

SOUTH AUSTRALIA

FRIENDLY SOCIETIES ACT 1919

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 18 July 1996.

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.

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**APPENDIX
LEGISLATIVE HISTORY**

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being

Friendly Societies Act 1919 No. 1387 of 1919
[Assented to 20 November 1919]

as amended by

Friendly Societies Act Amendment Act 1921 No. 1483 of 1921 [Assented to 7 December 1921]
Friendly Societies Act Amendment Act 1925 No. 1680 of 1925 [Assented to 19 November 1925]
Friendly Societies Act Amendment Act 1931 No. 2018 of 1931 [Assented to 12 November 1931] (as amended
by Statute Law Revision Act 1934 No. 2168 of 1934 [Assented to 15 November 1934])
Friendly Societies Act Amendment Act 1936 No. 2298 of 1936 [Assented to 22 October 1936]
Friendly Societies Act Amendment Act 1937 No. 2374 of 1937 [Assented to 15 December 1937]
Friendly Societies Act Amendment Act 1938 No. 2425 of 1938 [Assented to 19 December 1938]
Friendly Societies Act Amendment Act 1940 No. 32 of 1940 [Assented to 21 November 1940]
Friendly Societies Act Amendment Act 1946 No. 8 of 1946 [Assented to 3 October 1946]
Friendly Societies Act Amendment Act 1949 No. 24 of 1949 [Assented to 3 November 1949]
Friendly Societies Act Amendment Act 1950 No. 37 of 1950 [Assented to 30 November 1950]
Friendly Societies Act Amendment Act 1952 No. 19 of 1952 [Assented to 30 October 1952]
Friendly Societies Act Amendment Act 1954 No. 32 of 1954 [Assented to 9 December 1954]
Friendly Societies Act Amendment Act 1956 No. 52 of 1956 [Assented to 29 November 1956]
Friendly Societies Act Amendment Act 1961 No. 25 of 1961 [Assented to 9 November 1961]
Statutes Amendment (Friendly Societies and Building Societies) Act 1966 No. 30 of 1966 [Assented to
24 March 1966]
Friendly Societies Act Amendment Act 1968 No. 27 of 1968 [Assented to 12 December 1968]¹
Age of Majority (Reduction) Act 1971 No. 15 of 1971 [Assented to 8 April 1971]²
Friendly Societies Act Amendment Act 1973 No. 59 of 1973 [Assented to 22 November 1973]
Statute Law Revision Act 1973 No. 77 of 1973 [Assented to 6 December 1973]
Friendly Societies Act Amendment Act 1975 No. 7 of 1975 [Assented to 20 March 1975]
Friendly Societies Act Amendment Act (No. 2) 1975 No. 41 of 1975 [Assented to 10 April 1975]³
Companies (Consequential Amendments) Act 1982 No. 29 of 1982 [Assented to 25 March 1982]⁴
Friendly Societies Act Amendment Act 1982 No. 34 of 1982 [Assented to 15 April 1982]
Friendly Societies Act Amendment Act 1989 No. 37 of 1989 [Assented to 4 May 1989]
Friendly Societies (Miscellaneous) Amendment Act 1992 No. 66 of 1992 [Assented to 19 November 1992]⁵
Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994 No. 59 of 1994 [Assented to
27 October 1994]⁶
Friendly Societies (Miscellaneous) Amendment Act 1995 No. 86 of 1995 [Assented to 7 December 1995]⁷
Friendly Societies (Objects of Funds) Amendment Act 1996 No. 47 of 1996 [Assented to 18 July 1996]

¹ Came into operation 30 January 1969: *Gaz.* 30 January 1969, p. 339.

² Came into operation 15 April 1971: *Gaz.* 15 April 1971, p. 1598.

³ Came into operation 5 June 1975: *Gaz.* 5 June 1975, p. 2180.

⁴ Came into operation (except ss. 9, 14, 18 and 19) 1 July 1982, being the day on which the Companies (Application of Laws) Act 1982, came into operation: *Gaz.* 1 July 1982, p. 2: s. 2(1); ss. 9, 14 and 18 came into operation 1 July 1981, being the day on which the National Companies and Securities Commission (State Provisions) Act 1981 came into operation: *Gaz.* 25 June 1981, p. 1901: s. 2(2); s. 19 came into operation 1 October 1981: s. 2(3).

⁵ Came into operation 10 December 1992: *Gaz.* 10 December 1992, p. 1754.

⁶ Came into operation 1 January 1995: *Gaz.* 8 December 1994, p. 1942.

⁷ Came into operation 7 December 1995: *Gaz.* 7 December 1995, p. 1556.

NOTE:

- Asterisks indicate repeal or deletion of text.
- 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 to consolidate certain Acts relating to friendly societies.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Friendly Societies Act 1919*.

Repeal

2. This Act is a consolidation of the Acts mentioned in schedule 1, and the said Acts are hereby repealed.

Interpretation

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

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

"**building society**" means a building society that is a society for the purposes of the *Financial Institutions (South Australia) Code*;

"**child**" includes a grandchild of any degree;

"**foreign friendly society**" means a body that is registered or incorporated as a friendly society in another State or a Territory of the Commonwealth;

"**society**" means and includes any of the friendly societies in this State specified in schedule 2, 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 authorised or appointed by the society to manage its business or part of its business;

"**review**"—*see section 30*;

"**women**" includes females of all ages, and "**men**" includes males of all ages.

Incorporation of societies and branches

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 schedule 2 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, and

(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

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(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.

(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.

(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.

Power to add name of any society to schedule 2

5. (1) The Governor may from time to time by proclamation add the name of any society to the list of societies contained in schedule 2, 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.

(2) The Governor may, from time to time, by proclamation strike out from the list of societies in schedule 2 the names of any societies which have become amalgamated pursuant to this Act, and may in manner aforesaid add to the said list the name of any society formed by any amalgamation as foresaid, 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.

(3) The Governor may, from time to time, by proclamation add to the list of societies contained in schedule 2, the name of any society formed for any purpose which the Governor may authorise 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.

(4) The Governor may, from time to time, by proclamation strike out from the list of societies in schedule 2 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.

