means—

Amended by 55, 1955, s. 3 (c).

- (a) any plan which, in addition to dividing or subdividing the land delineated therein into allotments, shows any new or intended road, street, thoroughfare, or reserve; and
- (b) any other plan which, in the opinion of the committee, ought to be dealt with as a plan of subdivision:

“plan of re-subdivision” means any plan dividing or subdividing the land delineated therein into allotments or otherwise, and not being a plan of subdivision:

“plan” includes plan of subdivision and plan of re-subdivision.

3. (1) Except as provided by sections 30 to 34, inclusive, this Act shall apply only to plans which divide land into allotments suitable or intended to be used for sites for residences, shops, factories, or other like premises, and shall not apply to plans dividing land into allotments suitable or intended to be used for agricultural, horticultural, viticultural, pastoral, or like purposes.

Application of Act. Amended by 46, 1956, s. 4 (a).

* * * * *

Subsec (2) repealed by 46, 1956, s. 4 (b).

s. 3. DISTRICT COUNCIL OF LOXTON v. BRUCE (1927) S.A.S.R. 463; 10 Austn. Digest 50. Held that the Town Planning and Development Act, 1920, did not apply to remote country areas, and that private roads shown on a plan of subdivision of such areas did not vest in the district council under section 35 of that Act.

(3) This Act does not apply to the City of Adelaide nor to any Crown lands.

Saving of
The Real
Property Act,
1886.

4. The provisions of this Act are in addition to, and not in derogation of, the provisions of The Real Property Act, 1886.

Repeal.

5. The Control of Subdivision of Land Act, 1917, and the Town Planning and Development Act, 1920, are repealed.

Heading
amended by
55, 1955,
s. 4 (2).
The Town
Planner.

The Town Planner and the Town Planning Committee.

6. (1) There shall be an officer of the Public Service appointed by the Governor and styled the Town Planner.

(2) The Town Planner shall be an officer of the Department of the Registrar-General of Deeds, but shall be responsible to the Minister for the due execution of his functions under this Act.

Power of
Town Planner
to do work
for the
public.

7. (1) The Town Planner may prepare plans and do other work (not being surveying) in connection with the subdivision of land for any person, and may charge for any work so done such fees as are approved by the Minister.

(2) Any money collected by the Town Planner under this section shall be paid into the General Revenue of the State.

Town
Planning
Committee.
Substituted
by 55, 1955,
s. 4 (1).

8. (1) There shall be a committee called the "Town Planning Committee" which shall consist of—

(a) the Town Planner, who shall be chairman of the committee; and

(b) four members appointed by the Governor.

(2) Any members appointed by the Governor may be persons who, at the time of their appointment, are members or officers of councils.

(3) Any member of the committee appointed by the Governor shall not, as such, be subject to the Public Service Act, 1936-1954.

(4) Every member of the committee appointed by the Governor shall hold office for four years: Provided that a member appointed to fill a casual vacancy shall hold office only for the balance of the term of office of the member in whose place he was appointed.

(5) On the expiration of his term of office a member of the committee appointed by the Governor shall be eligible for re-appointment.

(6) The members of the committee shall be paid such salary or other remuneration as is from time to time fixed by the Governor and shall be entitled to receive such travelling and similar expenses as are from time to time approved by the Minister.

8a. (1) The Governor may remove from office for misconduct or incapacity any member of the committee appointed by the Governor.

Removal from office.
Inserted by 55, 1955, s. 4 (1).

(2) The office of a member of the committee appointed by the Governor shall become vacant if he—

- (a) dies;
- (b) resigns by written notice to the Minister;
- (c) without leave of the Minister absents himself from four consecutive meetings of the committee;
- (d) becomes bankrupt or makes an assignment of his property for the benefit of his creditors or compounds with his creditors for less than twenty shillings in the pound;
- (e) is convicted of any offence triable on information in the Supreme Court; or
- (f) is convicted of any other offence and receives a notice in writing from the Minister discharging him from office on the ground of that conviction.

