

SOUTH AUSTRALIA

**BENEFIT ASSOCIATIONS ACT, 1958**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **10 December 1992**.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

## SUMMARY OF PROVISIONS

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## **BENEFIT ASSOCIATIONS ACT, 1958**

being

Benefit Associations Act, 1958, No. 44 of 1958  
[Assented to 27 November 1958]<sup>1</sup>

as amended by

Statute Law Revision Act (No. 2), 1974, No. 84 of 1974 [Assented to 21 November 1974]  
Statutes Amendment (Public Actuary) Act 1992 No. 69 of 1992 [Assented to 19 November 1992]<sup>2</sup>

<sup>1</sup> Came into operation 1 May 1959: *Gaz.* 26 March 1959, p. 647.

<sup>2</sup> Came into operation 10 December 1992: *Gaz.* 10 December 1992, p. 1752.

*Note:* 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

**An Act for the regulation of associations engaged in the business of providing certain benefits in consideration of contributions paid to such associations, and for purposes incidental thereto.**

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**

1. This Act may be cited as the *Benefit Associations Act, 1958*.

**Commencement**

2. This Act shall come into operation on a day to be fixed by the Governor by proclamation.

**Exclusions from Act**

3. (1) This Act shall not apply to—

- (a) any friendly society registered under the *Friendly Societies Act, 1919*, as amended;
- (b) any organization registered as a medical benefits organization or a hospital benefits organization under the Commonwealth Act entitled the *National Health Act 1953*, as amended (or any corresponding subsequent enactment) or the regulations thereunder;
- (c) any person or body corporate which is registered under the Commonwealth Act entitled the *Life Insurance Act 1945*, as amended, or any corresponding subsequent enactment;
- (d) any association of employees registered as an organization under the Commonwealth Act entitled the *Conciliation and Arbitration Act, 1904-1950*, as amended, or any corresponding subsequent enactment, or any association of employees that is a registered association within the meaning of the *Industrial Conciliation and Arbitration Act, 1972*, as amended;
- (e) any approved insurer under Part IV of the *Motor Vehicles Act, 1959*, as amended;
- (f) any association declared by proclamation to be exempt from this Act.

(2) A person, society, organization, association or other body such as mentioned in subsection (1) of this section shall not be a benefit association within the meaning of this Act.

**Interpretation**

4. (1) In this Act unless the context otherwise requires—

"actuary" means a Fellow or Accredited Member of the Institute of Actuaries of Australia:

"association" means person or body of persons (corporate or unincorporate);

"benefit association" means association carrying on any benefit business in the State, either with or without other business;

"benefit business" means the business of making and carrying out contracts under which an association, in consideration of the payment of contributions, undertakes to make payments to or on behalf of or for the benefit of contributors or others in respect of all or any of the following, namely,

- (a) accommodation, maintenance, and nursing service in hospitals;
- (b) medical, surgical, physiotherapeutic, and other therapeutic treatment;
- (c) the provision of drugs, medicines, bandages, and other aids to the treatment of disease;
- (d) dental treatment and services;
- (e) funerals, burials, and cremation;

"director" includes the chairman and any member of the governing body of an association;

\* \* \* \* \*

(2) For purposes of this Act an association shall be deemed to carry on benefit business within the State if it provides or undertakes to provide any of the benefits or services mentioned in the definition of benefit business for persons resident in the State, or accepts or collects contributions for any such benefits or services from contributors or members resident in the State.

**Restriction on certain business**

5. (1) An association shall not carry on medical benefit business or hospital benefit business unless—

- (a) it is carrying on that business at the time of the passing of this Act;
- or
- (b) it is registered as a medical benefits organization or a hospital benefits organization under the Commonwealth Act entitled the *National Health Act 1953*, as amended (or any corresponding subsequent enactment) or the regulations thereunder.

(2) In this section—

"hospital benefit business" means the business of making and carrying out contracts under which an association in consideration of the payment of contributions undertakes to make payments to contributors or others in respect of any hospital treatment in relation to which benefit is payable under the laws of the Commonwealth:

"medical benefit business" means the business of making and carrying out contracts under which an association in consideration of the payment of contributions undertakes to make payments to contributors or others in respect of any medical services in relation to which benefit is payable under the laws of the Commonwealth.

4.