(5) The Governor may, from time to time, by proclamation strike out from the list of societies in schedule 2 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 registered office

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

Objects for which funds may be maintained

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 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, widowerhood 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;
- IVA. for the education of members, their husbands, wives or children;
- V. for providing to members or their relatives any of the following services:
 - (a) medical attendance or treatment; or
 - (b) medical comforts, or the selling or supplying of medicines, or the selling or supplying of medical or surgical appliances, requisites or comforts; or
 - (c) dental attendance or treatment, or the selling or supplying of false teeth or other dental devices or requisites; or
 - (d) physiotherapeutic treatment; or
 - (e) chiropodal 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; or
 - (g) chiropractic treatment; or
 - (h) if members or their relatives are unable to attend an educational facility due to sickness, injury or some other medical condition—tutoring;

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- 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; or
 - (b) pharmacists registered under the *Pharmacists Act 1991* towards the cost of medicines or medical or surgical appliances, requisites or comforts sold by them to members or their relatives; or
 - (c) dentists registered under the *Dentists Act 1984* 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; or
 - (d) physiotherapists registered under the *Physiotherapists Act 1991* towards the cost of treatment by them of members or their relatives; or
 - (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, optometrists or optical dispensers registered under the *Optometrists Act 1920* 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; or
 - (g) chiropractors registered under the *Chiropractors Act 1991* towards the cost of treatment by them of members or their relatives; or
 - (h) persons licensed under the *Ambulance Services Act 1992* to provide ambulance services towards the cost of providing such services to members or their relatives; or
 - (i) tutors towards the cost of tutoring by them of members or their relatives who are unable to attend an educational facility due to sickness, injury or some other medical condition;
- 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 and towards the cost of medical comforts, medicines, medical or surgical appliances, requisites or comforts for members, their husbands, wives, children or dependants; or

- (b) persons registered as nurses under the *Nurses Act 1984* 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 persons;
- VIIIA. for the establishment and maintenance of child care centres;
- VIIIB. for providing persons with recreational or leisure facilities or services;
- 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 *Pharmacists Act 1991*, the business of a pharmaceutical and dispensing chemist and druggist;
- XIII. for establishing a building society or for joining or co-operating with any other society to establish a building society;
- XIV. any other object declared by the Governor by proclamation to be an object for which a society or branch may raise and maintain a fund.

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 *Pharmacists Act 1991*.

(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 the prescribed amount, or of any annuity or sickness pension at a rate exceeding the prescribed rate.

(3) The regulations may, for the purpose of subsection (2), fix differential maximum amounts or rates that vary according to the nature or class of insurance to which they relate.

(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 sub-paragraph.

(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) A society or branch must maintain separate funds in relation to the objects set out in subsection (1) so that each fund relates only to the object, or one or more of the objects, referred to in any one of paragraphs I to XIII of that subsection or to the object, or one or more of the objects, declared by any one proclamation under subsection (8a).

(8) However, the Minister may, on application by a society or branch, authorise the maintenance by the society or branch of one fund for the purposes of more than one of those objects with effect from a specified date (which may be a date prior to the date of the authorisation).

(8a) The Governor may—

- (a) make a proclamation declaring an object to be an object for which a society or branch may raise and maintain a fund;
- (b) vary or revoke such a proclamation by subsequent proclamation.

(8b) The Governor may in a proclamation under subsection (8a) fix a day as the day on which the proclamation comes into operation (which may be a day prior to the day on which the proclamation is made or the day on which this subsection came into operation).

(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.

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Power of society to participate in Commonwealth medical, hospital, etc., schemes

7B. (1) Any society may, subject to the general laws or rules of the society, become registered as an organisation 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 authorised to act under any such law.

(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

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

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

9. (1) A society may establish a superannuation fund for the benefit of its members.

(2) A member of a society shall not be entitled to superannuation benefits unless he has subscribed to the fund for at least three years and the extent of any such benefits shall conform with limits fixed by regulations.

Loans

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.

(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 loan shall not be made to a member if he is, or would in consequence of the loan being made, be indebted to the society for an amount exceeding the prescribed limit.

(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) Notwithstanding any other provision of this Act, but subject to limitations prescribed by regulation, a society may, with the consent of the Minister, lend to the fund money from any other fund maintained by the society on such terms and conditions as may be approved by the Minister.

(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

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 ten dollars and fifty cents 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 schedule 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.

(3) Subject to this section, if a society makes general laws or rules (whether new laws or rules or laws or rules rescinding, altering or varying existing laws or rules), the society must provide a legal practitioner (within the meaning of the *Legal Practitioners Act 1981*), who must not be an officer of the society, with a copy of those laws or rules for certification of validity.

(4) The legal practitioner must not certify that the general laws or rules so made are valid unless of the opinion—

- (a) that they have been made in accordance with the constitution of the society; and
- (b) that they are not contrary to this Act or the general law of the State (including law of the Commonwealth).

(4a) The society must forward to the Minister two copies (signed by the secretary of the society) of the general laws or rules so made together with the certificate of validity of the legal practitioner.

(4ab) However, the Minister may waive the requirement for the provision of a certificate of validity if the general laws or rules so made are of an insignificant nature.

(4ac) The Minister must, after receiving—

- (a) the copies of the general laws or rules; and
- (b) the certificate of validity (if any); and
- (c) a statement in writing from the committee of management of the society (signed by the secretary of the society) that the laws or rules do not adversely affect the financial soundness of any fund of the society; and
- (d) any other information that the Minister may require,

register those laws or rules.

(4b) One of the copies aforesaid shall, upon registration, be signed by the Minister in confirmation thereof and be returned to the secretary of the society, and thenceforward the general laws or rules 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.

(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 Minister, who, if satisfied that the reprint is a correct reprint of the general laws or rules of the society, may endorse a certificate upon the reprint to that effect. The society may then deposit with the Minister two copies of the reprint (signed by the secretary of the society), after which the Minister will be taken to have registered the reprint and subsection (4b) will be taken to apply to the reprint.

(7) If at any time the Minister 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 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 Minister may by notice in writing authorise the committee of management of the society to make such general 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 to the extent authorised 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.

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Powers of committee of management as to entrance fees, etc.

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.

(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

11. (1) The funds of each society must, until invested, be deposited in a bank (within the meaning of the *Banking Act 1959* of the Commonwealth or a bank constituted under a law of a State or of the Commonwealth).