8b. Any three members of the committee, one of whom is the chairman or the deputy chairman, shall constitute a quorum thereof.

Quorum.
Inserted by 55, 1955, s. 4 (1).

8c. The Governor may appoint one of the members of the committee to be the deputy chairman of the committee.

Deputy Chairman.
Inserted by 55, 1955, s. 4 (1).

8d. The chairman shall preside at all meetings of the committee at which he is present. In his absence the deputy chairman shall preside.

Chairman.
Inserted by 55, 1955, s. 4 (1).

8e. No act or proceeding of the committee shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

Validity acts of committee.
Inserted by 55, 1955, s. 4 (1).

Requirements as to Plans.

9. Section 101 of The Real Property Act, 1886, is amended by inserting at the end thereof the following subsection:—

Application of Real Property Act, 1886, s. 101, as to deposit of plans by persons other than registered proprietors.

(4) This section shall apply to any person, whether the registered proprietor or not, who subdivides any land

which is subject to the provisions of this Act, for the purpose of selling the same in allotments, and to any licensed land broker or other person acting as the agent of such a person.

Deposit of plans of subdivision of land not under Real Property Act, 1886.

10. (1) No person shall sell in allotments, offer or agree to sell in allotments, or convey in allotments, any land not subject to the provisions of The Real Property Act, 1886, unless a plan of subdivision showing the said land has first been deposited in the General Registry Office, either under this Act or under the laws in force before the commencement of this Act.

(2) Any person who contravenes subsection (1), and any licensed land broker or other person acting as the agent of any person who, as such agent, sells or offers for sale any land contrary to subsection (1), shall be guilty of an offence and liable to a penalty not exceeding one hundred pounds.

Duty to obtain approval of subdivisions and re-subdivisions. Amended and subsec (2) inserted by 55, 1955, s. 5.

11. (1) Except as allowed by this Act, no plan of subdivision shall be deposited in the Lands Titles Registration Office or in the General Registry Office unless it has been approved by the committee and the council of the area in which the land shown in the plan is situated, and, except as allowed by this Act, no plan of re-subdivision shall be lodged in the Lands Titles Registration Office or in the General Registry Office unless it has been approved by the Town Planner and the council of the area in which the land shown in the plan is situated.

(2) If any plan of subdivision was, before the passing of the Town Planning Act Amendment Act, 1955, approved by the Town Planner and the council of the area in which the land shown in the plan is situated but the plan of subdivision was not before the said passing or is not within two months thereafter deposited in the Lands Titles Registration Office or the General Registry Office, as the case may be, it shall not be so deposited unless it is further approved by the committee and the committee may withhold approval to the plan of subdivision unless it conforms with the provisions of section 12a.

Preparation and approval of plans. Amended by 55, 1955, s. 6.

12. (a) The mode in which plans are to be prepared, the particulars to be shown thereon, and all other requirements in relation to plans; and

s. 10. GEORGE V. GREATER ADELAIDE LAND DEVELOPMENT COMPANY LIMITED (1929) 43 C.L.R. 91; 3 A.L.J. 316; 36 A.L.R. 72; 4 Austr. Digest 605; reversing (on this point) GREATER ADELAIDE LAND DEVELOPMENT COMPANY LIMITED V. GEORGE (1929) S.A.S.R. 199. A contract for the sale of land, made before a plan of subdivision was deposited, but expressed to be subject to compliance with the Town Planning and Development Act, 1920, held illegal. Also held that moneys paid by the purchaser under the contract could not be recovered.

- (b) the procedure to be followed by an applicant in order to obtain the approval of the committee or the Town Planner or of the council to any plan, and the procedure to be followed by the committee or the Town Planner and the council before approving any plan; and
- (c) the grounds, apart from those set out in section 12a, on which the committee or the Town Planner or a council may withhold its approval of any plan, shall be as prescribed by regulations.