(3) The Minister may at his discretion grant an exemption from this section to any association which has made a deposit with the Treasurer of the Commonwealth under the *Insurance Act 1932*, as amended (or any corresponding subsequent enactment) of the Commonwealth.

#### **Investment of contributions**

**5a.** (1) Contributions accepted or collected by a benefit association must—

(a) be held in a fund under the control of a trustee approved by the Minister;

or

(b) be invested otherwise as approved by the Minister.

(2) A fund established under subsection (1)(a) must be invested in accordance with the *Trustee Act 1936* and the value of the fund must be maintained at a level at least equal to the liabilities of the fund certified annually by an actuary.

#### **Duty to furnish returns**

**6.** (1) Every benefit association shall within three months after the end of each financial year deliver to the Minister a return setting out its income, expenditure, assets and liabilities.

(2) Every benefit association shall when so requested by the Minister by a written notice give the Minister within the time specified in the notice any information specified in the notice as to its income, expenditure, assets, liabilities or financial position generally.

#### **Investigations by Minister**

**7.** (1) The Minister may investigate or cause to be investigated the income, expenditure, assets, liabilities, transactions and management of a benefit association, or any other matter arising in the course of the business of any such association.

(2) For the purpose of any such investigation the Minister may appoint persons to assist him or act on his behalf. Any person so appointed is in this section called "an authorized person".

(3) For the purpose of any investigation being made or about to be made under this Act, the Minister or an authorized person may request a benefit association or a director or officer of a benefit association to supply him, within a time specified by him, with any information relating to the business or transactions of the association. An association or person shall comply with any such request.

(4) An authorized person may—

(a) enter any building or place where the books of account or other records of a benefit association are or are suspected to be; and

(b) examine any such books or records; and

(c) make copies of any matters recorded in any such books or records.

(5) A benefit association shall when requested by the Minister or an authorized person to do so forthwith produce its books of account and records or any of them for examination by the Minister or authorized person.

5.

(6) Any person having the possession or control of any books of account or records of a benefit association shall when requested by the Minister or an authorized person forthwith produce those books of account or records for examination by the Minister or authorized person.

(7) A person shall not hinder the Minister or an authorized person in doing any act which he is authorized by this section to do.

**Provisional recommendations where society has a deficiency**

8. If the Minister after considering a report of an investigation carried out by an actuary appointed by the Minister for the purpose is satisfied that the assets of a benefit association are insufficient to meet its liabilities he may make a provisional recommendation relating to all or any of the following matters:—

- (a) the increase, variation or adjustment of contributions payable to the association by existing or future members or any of them;
- (b) the reduction, variation or adjustment of benefits payable by the association to existing or future members or any of them;
- (c) the limitation or reduction of management expenses including commissions and allowances payable by the association;
- (d) any matters incidental to any of those mentioned in the preceding paragraphs of this section.

**Provisional recommendations where society has a surplus**

9. If the Minister after considering a report of an investigation carried out by an actuary appointed by the Minister for the purpose is satisfied that the assets of a benefit association are in excess of those required to meet the liabilities of the association he may make a provisional recommendation relating to all or any of the following matters:—

- (a) the reduction, variation or adjustment of contributions payable by existing or future members or any of them;
- (b) the use, disposal or distribution of any surplus or profits;
- (c) the increase, variation, or adjustment of benefits provided for existing or future members or any of them;
- (d) the limitation or reduction of management expenses including commissions and allowances payable by the association;
- (e) any matters incidental to any of those mentioned in the preceding paragraphs of this section.

**Procedure when provisional recommendation**

10. (1) The Minister shall deliver a copy of each provisional recommendation to the benefit association to which it applies.

6.

(2) At any time within eight weeks after the delivery of a provisional recommendation or within an extended period allowed by the Minister the association may make representations to the Minister for the purpose of showing cause why the provisional recommendation should not be confirmed or should be varied or added to.

(3) If any such representations are made the Minister after considering and inquiring into them may confirm the provisional recommendation either with or without variations or additions, or may cancel it.

(4) If no such representations are made within eight weeks after the delivery of a provisional recommendation the Minister may forthwith upon the expiry of that period confirm the provisional recommendation.

#### **Power to comply with recommendations**

**11.** (1) Notwithstanding any Act, law or contract, a benefit association shall have power to make any rules or alterations of rules necessary to carry out any recommendation made by the Minister under this Act.