(2) Such funds may only be withdrawn by cheques signed by two persons authorised to do so by the committee of management of the society.

Mode of investment of funds

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; or
- (g) with the consent of the Minister and subject to such conditions (if any) as the Minister may impose, in such shares, debentures or other forms of investment as the committee of management of the society or branch (as the case may be) requests,

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 authorised to issue the same accordingly;
- 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;
- 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 an actuary.

(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.

(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.

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Power of branches to forward surplus funds to parent society for investment

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 as authorised by this Act.

Trustees not to accept certain securities

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 is guilty of an offence.

Society or branch not to lend to trustee

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

Appointment of trustees and secretaries, how evidenced

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 schedule 4, 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.

Receipts endorsed on mortgages to be sufficient discharge

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 endorse or cause to be endorsed upon any such mortgage, further charge, or other security, a receipt in the form set forth in schedule 5.

(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.

Partial discharges

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 schedule 6 for the amount so paid, shall be forthwith endorsed 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 authorised 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.

(2) Until such receipt has been so endorsed 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 recognise 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

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 one hundred dollars, as such trustees deem expedient.

Exemptions

Provided that if the Minister 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 Minister 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 Minister for deposit.

(3) The Minister 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.

Trustees to be personally liable to see that security is given

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.

(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 is guilty of an offence.

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Minors may become members

21. Any person under the age of eighteen 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

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.

Deferral of payments

22A. (1) The Minister may, on application by the society, or at his or her own initiative, if of the opinion that payments of benefits to members of a society would be prejudicial to the financial stability of the society or the interests of members, direct the society to defer the payment of benefits for such period and on such conditions as the Minister thinks fit.

(2) A direction under subsection (1) continues in operation until it expires or is withdrawn by the Minister.

(3) The Minister may—

- (a) on application by the society; or
- (b) at his or her own initiative if the Minister thinks fit,

by further written direction given to the society—

- (c) extend the period for which a direction under subsection (1) is to operate; or
- (d) amend the terms of the direction; or
- (e) withdraw the direction.

(4) If a society fails to comply with a direction under this section, the society and any officer who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

Money payable on death

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.

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(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.

Proof of death

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—

- (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; or
- (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 practise 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.

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.

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.

Separation of funds and accounts

27. (1) This section applies to each of a society's funds that is required under section 7 to be maintained as a separate fund.

(2) Subject to this Act, a society must keep separate accounts in the society's general ledger in respect of each of the society's funds.

(3) Subject to this Act, money belonging to one fund of a society must not be used in any manner for the advantage or otherwise of any other fund of the society.

(4) However, the Minister may, on the written application of a society, authorise by notice in writing—

- (a) the transfer of money from one fund to another fund of the society; or
- (b) the making of a rule by the society in general meeting to provide for the amalgamation of two or more funds of the society.

(5) The Minister may only give an authorisation under subsection (4) in respect of—

- (a) a transfer of money from a fund that assures sickness or death benefits; or
- (b) provision for an amalgamation of funds,

if the Minister is satisfied, after receiving the written report of an actuary, that such a transfer or amalgamation would not prejudice the rights of the members of the relevant funds.

(6) If the general laws or rules of a society provide that a specified proportion, or not more than a specified proportion—

- (a) of the contributions payable under those laws or rules for any benefit or to any fund; or
- (b) of a fund,

may be paid to the management fund, the society may transfer an amount in accordance with those laws or rules to the management fund without further authority than this subsection.

(7) If the Minister is satisfied that any money of a society has been appropriated, used, or transferred from a fund contrary to this section, the Minister may, by notice in writing, direct the society to restore the money to the relevant fund within the time specified in the notice.

(8) If a society contravenes this section, the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

(9) In this section, a reference to a society includes a reference to a branch of a society.

Appropriation and transfer of surplus funds

27A. (1) A society which has been reported by an actuary to possess a surplus at the last review may, with the consent in writing of the Minister, 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 Minister.

(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 Minister as to the value of the investments of the society is sent to the Minister with the application for his consent to the appropriation.

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Appointment of trustees and auditors

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 Minister 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.

Audit of accounts

28. (1) Once at least in every 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.

(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 audit; and

(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.

(3) Accounts for presentation to members may be prepared in accordance with generally accepted accounting standards.

Appointment of qualified auditors

28A. (1) Notwithstanding anything in section 28 of this Act or in the general laws or rules of a society or branch, any society or branch may, and if so directed by the Minister shall, appoint, pursuant to section 27B of this Act, a qualified auditor in the place of the two or more auditors referred to in subsection (1) of section 28 of this Act and, upon such an appointment a reference in this Act or in the general laws or rules of the society or branch to two or more auditors or to an auditor when used in or in relation to a society or branch which has so appointed a qualified auditor shall be read as a reference to the qualified auditor appointed in relation to that society or branch.

(2) In this section—

"qualified auditor" means—

- (a) a person who is, or is taken to be, registered as an auditor for the purposes of Division 2 of Part 9.2 of the *Corporations Law*; or
- (b) a firm of which at least one member is a person referred to in paragraph (a) who is ordinarily resident in Australia.

Returns

29. (1) On or before 31 October in each year, or such later date as the Minister may allow, every society shall send to the Minister a general statement of the receipts and expenditure, funds, and effects of the society so audited, which shall show separately—

- (a) the income and expenditure in respect of the several funds of the society during the preceding financial year; and
- (b) a copy of the auditors' report, if any, on such general statement; and
- (c) the name and address, and the calling or profession of each of such auditors; and

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(e) such other information as the Minister from time to time prescribes by notice in the *Gazette*.

(2) A society must, on sending to the Minister the general statement referred to in subsection (1), pay the prescribed fee to the Minister.

(3) A society must, if so required by the Minister by notice in writing, forward to the Minister within specified periods further returns (whether periodic or not) containing the information specified by the Minister.

Reviews

30. (1) A society must, before 31 December in every second year after the commencement of this section, cause an actuary to carry out, and report in writing the results of, a review of the affairs of the society, including—

- (a) an investigation of the financial position of the society; and
- (b) a valuation of the assets and liabilities of the society.

(2) However, a society must, if the Minister so requires, cause an actuary to carry out, and report in writing the results of, a review of a kind referred to in subsection (1) within a period specified by the Minister (whether or not such a review is due under that subsection).