12a. (1) The committee may withhold approval to any plan of subdivision unless the committee is satisfied—

Grounds upon which approval may be withheld.
Inserted by 55, 1955, s. 7.

- (a) that the area to be subdivided or any part thereof, is not liable to inundation by drainage waters or flood waters;
- (b) that all allotments, reserves, or parcels of land contained in the plan can be satisfactorily drained;
- (c) that the plan provides for such reserves or easements as are necessary for the purpose of coping with drainage problems;
- (d) that the land and every portion thereof, is suitable for the purpose for which it is to be subdivided;
- (e) that there is sufficient provision for shopping sites;
- (f) that the proposed mode of subdivision would not destroy any natural beauty spot on the subdivided land: Provided that approval shall not be withheld pursuant to this paragraph if the committee is satisfied that the land upon which the natural beauty spot is situated has been offered by the owner of the land for sale to the Government and the council of the area in which the land is situated at a price which in the opinion of the Land Board is reasonable and the offer has been refused by both the Government and the council;
- (g) that any proposed road, street, or thoroughfare is so graded as to be capable of being conveniently connected with any existing street, road or thoroughfare;
- (h) that any proposed road, street, or thoroughfare is not inconvenient for traffic and that sufficient provision is made for convenient inter-communication with neighbouring localities;
- (i) if the land is situated within a municipality that the council of that municipality has notified the committee that the roadway of every proposed

street or road has to a width of at least twenty-four feet been adequately formed and paved and all necessary bridges and culverts to carry every such roadway have been constructed or that the applicant for approval to the plan has made binding arrangements satisfactory to the council under which every such roadway will, at the cost of the applicant, be formed to a width of twenty-four feet and paved with consolidated metal to a depth of four inches and sealed with bitumen, tar or asphalt or will be paved in any other manner agreed between the applicant and the council and every such bridge or culvert will, at the cost of the applicant, be constructed;

- (j) that the plan provides for reasonably adequate reserves for public gardens and public reserves having regard to the existing reserves which will be available for the use of persons residing on the land subdivided by the plan.

(2) If the land is situated in the metropolitan area, and if the Engineer-in-Chief does not certify to the committee that the land can be advantageously and economically sewered and reticulated with water, the committee shall not approve of the plan unless the Minister consents to the giving of the approval.

13. There shall be an appeal in accordance with the regulations to the committee against any refusal of a council to approve of any plan or against any refusal of the Town Planner to approve of any plan of re-subdivision.

Appeal from decision of council or Town Planner. Substituted by 55, 1955, s. 8.

13a. (1) If the committee refuses to approve of a plan of subdivision (whether on appeal as provided by section 13 or otherwise) the person submitting the plan may, within thirty days after receiving notice of the refusal, by notice of appeal in writing, request the committee to re-consider the matter. The committee shall thereupon reconsider the matter and the appellant may appear before the committee or may submit any representations in writing to the committee.

Appeal from decision of committee. Inserted by 55, 1955, s. 8.

(2) If after re-consideration of any plan under subsection (1) the committee refuses to approve the plan, the committee shall make a report to the Minister setting out its reasons for its refusal.

(3) Every such report shall be laid before both Houses of Parliament and may be considered by a joint committee appointed for the purpose by both Houses of Parliament in pursuance of the Joint Standing Orders. The joint committee shall consider the plan of subdivision and the report

of the committee and any other matters deemed relevant by the joint committee and may after consideration thereof approve the plan, in which case the plan shall be deemed to be approved for the purposes of this Act, or may uphold the decision of the committee.

14. (1) When any plan of subdivision has been deposited in the Lands Titles Registration Office or the General Registry Office every road, street, thoroughfare, reserve, or other like open space shown thereon shall, unless it is specified that the said road, street, thoroughfare, reserve, or other open space is vested in any other person or body, be vested for the purpose indicated on the plan in fee simple by virtue of this Act in the council of the area in which it is situated without compensation or payment to any person.