(2) In this section "rules" includes rules, regulations, by-laws, and other like provisions regulating contributions, benefits, management and other matters relating to a benefit association.

#### **Compliance with recommendations**

**12.** (1) Every recommendation shall state the time within which anything thereby recommended to be done shall be completed.

(2) If a benefit association to which a recommendation applies does not comply with such recommendation within the time stated therein the Minister may prepare a report on the financial position of the association and direct the association to send a copy of it to each member and contributor within a time specified by the Minister.

(3) An association which receives such a direction shall comply with it.

(4) If a benefit association to which a recommendation applies does not comply with such recommendation within the time stated therein, the association shall not after the time so stated—

- (a) invite any person to become a member of the association; or
- (b) admit any person to membership of the association; or
- (c) solicit or accept contributions from any person purporting to have become a member after the time so stated.

#### **Penalty on certain false statements**

**13.** A benefit association, or a director or employee of a benefit association shall not—

- (a) falsely state that the association is registered or licensed or approved under an Act or regulation (whether of the State or the Commonwealth); or
- (b) deliver or exhibit any document in which it is falsely stated that the association is registered or licensed or approved under an Act or regulation (whether of the State or the Commonwealth).



### **Restriction on method of soliciting contributions**

**14.** (1) A benefit association or a director or employee of a benefit association shall not deliver to any person or publish in any way any written matter soliciting contributions to such association or advertising the benefits to be obtained from the association except in a form approved by the Minister.

(2) Before approving the form of such matter the Minister shall be satisfied that it accurately and clearly sets forth the benefits to be obtained by such contributions, and that the matter contains no words which could be calculated to mislead the public as to the benefits to be obtained.

### **Delegation by Minister**

**14a.** (1) The Minister may, by instrument in writing, delegate any of the powers, duties or functions of the Minister under this Act to the person for the time being assigned to any specified position in the public service of the State.

(2) A delegation under this section may be given subject to such conditions as the Minister thinks fit and specifies in the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the Minister from acting personally in any matter.

### **Regulations**

**15.** The Governor may make regulations prescribing—

- (a) forms to be used under this Act;
- (b) any matters necessary or convenient to be prescribed for the due administration and enforcement of this Act, or for carrying out the objects of this Act; and
- (c) prescribing penalties recoverable summarily and not exceeding one hundred dollars for breach of any regulation.

### **Offences**

**16.** An association or person who fails to comply with any requirement of this Act, or does anything prohibited by this Act shall be guilty of an offence and liable to a fine not exceeding two hundred dollars.

### **Summary procedure**

**17.** Proceedings for offences against this Act shall be heard and determined summarily.

**APPENDIX****LEGISLATIVE HISTORY**

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 1 of The Public General Acts of South Australia 1837-1975 at page 496.

Section 4(1):	definition of "actuary" inserted by 69, 1992, s. 4(a) definition of "Public Actuary" repealed by 69, 1992, s. 4(b)
Section 5a:	inserted by 69, 1992, s. 5
Section 6(1):	amended by 69, 1992, s. 6(a)-(c)
Section 6(2):	amended by 69, 1992, s. 6(d)
Section 7(1):	amended by 69, 1992, s. 7(a)
Section 7(2):	amended by 69, 1992, s. 7(b)
Section 7(3):	amended by 69, 1992, s. 7(c)
Section 7(4):	amended by 69, 1992, s. 7(d)
Section 7(5):	amended by 69, 1992, s. 7(e)
Section 7(6):	amended by 69, 1992, s. 7(f)
Section 7(7):	amended by 69, 1992, s. 7(g)
Section 8:	amended by 69, 1992, s. 8
Section 9:	amended by 69, 1992, s. 9
Section 10(1):	amended by 69, 1992, s. 10(a)
Section 10(2):	amended by 69, 1992, s. 10(b)
Section 10(3):	amended by 69, 1992, s. 10(c)
Section 10(4):	amended by 69, 1992, s. 10(d)
Section 11(1):	amended by 69, 1992, s. 11
Section 12(2):	amended by 69, 1992, s. 12
Section 14(1):	amended by 69, 1992, s. 13(a)
Section 14(2):	amended by 69, 1992, s. 13(b)
Section 14a:	inserted by 69, 1992, s. 14