(3) An actuary must, in carrying out, and reporting the results of, a review of a society's affairs have regard to the following matters:

- (a) the benefits offered by the society;
- (b) the society's assets and investment policies;
- (c) the ratio of the society's assets to its liabilities;
- (d) the adequacy of the society's contribution rates;
- (e) the society's current and likely future revenues taking into account the effects of the society's marketing strategies;
- (f) the current and likely future expenses (including taxes) of the society;
- (g) the extent of the society's free reserves;
- (h) the society's re-insurance arrangements;
- (i) the adequacy and accuracy of data supplied by the society to the actuary;
- (j) whether any members have been exposed to financial risk and a full description of that risk;
- (k) whether, in the opinion of the actuary, there has been a contravention of or failure to comply with this Act or the society's laws or rules;
- (l) any other matter prescribed by regulation.

(4) The actuary must, in reporting the results of the review, indicate the extent to which the actuary, in carrying out the review, relied on information provided and work performed by others.

(5) The society must ensure that a copy of the actuary's report is forwarded to the Minister immediately on the society's receipt of the report and in any event, in the case of a review under subsection (1), before 31 December of the year in which the review was carried out.

(6) The Minister may, by notice in writing, exempt (conditionally or unconditionally) a society from compliance with this section.

(7) If a society contravenes this section, the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

(8) In this section, a reference to a society includes a reference to a branch of a society.

Minister's power to require submission of proposals

30A. (1) If on the review and report, the Minister is of the opinion that the financial position of the society or a branch should be improved, the Minister may, by notice in writing, call on the society or branch to submit proposals for improving its financial position.

(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 Minister, not satisfactory, the Minister 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 Minister under this section, every member of the committee of management of the society or branch is guilty of an offence.

Inspection of books

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.

(2) No such member or person, unless he is specially authorised 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.

Copies of annual returns to be supplied

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.

Certain documents to be exhibited

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 report of the last review for the time being, together with the report of the auditors, and have such balance-sheet and reports available for inspection.

Branches to be included in returns

34. A society that has branches must include in any return or report required by this Act returns and reports in respect of each branch of the society.

Branches to supply information to principal secretary

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 Minister, and also with all such information as may be required to enable a review of the society to be made in terms of this Act.

Minister may require withdrawal of certain advertisements

35A. (1) The Minister may, by notice in writing, require a person who publishes or causes to be published an advertisement relating to a society or a foreign friendly society that is, in the opinion of the Minister, false or misleading in a material particular (whether by reason of the inclusion or omission of any particular)—

- (a) to withdraw or cause the advertisement to be withdrawn from publication within a specified time; or

(b) to take other specified remedial action within a specified time.

(2) The Minister may, by notice in writing served on the person, vary or revoke a notice under this section.

(3) A person may appeal to the Minister against a requirement imposed on the person under this section and, on any such appeal, the Minister may confirm, vary or set aside the requirement.

(4) The institution of an appeal against a requirement imposed under this section does not operate to suspend the requirement.

(5) A person must comply with a requirement imposed by notice under subsection (1).

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Application by society of certain surplus assets

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(2) A society which has been reported to possess any surplus at the last review, 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.

Returns to be prepared and published

38. The Minister may from time to time—

(a) prepare and cause to be circulated for the use of the societies model forms of accounts, balance-sheets, and reports on reviews; and

(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; and

(c) publish generally, or in particular parts of the State, such portions of any return and report on a review 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.

Production and inspection of accounts, etc. of society

39. (1) A society must, at the request of the Minister or of any person authorised by the Minister, produce to the Minister or authorised person all books in the society's possession or power.

Maximum penalty: \$20 000.

(2) The Minister or authorised person may inspect and take extracts from or copies of those books.

(3) In this section—

"books" includes documents of any kind and any accounts or other records, however compiled, recorded or stored;

"society" includes a branch of a society.

* * * * *

Societies or branches may unite for carrying out specific purposes

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 schedule 2, 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.

Right of society or branch to withdraw

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.

Society or branch may contribute to funds, or take part in government of another society or branch

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—

- 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

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

44A. (1) Any two or more societies may, by resolution of both or all of the societies, amalgamate together as one society.

(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) A society may amalgamate with a foreign friendly society as if the foreign friendly society were a society.

Minister may direct transfer of engagements

44AB. (1) The Minister may, by notice in writing given to a society, direct it to transfer the whole of its engagements, or the engagements of a specified fund or funds of the society, to another society (which may be a foreign friendly society) if the committee of management of the other society has, by resolution, consented to the proposed transfer.

(2) The Minister must give a copy of the direction to the other society.

(3) The Minister must not direct a society to transfer its undertakings under this section unless the Minister is of the opinion that—

- (a) the society has been notified by the Minister of a contravention by it of this Act or the society's laws or rules and has failed to remedy the contravention within the time allowed by the Minister; or
- (b) the affairs of the society are being conducted in an improper or financially unsound way; or
- (c) that the transfer of engagements would be in the best interests of the members of the society.

(4) A society may, within seven days after receiving a direction under this section, make a submission to the Minister in relation to the direction.

- (5) After considering the submission, the Minister must—
 - (a) confirm the order for a transfer of engagements; or
 - (b) revoke the order.
- (6) An order of the Minister under this section—
 - (a) takes effect seven days after being served on the society unless the society makes a submission under subsection (4); or
 - (b) if the society makes such a submission and the order is confirmed by the Minister—takes effect when the Minister serves on the society written notice of confirmation of the order.

Consequences of amalgamations and transfers of engagements

44AC. (1) On an amalgamation under section 44A or a transfer of the whole of the engagements of a society under section 44AB—

- (a) the members of the divesting society become members of the acquiring society; and
- (b) the property of the divesting society becomes the property of the acquiring society; and
- (c) the rights and liabilities (whether certain or contingent) of the divesting society become rights and liabilities of the acquiring society.

(2) On a transfer of engagements of a specified fund under section 44AB—

- (a) the members of the divesting society's fund become members of the acquiring society; and
- (b) the fund becomes the property of the acquiring society; and
- (c) the rights and liabilities (whether certain or contingent) of the divesting society in relation to the fund become rights and liabilities of the acquiring society.