Effect of approval of plan of subdivision.

(2) Every road, street, or thoroughfare vested in a council pursuant to this section shall be for all purposes a public road, street, or thoroughfare, as the case may be.

14a. (1) If any plan of subdivision is deposited in the Lands Titles Registration Office or the General Registry Office and it is shown on the plan that any land comprised therein is subject or intended to be subject to an easement to the Minister of Works for sewerage purposes or for water supply purposes then, as from the time of deposit, the land shall, without compensation or payment to any person, be subject to an easement to the Minister of Works giving the Minister of Works his agents, servants and workmen full free and unrestricted liberty from time to time and at all times to break the surface of, dig, open up and use the said land for the purpose of laying down, fixing, taking up, repairing, relaying or examining pipes therein and of using and maintaining those pipes for sewerage purposes or, as the case may be, water supply purposes together with the right to the Minister of Works with or without horses, plant, equipment, carts, motor vehicles and other carriages laden or unladen full, free and unrestricted right and liberty of entry, egress and regress from time to time and at all times for him and his agents, servants and workmen in, through, over, across and along the land for any of the purposes aforesaid.

Easements. Inserted by 46, 1956, s. 2.

(2) If any plan of subdivision is deposited in the Lands Titles Registration Office or the General Registry Office and it is shown on the plan that any land is subject or is intended to be subject to an easement to the council in the area of which the land is situated for drainage purposes then, as from the time of the deposit, the land shall, without compensation or payment to any person, be subject to an easement to

the council of the area in which the land is situated giving the council, its agents, servants and workmen full, free and unrestricted liberty from time to time and at all times to break the surface of, dig, open up and use the said land for the purpose of laying down, fixing, taking up, repairing, relaying or examining drainage pipes therein for the purpose of the drainage of water and of using and maintaining such pipes together with the right to the council with or without horses, plant, equipment, carts, motor vehicles and other carriages laden or unladen full, free and unrestricted right and liberty from time to time and at all times for the council and its agents, servants and workmen in, through, on, over and along the said land for any of the purposes aforesaid.

(3) If by virtue of this section, any land is subject to an easement, the Registrar-General of Deeds shall, if the land affected is land under The Real Property Act, 1886-1945, make all such entries as may be necessary or proper to evidence that the land is subject to the easement or, if the land is not land under the said Act, register in the General Registry Office a memorial to the effect that the land is so subject. For the purpose of making any such entry or registering any such memorial it shall be sufficient description of the easement if reference is made to this section.

Provision where plan of re-subdivision relates to one allotment only.

15. If a plan of re-subdivision re-subdivides one allotment only it shall not be necessary to obtain the approval of the council thereto if the Town Planner approves of the said plan.

Consent of parties interested in subdivided lands.

16. The Registrar-General shall not be bound to accept any plan of subdivision sought to be deposited in the Lands Titles Registration Office or the General Registry Office unless he is satisfied that all persons who appear from the Register Book or any other instrument or document in the Lands Titles Registration Office or the General Registry Office to have or claim any interest in the land shown in the plan, consent to the proposed subdivision.

Power of Town Planner to require re-subdivisions to be dealt with as subdivisions.

17. The Town Planner may require any plan sought to be lodged in the Lands Titles Registration Office or the General Registry Office as a plan of re-subdivision to be prepared and dealt with as a plan of subdivision, and in such a case the plan shall not be approved or accepted except as a plan of subdivision.

Supplementary Provisions.

Penalty for dividing land otherwise than in conformity with plans.

18. (1) No person shall divide any allotment shown on a plan of subdivision which has been deposited, whether before or after the commencement of this Act, in the Lands Titles Registration Office or the General Registry Office, except in

accordance with a plan of re-subdivision duly approved under this Act.