(3) The Registrar-General must—

- (a) on the application of a society in which an estate or interest in land has vested by virtue of this section; and
- (b) on production of such duplicate instruments of title and other documents as the Registrar-General may require,

register the vesting of that estate or interest in land in the society.

(4) A reference in a will or other instrument to a divesting society is, after the amalgamation or transfer of engagements (as the case may be), to be construed (subject to any provision in the will or other instrument to the contrary) as a reference to the acquiring society.

(5) If property vests by virtue of this section in a society, the vesting of the property, and any instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

(6) In this section—

"**acquiring society**" means—

- (a) a society formed from an amalgamation under section 44A; or
- (b) a society to which engagements of another society have been transferred under section 44AB;

"**divesting society**" means—

- (a) each of the societies joining in an amalgamation under section 44A; or
- (b) a society the engagements of which have been transferred under section 44AB;

"**society**" includes a foreign friendly society.

Change of name of society

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.

Copy of resolution to be registered

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 Minister to be registered by him, and no such resolution shall take effect until such copy is so registered.

(2) The Minister 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 Minister 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 schedule 2 or is so similar thereto as to be likely to be mistaken for it.

Application of Corporations Law in relation to dissolution of societies

45AA. (1) Subject to the succeeding sections of this Act, Parts 5.4 to 5.8 of the *Corporations Law* apply, with such modifications, additions or exclusions as may be necessary for the purpose, or as may be prescribed, as if a society were a company and as if those Parts were incorporated into this Act.

(2) In applying Parts 5.4 to 5.8 of the *Corporations Law* to the dissolution of a society, a reference in those provisions—

- (a) to a special resolution—is a reference to a decision by members made in accordance with section 45A(1)II;
- (b) to the Commission or the Minister—is a reference to the Minister;
- (c) to the court or the Court—is a reference to the Supreme Court;
- (d) to a voluntary winding up—includes a reference to a dissolution of a society by order of the Minister.

(3) Subsection (2) applies in relation to a dissolution of a society by order of the Minister in the same way as it would if the society were being wound up voluntarily except that the liquidator is to be appointed by the Minister.

Dissolution of societies

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 order of the Minister under section 45F.

(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 order of the Minister.

(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 Minister with the instrument of dissolution, and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of an offence.

(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.

Funds to be kept separate after dissolution

45AB. Notwithstanding any other provision of this Act, on the termination, dissolution or winding up of a society, money credited to a fund must not be used in any manner for the advantage of, or in satisfaction of a claim against, another fund.

Notice of dissolution

45B. (1) A society must cause a notice of dissolution to be published in the *Gazette* and in a daily newspaper circulating generally throughout the State within 21 days after the instrument of dissolution has been sent to the Minister.

(2) Unless a member, or other person interested in or having any claim on the funds, of the society commences proceedings to set aside the dissolution of the society within three months from the date of the publication of the notice and the dissolution is set aside, the society will be taken to have been dissolved from the date of the publication of the notice.

Voting values

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.

(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.

* * * * *

Power to appeal to District Court

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 District Court 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.

Dissolution by order of Minister

45F. (1) The Minister may—

- (a) order that a society be dissolved and its affairs wound up; and
- (b) appoint a person to be liquidator of the society,

if of the opinion that—

- (c) the society has contravened the Act, its laws or rules and, after being given written notice of the contravention by the Minister, has failed to remedy the contravention within the time allowed by the Minister; or
- (d) the affairs of the society are being conducted in an improper or financially unsound way; or
- (e) the society has failed to comply with a direction to transfer its engagements that has taken effect under section 44AB; or
- (f) it would be in the best interests of the members of the society.

(2) A dissolution by an order under this section takes effect on publication of the order in the *Gazette*.

(3) It is to be presumed, in the absence of proof to the contrary, that all conditions and preliminary steps precedent to the publication of an order under this section have been complied with.

(4) A liquidator appointed by an order under this section is entitled to receive fees, allowances and expenses fixed by the Minister.

* * * * *

Disputes, how to be determined

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.

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

Jurisdiction of District Court in certain cases

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
- (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 the District 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 District Court.

(2) The District Court must, on the application of a person interested in the matter, hear the application and make such orders and directions in relation to the application as the Court thinks fit.

(3) The decision of the District Court on any such application is final.

* * * * *

Expelled members may be reinstated or compensated

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 the District Court, directs that he shall be reinstated, it shall be lawful for such arbitrators to award, or the 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 the Court may seem just and reasonable.

(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 the District Court, in the manner hereinbefore provided, and if by arbitrators, then by action on such award in any court of competent jurisdiction.

Duties of officers, etc.

51. (1) An officer of a society must not, in the exercise of his or her powers or the discharge of the duties of his or her office, commit an act with intent to deceive or defraud the society, members or creditors of the society or creditors of any other person or for any fraudulent purpose.

Maximum penalty: \$20 000 or imprisonment for 4 years.

(2) An officer or employee of a society, or former officer or employee of a society, must not make improper use of information acquired by virtue of his or her position in the society so as to gain, directly or indirectly, a pecuniary benefit or material advantage for himself or herself or any other person, or so as to cause a detriment to the society.

Maximum penalty: \$20 000 or imprisonment for 4 years.

(3) An officer or employee of a society must not make improper use of his or her position as such an officer or employee so as to gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person, or so as to cause a detriment to the society.

Maximum penalty: \$20 000 or imprisonment for 4 years.

(4) An officer of a society must at all times act with reasonable care and diligence in the exercise of his or her powers and the discharge of the duties of his or her office.

Maximum penalty: \$20 000.

(5) A person who contravenes a provision of this section is liable to the society for any profit made by him or her and for any damage suffered by the society as a result of that contravention.

General offences and penalties

52. (1) If a person contravenes or fails to comply with a provision of this Act—

- (a) the person is guilty of an offence; and
- (b) if the person is a society—any officer of the society who is in default is also guilty of an offence.

(2) If a person is guilty of an offence for which no penalty is specifically provided, the person is liable to a fine not exceeding \$5 000.

(3) If a person is convicted of an offence against this Act and after that conviction the act or omission of the person that constituted the offence continues, the person is guilty of a further offence and liable to an additional penalty for each day on which the act or omission continues of an amount not exceeding one-tenth of the maximum penalty for the offence of which the person was convicted.

(4) For the purposes of subsection (3), an obligation to do something is to be regarded as continuing until the act is done despite the fact that any period within which, or time before which, the act is required to be done has expired or passed.

Officers in default

53. If a provision of this Act provides that an officer of a society who is in default is guilty of an offence, the reference to the officer who is in default is, in relation to a contravention or failure to comply with the provision, a reference to an officer of the society who is in any way, by act or omission, directly or indirectly, knowingly concerned in the contravention or failure.

Delegation by Minister

54. (1) The Minister may delegate any of the Minister's functions or powers under this Act.

(2) A delegation under this section—

- (a) must be in writing; and
- (b) may be conditional or unconditional; and
- (c) is revocable at will; and
- (d) does not prevent the delegator from acting in any matter.

Sedition Acts not to apply

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.

Regulations

56. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

- (a) prescribe the time and manner in which an act or thing required by this Act is to be done;
- (b) prescribe the form and contents of any notice, account, return, statement, report or other document required by this Act to be prepared, served, rendered, declared or verified;
- (c) prescribe the mode and time of preparing, publishing, serving, executing, rendering, declaring or verifying any such notices and documents;
- (d) exempt (conditionally or unconditionally) classes of persons or activities from the application of this Act or specified provisions of this Act;
- (e) make any provision in relation to the administration of a society by an administrator appointed under this Act, or the winding up of a society;
- (f) fix fees to be paid in respect of any matter under this Act and provide for the recovery, refund, waiver or reduction of such fees;
- (g) impose, and provide for the payment and recovery of, a levy in respect of each society of an amount to be determined by the Minister in respect of the society, and provide for the levy to be paid into a separate account to be used for the purposes of supervision of societies by the Minister;

(h) impose a penalty (not exceeding a fine of \$2 500) for contravention of, or non-compliance with, a regulation.

(3) Regulations under this Act—

(a) may be of general application or limited application;

(b) may make different provision according to the matters or circumstances to which they are expressed to apply;

(c) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister.

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Friendly Societies Act 1919

SCHEDULES

SCHEDULE 1

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

SCHEDULE 2

Societies

The Albert District, No. 83, Independent Order of Rechabites, Salford Unity;
Friendly Societies Medical Association;
The Independent Order of Odd Fellows;
Lifeplan - Manchester Unity;
The Mount Gambier United Friendly Societies' Dispensary, Incorporated;
Savings and Loans Friendly Society;
The South Australian United Ancient Order of Druids Friendly Society.

Friendly Societies Act 1919

SCHEDULE 3

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.
4. The conditions under which any member or person claiming or by which a member may become entitled to any benefit assured by the society or any branch thereof.
5. The manner in which a branch or member may be expelled or fined for an infringement of the rules of the society or of any branch thereof.
6. The manner in which appeals and disputes between members of the society, or between members and the society or any branch thereof, or between different branches, or made by any person claiming under or by or through any member, or under the laws or rules of the society or any branch thereof, shall be settled and decided, together with provisions for appointing arbitrators to decide such claims, appeals, or disputes, or any other claims, appeals, or disputes which may arise in the working of the society or any branch thereof.
7. The manner in which the business of the society or any branch thereof shall be conducted.
8. The manner in which general laws or rules of the society may from time to time be made, altered, amended, or rescinded.
9. The manner in which branches may make by-laws, and how the same shall become binding upon members of such branches.
10. Provisions for the appointment and removal of a general committee of management, of a trustee or trustees, secretary or secretaries, treasurer or treasurers, and any other officer specified in the laws or rules of the society or any branch thereof.
11. Provisions for the investment of the funds of the society or any branch thereof.
12. Provisions for a periodical audit of accounts, and the mode thereof, and the qualification of auditors.
13. The amount of entrance-fees and subscriptions payable into the society or any branch to entitle a member to benefit therein.
14. The amount payable by the society or any branch thereof at the death of a member or member's wife, and other benefits to which a member or any other person may become or be entitled.
15. The power to vary such entrance-fees, subscriptions, and benefits when found expedient.
16. Provisions for compelling branches to send such returns as may be found necessary for the working of the society.
17. Provisions empowering the committee of management of the society to determine the mode of investment, subject to this Act, of any funds of the society or of any branch thereof, and the rate or rates of interest to be earned thereon, and to provide for the carrying into effect by any such branch of any such determination.
18. Provisions providing for the payment of the expenses of management of the society or branch.

SCHEDULE 4

Resolved that the undersigned [*full name*] of [*residence and calling*] be and is hereby appointed a trustee [*or secretary*] of this [*society, lodge, court, camp, tent, or other name*] this _____ day of _____ 19__ .

Witness to signature—

(Signature of new trustee *or* secretary.)

SCHEDULE 5

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.

Witness to the sealing hereof
with the seal of the _____ }

} Trustees.
} Secretary.

(L.S.)

SCHEDULE 6

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.

Witness to the sealing hereof
with the seal of the _____ }

} Trustees.
} Secretary.

(L.S.)

Friendly Societies Act 1919

SCHEDULE 7

Other Ministerial Powers Relating to Societies

Intervention in society's affairs

1. (1) The Minister may, if of the opinion that—

- (a) a society has contravened the Act, its laws or rules and, after being given written notice of the contravention by the Minister, has failed to remedy the contravention within the time allowed by the Minister; or
- (b) the affairs of a society are being conducted in an improper or financially unsound way; or
- (c) it would be in the best interests of the members of a society,

by notice in writing given to the society, place it under direction.

(2) The Minister may, by further notice in writing given to the society, revoke the notice.

(3) The Minister may—

- (a) order an audit of the affairs of the society by an auditor chosen by the Minister at the expense of the society; or
- (b) direct the society to change any practices that in the Minister's opinion are undesirable or unsound; or
- (c) direct the society to cease or limit the borrowing, raising or lending of funds or the exercise of other powers; or
- (d) remove a member, or all the members, of the committee of management of the society from office and appoint another member or members; or
- (e) remove an auditor of the society from office and appoint another auditor; or
- (f) give any other directions as to the way in which the affairs of the society are to be conducted or not conducted.