(2) No person shall divide any allotment or parcel shown on a plan of re-subdivision lodged, whether before or after the commencement of this Act, in the Lands Titles Registration Office or the General Registry Office, except in accordance with another plan of re-subdivision duly approved under this Act.

(3) A person shall be deemed to divide an allotment within the meaning of this section—

(a) if, being the owner of the whole allotment, he builds on the allotment in such a manner that any part thereof becomes obviously adapted for occupation separately from the remaining part thereof:

(b) if, being the owner of portion only of the allotment, he builds on that portion in such a manner that any part of that portion becomes obviously adapted for occupation separately from the remaining part thereof:

(c) if, being the owner of the whole allotment, he sells, agrees to sell, conveys, transfers, mortgages, or otherwise disposes of, or procures the issue under The Real Property Act, 1886, of a certificate of title to, part only of that allotment:

(d) if, being the owner of portion only of the allotment, he sells, agrees to sell, conveys, transfers, mortgages, or otherwise disposes of, or procures the issue under The Real Property Act, 1886, of a certificate of title to, part only of that portion.

(4) Any person who contravenes this section shall be guilty of an offence and liable to a penalty not exceeding two hundred pounds.

19. (1) Notwithstanding The Real Property Act, 1886, the Registrar-General of Deeds may correct any error or omission which, in his opinion, exists in any plan in his office, whether a plan as defined in this Act or not.

Power of
Registrar-
General to
correct
errors.

(2) In correcting any plan the Registrar-General shall not erase or render illegible the original words, figures, or other symbols, and shall date and initial the correction.

(3) The Registrar-General shall notify the council in whose area the land comprised in the plan is situated of every correction made under this section.

Power to inspect land and premises. Amended by 55, 1955, s. 9.

20. (1) The Town Planner or any person authorized in writing by him or by the Minister or any member of the committee may at any reasonable time enter upon and inspect any land or buildings for any purpose of this Act or to ascertain whether the provisions of this Act are being observed.

(2) The powers conferred by subsection (1) may also be exercised by any person authorized by the council of the area in which the land or premises are situated.

(3) No person shall obstruct any person in the exercise of any power conferred by this section.

Penalty: Not exceeding twenty-five pounds.

Acquisition of strips of land.

21. (1) Where any land whether shown on a plan or not, is bounded or partly bounded on any side by a strip of land which—

(a) is less than six feet in width;

(b) abuts on or bounds any proposed or existing street, road, lane, passage, or other thoroughfare, or any reserve, or open space of land; and

(c) in the opinion of the council of the area in which the strip is situated obstructs the development of, or interferes with the means of communication or access to or the convenience of, the council's area or any part thereof,

the council may by resolution declare that the strip ought to be vested in fee simple in the council.

(2) When any such resolution has been passed, the council shall, within one month after the passing of the resolution, serve a notice under the hand of the Mayor or Chairman and the Town or District Clerk, as the case may be, on the owner of the strip, either personally, or by post in a registered letter addressed to the owner at his last known place of residence.

(3) The notice shall state that the council has, in conformity with the provisions of this Act, passed the said resolution, and shall state its terms and the date on which it was passed.

(4) A copy of the notice shall be published by the council in the *Government Gazette* not less than one month and not more than two months after the passing of the resolution.

s. 21. RAGLESS v. DISTRICT COUNCIL OF PROSPECT (1922) S.A.S.R. 299; 3 Austr. Digest 130. Held that the interpretation of section 47 of the Town Planning and Development Act, 1920 (which enabled councils to acquire certain strips of land) was governed by the heading to the group of sections in which section 47 occurred, and therefore it applied only to land shown in plans of subdivision or resubdivision.

(5) If the owner of the strip cannot, after diligent inquiry, be found, the requirements of this section as to notice to the owner shall be deemed to be sufficiently complied with by the publication of the notice in the *Government Gazette*, as required by subsection (4) hereof.