(4) If the society—

- (a) fails, without reasonable excuse, to comply with a direction given or requirement made under this clause to the extent that the society is capable of doing so; or
- (b) without reasonable excuse, obstructs, hinders or resists the exercise of the Minister's powers under this clause,

the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

(5) A member of the committee of management or auditor appointed under this clause holds office for such term as the Minister directs.

Suspension of operations

2. (1) The Minister may, if of the opinion that it would be in the best interests of the members (or potential members) of a society, by notice in writing, direct the society not to do any one or more of the following:

- (a) borrow money;
- (b) accept new members;

- (c) without the consent of the Minister—accept a contribution, pay or surrender a benefit or otherwise dispose of or deal with the assets of the society.

(2) If a society contravenes a direction in force under subclause (1), the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

Appointment of administrator

3. (1) The Minister may, if of the opinion that—

- (a) a society has contravened the Act or its laws or rules and, after being given written notice of the contravention by the Minister, has failed to remedy the contravention within the time allowed by the Minister; or
- (b) the affairs of a society are being conducted in an improper or financially unsound way; or
- (c) it is in the interest of members that a society's affairs be conducted by an administrator,

appoint an administrator to conduct the affairs of the society.

(2) On the appointment of an administrator of a society—

- (a) the members of the committee of management of the society cease to hold office; and
- (b) the administrator may terminate any or all contracts of employment with, or for providing administrative or secretarial services to, the society; and
- (c) the administrator may terminate the appointment of a person or firm as the auditor of the society.

(3) Subclause (2) does not authorise an administrator to ignore any law or industrial award relating to the giving of notice or the making of termination payments.

(4) The administrator of a society has the powers and functions of the committee of management of the society, including the committee's powers of delegation.

(5) A member of the committee of management of a society must not be appointed while the administrator is in office except in the circumstances mentioned in subclause (9).

(6) An administrator holds office until the administrator's appointment is revoked by the Minister.

(7) Immediately on the revocation of an administrator's appointment, the administrator must prepare and submit a report to the Minister showing how the administration was carried out, and for that purpose an administrator has access to the society's records and documents.

(8) On providing the report and accounting fully in relation to the administration of the society to the satisfaction of the Minister, the administrator is, in the absence of fraud or dishonesty, released from any further liability to account in respect of the administration.

(9) Before revoking an administrator's appointment, the Minister must—

- (a) appoint another administrator; or
- (b) appoint a liquidator; or
- (c) appoint a committee of management of the society.

(10) Members of a committee of management appointed under subclause (9)—

- (a) take office on the revocation of the administrator's appointment; and
- (b) hold office until the society's next annual general meeting.

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(11) The expenses of conducting a society's affairs by an administrator are payable from the society's funds.

(12) The expenses of conducting a society's affairs include—

- (a) if the administrator is not an employee of the Minister—remuneration of the administrator at a rate approved by the Minister; or
- (b) if the administrator is an employee of the Minister—the amount that the Minister certifies should be paid to it as repayment of the administrator's remuneration.

(13) An amount certified under subclause 12(b) is a debt due to the Minister and may be sued for and recovered in a court of competent jurisdiction.

(14) An administrator has, in relation to the expenses specified in subclause (11), the same priority on the winding-up of a society as the liquidator of the society has.

(15) If a society incurs loss because of any fraud, dishonesty, negligence or wilful failure to comply with the society's rules by an administrator, the administrator is liable for the loss.

(16) An administrator is not liable for any loss that is not a loss to which subclause (15) applies but must account for the loss in a report given under this clause.

(17) If the Minister has appointed an administrator of a society under this clause, the society may not, during the appointment of that administrator, appoint some other administrator.

Appeals from decisions of administrator or liquidator

4. (1) A person aggrieved by an act, omission or decision of—

- (a) an administrator of a society; or
- (b) a liquidator or provisional liquidator of a society,

may appeal to the Supreme Court in respect of that act, omission or decision.

(2) The Court may, on an appeal pursuant to subclause (1), confirm, reverse or modify the act or decision, or remedy the omission, as the case may be, and make such orders and give such directions as it thinks fit.

APPENDIX

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from Friendly Societies (Miscellaneous) Amendment Act 1995, s. 40)

Validation of funds of societies

40. Funds raised and maintained by a society or branch before the commencement of this Act are to be regarded as having been lawfully raised and maintained if raised and maintained for an object of a kind referred to in section 7 of the *Friendly Societies Act 1919* as amended by section 4 of this Act.

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 4 of The Public General Acts of South Australia 1837-1975 at page 319.

· Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

Section 3:	definition of "actuary" inserted by 66, 1992, s. 3 definition of "building society" inserted by 86, 1995, s. 3(a) definition of "child" inserted by 66, 1992, s. 3 definition of "foreign friendly society" inserted by 86, 1995, s. 3(b) definition of "review" inserted by 86, 1995, s. 3(c)
Section 6:	amended by 66, 1992, s. 4
Section 7(1):	amended by 66, 1992, s. 5(a); 86, 1995, s. 4(a)-(l); 47, 1996, s. 2(a)
Section 7(2):	amended by 34, 1982, s. 2(a)
Section 7(3):	inserted by 34, 1982, s. 2(b)
Section 7(7):	substituted by 86, 1995, s. 4(m); amended by 47, 1996, s. 2(b)
Section 7(8):	amended by 66, 1992, s. 5(b); substituted by 86, 1995, s. 4(m)
Section 7(8a) and (8b):	inserted by 47, 1996, s. 2(c)
Section 9:	substituted by 34, 1982, s. 3
Section 9A(4):	substituted by 34, 1982, s. 4(a)
Section 9A(9):	amended by 34, 1982, s. 4(b), (c); 66, 1992, s. 6
Section 10(3):	amended by 66, 1992, s. 7(a); substituted by 86, 1995, s. 5(a)
Section 10(4):	amended by 66, 1992, s. 7(b); substituted by 86, 1995, s. 5(a)
Section 10(4a):	amended by 66, 1992, s. 7(c); substituted by 86, 1995, s. 5(a)
Section 10(4ab) and (4ac):	inserted by 86, 1995, s. 5(a)
Section 10(4b):	amended by 66, 1992, s. 7(d); 86, 1995, s. 5(b)
Section 10(6):	amended by 66, 1992, s. 7(e); 86, 1995, s. 5(c)
Section 10(7):	amended by 37, 1989, s. 2; 66, 1992, s. 7(f); 86, 1995, s. 5(d), (e)
Section 10A:	repealed by 66, 1992, s. 8
Section 11:	substituted by 86, 1995, s. 6
Section 12(1):	amended by 37, 1989, s. 3; 66, 1992, s. 9(a)-(c)
Section 12(4):	amended by 66, 1992, s. 9(d); repealed by 86, 1995, s. 7
Section 12(5):	repealed by 86, 1995, s. 7
Section 12(6):	amended by 66, 1992, s. 9(e); repealed by 86, 1995, s. 7
Section 13:	amended by 66, 1992, s. 10
Section 14:	amended by 86, 1995, s. 8
Section 18(1):	amended by 66, 1992, s. 11(a)
Section 18(2):	amended by 66, 1992, s. 11(b)
Section 18(3):	amended by 66, 1992, s. 11(c)
Section 19(2):	amended by 86, 1995, s. 9
Section 20:	repealed by 86, 1995, s. 10
Section 22A:	inserted by 37, 1989, s. 4; amended by 66, 1992, s. 12; substituted by 86, 1995, s. 11
Section 23(3):	repealed by 37, 1989, s. 5
Section 27:	amended by 37, 1989, s. 6; 66, 1992, s. 13; substituted by 86, 1995, s. 12