(6) Upon the publication pursuant to subsection (4) hereof of any notice under this section, the strip of land mentioned therein shall forthwith become vested in fee simple in the council of the area wherein the strip is situated without compensation or payment to the owner or any other person.

(7) The council shall thereupon furnish the Registrar-General of Deeds with a copy of the *Government Gazette* containing the notice.

(8) Upon receipt of the said copy the Registrar-General of Deeds shall, if the land affected is land under The Real Property Act, 1886, make all such entries as may be necessary or proper to evidence the vesting of the said land in the council, or, if it is land not under that Act, register in the General Registry Office a memorial of the vesting of the said land in the council.

22. (1) In any case where—

- (a) an application was made to the Government Town Planner under the Town Planning and Development Act, 1920, for approval of a plan of subdivision under that Act; and
- (b) the Government Town Planner signified to the applicant or his agent by a letter in the Form known as Letter Form A that approval had been given to the proposal for the subdivision shown in the plan; and
- (c) the said plan of subdivision was subsequently deposited in the Lands Titles Registration Office or the General Registry Office,

Validity of
certain
transactions.

the said plan shall be deemed for all purposes to have been so deposited at the time when the said letter in the Letter

s. 22. GREATER ADELAIDE LAND DEVELOPMENT COMPANY LIMITED v. HAMILTON (1930) S.A.S.R. 114; 11 Austr. Digest 536. Held that section 22 did not affect a judgment given in a local court action before the enactment of the section.

POHLNER v. THE ADELAIDE DEVELOPMENT COMPANY LIMITED (1932) S.A.S.R. 346. Section 22 only applies where the plan subsequently deposited is of the same general design as the plan for which approval was sought.

ADELAIDE DEVELOPMENT COMPANY PROPRIETARY LIMITED v. POHLNER (1933) 49 C.L.R. 25 affirming POHLNER v. THE ADELAIDE DEVELOPMENT COMPANY LIMITED (1932) S.A.S.R. 346. Where contrary to section 23 of the Town Planning and Development Act, 1920, a contract for the sale of land was entered into before a plan of subdivision was deposited, held that section 22 of the Town Planning Act, 1929, could not be relied upon by the appellant.

LAKE BEACH ESTATE LIMITED v. MITCHELL (1939) S.A.S.R. 209, reversing LAKE BEACH ESTATE LIMITED v. MITCHELL (1932) S.A.S.R. 280. Section 15 of the Subdivided Lands Debts Act, 1932, is to be construed as an amendment of the Town Planning Act, 1929.

Form A was received by the applicant or his agent, and all transactions after that time relating to any land shown on the said plan shall be, and be deemed to have been, of the same force and validity as if the plan had been deposited at that time.

(2) Any case on appeal before the High Court of Australia when this Act comes into force shall be determined as if this section had not been passed.

Regulations.

23. In addition to the other powers to make regulations conferred by this Act the Governor may make regulations—

- (a) prescribing minimum sizes for allotments shown on plans of subdivision and the minimum widths of the different classes of roads shown on plans of subdivision:
- (b) prescribing all matters relating to appeals under this Act:
- (c) prescribing fees payable under this Act:
- (d) prescribing any other matters necessary or convenient for carrying this Act into effect:
- (e) imposing penalties not exceeding twenty pounds for any breach of any regulation.

Summary proceedings.

24. Proceedings for offences against this Act shall be disposed of summarily.

Financial provision.

25. The moneys required for the purposes of this Act shall be paid out of the moneys provided for Parliament for those purposes.

Developmental Plan for Metropolitan Area of Adelaide

Duty of committee to prepare plan for metropolitan area. Inserted by 55, 1955, s. 10.

26. (1) The committee shall, as soon as may be, make an examination of the metropolitan area and an assessment of its probable development and for that purpose shall have regard to the following matters:—

- (a) Whether, after taking into consideration the probable development of the metropolitan area and the provision made or likely to be made for public transport in the metropolitan area, the existing principal highways are adequate to provide for the needs of the metropolitan area and what provision should be made for principal highways in that area:
- (b) Whether the open spaces, such as parks, playgrounds, sports grounds, public gardens and other

public reserves, in the metropolitan area are adequate or will be adequate to meet the probable needs of the metropolitan area and what provision should be made for such open spaces:

- (c) The classification and zoning of districts for industrial purposes and for the proper segregation of noxious trades and, in order to meet the probable development of the metropolitan area, what areas should be set aside for industrial development and for noxious trades within the metropolitan area:
- (d) Whether in the interests of the community, the subdivision of any land within the metropolitan area should be prohibited or permitted only subject to conditions having regard, in particular, to the provision of public services such as sewers, water supplies, electricity supplies, gas supplies, public transport services and the like and whether the cost of providing any of such services to the land would be other than advantageous or economical:
- (e) Any other general matters which in the opinion of the board are necessary to be provided for in order to secure that the metropolitan area will develop in a manner in the best interests of the community.

(2) After making its examination and assessment the committee shall prepare a plan indicating, so far as can be done, the measures deemed necessary or desirable for providing for the proper development of the metropolitan area. For the purpose of preparing the plan the committee may consult with any council the area of which is within the metropolitan area, any public authority and any body corporate by which any of the public services referred to in paragraph (d) of subsection (1) is provided.

(3) The plan shall be submitted by the committee to the Minister together with a report in explanation of the plan including, among other things, any recommendation of the committee as to any regulations which, in the opinion of the committee, are necessary to be made for carrying into effect the measures recommended by the committee in its plan and report.

27. (1) The plan shall thereupon be laid before both Houses of Parliament. The report of the committee shall, at the same time, be laid before both Houses of Parliament.

Submission of
plan to
Parliament.
Inserted by
55, 1955,
s. 10.

(2) Either House of Parliament may, by resolution notice of which has been given at any time within twenty-eight

sitting days of that House after the plan was laid before it, refer the plan back to the committee for reconsideration either generally or as regards any matter referred to in the resolution. The committee shall thereupon reconsider the plan and make such alterations thereto as the committee deems requisite and shall make a further report upon the plan as so altered.

(3) The altered plan and report shall, after being submitted to the Minister, be laid before both Houses of Parliament and subsection (2) shall apply in respect of every plan to the intent that either House of Parliament may, as provided by subsection (2), from time to time refer back to the committee the plan for further reconsideration.

28. As soon as may be after the plan or any alteration or variation thereof is laid before Parliament, the Minister shall supply a copy thereof together with a copy of the committee's report thereon to every council the area of which is within the metropolitan area.

Power to Prohibit Subdivisions in Public Interest.

29. (1) This section shall apply within the metropolitan area and any other part of the State to which the Governor by proclamation declares that this section shall apply.

(2) If satisfied that for the purpose of preserving any area as an open space or that for any reason whatsoever in the public interests it is desirable so to do, the Governor, on the application of the owner of the land, may by proclamation declare that any land in any part of the State to which this section applies shall not be sub-divided into allotments for sites for residences, shops, factories or other like premises.

(3) Any such proclamation may be varied or revoked by a subsequent proclamation.

(4) No plan of subdivision with respect to any land to which any such proclamation applies shall be approved under this Act.

(5) During such time as any such proclamation applies to any land, the land shall, for the purposes of the Land Tax Act, 1936-1952, the Waterworks Act, 1932-1954, the Sewerage Act, 1929-1953, and the Local Government Act, 1934-1954, be assessed having regard to the value of the land resulting from the use to which it is put at the relevant time and no regard shall be had to the value the land would have

Supply of copy of plan and report to councils. Inserted by 55, 1955, s. 10.