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Section 27A(1):	amended by 37, 1989, s. 7; 66, 1992, s. 14(a)-(c); 86, 1995, s. 13(a), (b)
Section 27A(3):	amended by 66, 1992, s. 14(d)
Section 27A(4):	repealed by 86, 1995, s. 13(c)
Section 27B(3):	amended by 37, 1989, s. 8
Section 28(1):	amended by 86, 1995, s. 14(a)
Section 28(2):	amended by 86, 1995, s. 14(b)
Section 28(3):	inserted by 66, 1992, s. 15
Section 28A(1):	amended by 66, 1992, s. 16(a)
Section 28A(2):	substituted by 66, 1992, s. 16(b)
Section 29(1):	amended and redesignated as s. 29(1) by 66, 1992, s. 17; amended by 86, 1995, s. 15(a), (c)
Section 29(1)(d), (d1) and (d2):	repealed by 86, 1995, s. 15(b)
Section 29(2):	inserted by 66, 1992, s. 17(b)
Section 29(3):	inserted by 86, 1995, s. 15(d)
Section 30:	amended by 37, 1989, s. 9; 66, 1992, s. 18; substituted by 86, 1995, s. 16
Section 30A(1):	amended by 37, 1989, s. 10; 66, 1992, s. 19(a), (b); substituted by 86, 1995, s. 17(a)
Section 30A(2):	amended by 37, 1989, s. 10; 66, 1992, s. 19(c)
Section 30A(3):	amended by 37, 1989, s. 10; 86, 1995, s. 17(b)
Section 33:	amended by 66, 1992, s. 20; 86, 1995, s. 18
Section 34:	substituted by 86, 1995, s. 19
Section 35:	amended by 66, 1992, s. 21; 86, 1995, s. 20
Section 35A:	inserted by 37, 1989, s. 11
Section 35A(1):	amended by 66, 1992, s. 22(a)
Section 35A(2):	amended by 66, 1992, s. 22(b)
Section 35A(5):	substituted by 86, 1995, s. 21
Section 35A(6) - (8):	repealed by 86, 1995, s. 21
Section 36:	repealed by 66, 1992, s. 23
Section 37(1):	amended by 37, 1989, s. 12; repealed by 66, 1992, s. 24(a)
Section 37(2):	amended by 66, 1992, s. 24(b); 86, 1995, s. 22
Section 38:	amended by 66, 1992, s. 25; 86, 1995, s. 23
Section 39:	amended by 66, 1992, s. 26; substituted by 86, 1995, s. 24
Section 40:	amended by 66, 1992, s. 27; repealed by 86, 1995, s. 24
Section 44A(1):	substituted by 86, 1995, s. 25(a)
Section 44A(4):	substituted by 86, 1995, s. 25(b)
Sections 44AB and 44AC:	inserted by 86, 1995, s. 26
Section 45(1):	amended by 66, 1992, s. 28(a)
Section 45(2):	amended by 66, 1992, s. 28(b)
Section 45AA:	inserted by 86, 1995, s. 27
Section 45A(1):	amended by 66, 1992, s. 29(a); 86, 1995, s. 28(a)
Section 45A(2):	amended by 66, 1992, s. 29(b); 86, 1995, s. 28(b)
Section 45A(4):	amended by 66, 1992, s. 29(c); 59, 1994, Sched. 2
Section 45A(6):	substituted by 29, 1982, s. 25 (Sched. 1); 66, 1992, s. 29(d); repealed by 86, 1995, s. 28(c)
Section 45AB:	inserted by 66, 1992, s. 30
Section 45B:	amended by 66, 1992, s. 31; substituted by 86, 1995, s. 29
Section 45D:	repealed by 86, 1995, s. 30
Section 45E:	amended by 86, 1995, s. 31
Section 45F:	amended by 66, 1992, s. 32; substituted by 86, 1995, s. 32
Section 45G:	amended by 66, 1992, s. 33; repealed by 86, 1995, s. 32
Section 47(1):	amended by 86, 1995, s. 33(a), (b)
Section 47(2) and (3):	substituted by 86, 1995, s. 33(c)
Sections 48 and 49:	repealed by 86, 1995, s. 34
Section 50(1):	amended by 86, 1995, s. 35(a), (b)
Section 50(2):	amended by 86, 1995, s. 35(c)
Sections 51 - 53:	amended by 59, 1994, Sched. 2; substituted by 86, 1995, s. 36
Section 54:	substituted by 86, 1995, s. 36
Section 56:	substituted by 86, 1995, s. 37
Section 56A:	inserted by 66, 1992, s. 34; repealed by 86, 1995, s. 37
Sections 57 - 59:	repealed by 86, 1995, s. 37

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Schedule 2: amended by proclamation: *Gaz.* 25 June 1981, p. 1901; 19 April 1984, p. 950; 8 November 1984, p. 1480; 21 February 1991, p. 596; substituted by 86, 1995, s. 38

Schedule 7: inserted by 86, 1995, s. 39