Power to prohibit subdivision. Inserted by 55, 1955, s. 10.

if it were subdivided or were capable of being subdivided into allotments for sites for residences, shops, factories or other like premises.

Other Subdivisions of Land.

30. Sections 31, 32, 33 and 34 shall be construed subject to the preceding provisions of this Act and nothing in sections 31, 32, 33 and 34 shall apply to any plan of subdivision or plan of re-subdivision within the meaning of section 2.

Application of ss. 31 to 34. Inserted by 46, 1956, s. 3.

31. (1) Except as allowed by this Act—

- (a) no map or plan of any land situated within an area dividing such land into allotments or otherwise, or showing any street, road, or right-of-way, or intended street, road, or right-of-way, over such land or any part thereof; and
- (b) no map or plan subdividing any land already so divided or part thereof, or showing any street, road, or right-of-way, or intended street, road or right-of-way, over such land or part, or over any part thereof,

No plan of land to be deposited without certificate of approval. Inserted by 46, 1956, s. 3.

shall be deposited in the Lands Titles Registration Office, or in the General Registry Office, unless the map or plan has been certified as approved by the Town Planner.

(2) The Registrar-General shall not be bound to accept any such plan or map unless he is satisfied that all persons who appear from the Register Book or any other instrument or document in the Lands Titles Registration Office or the General Registry Office to have any interest in the land shown in the plan or map, consent to what is proposed in the plan or map.

32. (1) Every such map or plan as mentioned in section 31 shall be submitted in duplicate by the person desiring to deposit the same, to the council of the area in which the land is situated.

How certificate of approval obtained. Inserted by 46, 1956, s. 3.

(2) The council shall, within twenty-eight days, consider such map or plan and forward the same in duplicate to the Town Planner, with a memorandum under the hand of the clerk, stating whether the council has or has not any objections to the map or plan, and (if any) the nature of the objections.

(3) If the council has no such objection, the Town Planner shall, unless he is satisfied that there is sufficient reason for refusing his approval, certify the map or plan as approved, and shall return one part thereof to the council.

(4) If the council has any such objection, the Town Planner shall submit the same, with the map or plan, to the committee, which may either confirm the objection or overrule the same, in which latter case the Town Planner shall, unless he is satisfied that there is sufficient reason for refusing his approval, certify the plan as approved.

(5) If the committee confirms the objection, it may at any time review its decision, and vary the same if it sees fit.

Power to
refuse
approval.
Inserted by
46, 1956,
s. 3.

33. (1) The Town Planner shall not approve of any such map or plan unless he is satisfied that there is no sufficient reason why his approval should be refused.

(2) Without in any way limiting the discretion of the Town Planner under this section, it shall be a sufficient reason for refusing approval of any such map or plan if—

- (a) any road or street or intended road or street therein shown is of a less width than forty feet or cannot be made or drained without undue expense or is not necessary;
- (b) the land therein comprised is intersected by or is bounded or partly bounded on any side by a line of railway, and a road or street is not shown on such plan on both sides of such line of railway, or on the side of such line which is adjacent to such land, as the case may be;
- (c) the site or orientation of any building to be erected on such land is for any reason unsatisfactory;
- (d) the effect of giving approval to the map or plan would be to enable a future subdivision or re-subdivision of the land comprised in the map or plan or of any of such land to be made contrary to the requirements of any of the preceding provisions of this Act.

(3) There shall be an appeal to the committee in accordance with the regulations against any refusal of the Town Planner to approve of any such map or plan.

Preparation of
plans.
Inserted by
46, 1956,
s. 3.

34. The mode in which maps and plans to be deposited as required by section 31 are to be prepared, the particulars to be shown thereon, and all other requirements in relation thereto shall be as prescribed by regulations.

Application of
s. 29.
Inserted by
46, 1956,
s. 3.

35. Nothing in section 29 shall preclude the deposit of a map or plan as provided by section 31.