



AN BILLE CUMANN FOIRGNIOCHTA, 1975
BUILDING SOCIETIES BILL, 1975

Mar a tugadh isteach
As introduced

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AN BILLE CUMANN FOIRGNIOCHTA, 1975
BUILDING SOCIETIES BILL, 1975

BILL

entitled

AN ACT TO CONSOLIDATE WITH AMENDMENTS THE LAW 5
RELATING TO BUILDING SOCIETIES.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :

PART I

PRELIMINARY AND GENERAL

- Short title. 1.—This Act may be cited as the Building Societies Act, 1975. 10
- Interpretation. 2.—(1) In this Act—
- 1954, No. 26. “ Act of 1954 ” means the Arbitration Act, 1954;
- 1963, No. 33. “ Act of 1963 ” means the Companies Act, 1963;
- 1971, No. 24. “ Act of 1971 ” means the Central Bank Act, 1971;
- “ alteration ”, in relation to the rules of a society, includes any addition to the rules and also includes the rescission of all or any of the rules, whether with or without the substitution of one or more than one rule for any rules rescinded, and cognate words shall be construed accordingly; 15
- “ bank ” means the holder of a licence under section 9 of the Act of 1971; 20
- “ board of directors ”, in relation to a society managed by a committee of management, means that committee;
- “ Central Bank ” means the Central Bank of Ireland;
- “ commission ” includes any gift, bonus, fee, payment or other benefit; 25
- “ Court ” means the High Court, except where the context otherwise requires;
- “ director ” includes a member of a committee of management and any other person occupying the position of director, by whatever name called; 30
- “ member ”, in relation to a society, has the meaning assigned to it by section 17;

“member of the family”, in relation to a person, means the spouse, son, daughter, step-son, step-daughter, adopted son or adopted daughter of that person;

“Minister” means the Minister for Local Government;

5 “mortgage” includes charge;

“officer”, in relation to a society, includes a director, chief executive or secretary, and in *Part V* also includes an auditor;

“prescribed” means prescribed by regulations made under this Act;

“Registrar” has the meaning assigned to it by *section 85*;

10 “society” means a building society established under this Act for the purpose of raising, in accordance with this Act, funds (by the subscriptions of the members, the acceptance of deposits and loans) for making loans to members on security by the mortgage of freehold or leasehold estate or interest;

15 “solicit deposits or subscriptions for shares” includes publish or display any matter soliciting deposits or subscriptions for shares whether by notice, circular, photograph, film, sound broadcasting, television, personal canvassing or otherwise;

“special resolution” has the meaning assigned to it by *section 56*.

20 (2) In this Act a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended.

(3) In this Act a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

3.—This Act shall come into operation on such day or days as may be fixed by order or orders of the Minister, either generally or with reference to a particular purpose or provision, and different days may be fixed for different purposes and different provisions of this Act. Commencement.

4.—Where notice is required by this Act to be served on a person, it shall, unless otherwise specified in this Act, be addressed to him and shall be served on or given to him in one of the following ways— Service of notices.

35 (a) where it is addressed to him by name, by delivering it to him;

(b) by leaving it at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address;

40 (c) by sending it by post in a prepaid registered letter addressed to him at the address at which he ordinarily resides or, in a case in which an address for service has been furnished, at that address.

5.—(1) (a) Subject to *paragraph (b)*, the Minister may make regulations prescribing any matter or thing referred to in this Act as prescribed or to be prescribed. Regulations.

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(b) For the purposes of *Part IV*, the Minister for Finance may make regulations prescribing any matter or thing

referred to in that Part as prescribed or to be prescribed.

(2) Regulations under this Act may apply either generally or by reference to a specified class or classes of societies, loans, rules or such other matters as the Minister making the regulations may consider appropriate. 5

(3) Without prejudice to any other power conferred by this Act, regulations thereunder may contain such incidental, consequential, transitional or supplementary provisions as may appear to the Minister making the regulations to be necessary or proper for any purpose of this Act or in consequence of, or to give full effect to, any provision of this Act. 10

(4) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 15

Repeals. 6.—The enactments specified in *column (2)* of the Schedule are hereby repealed to the extent specified in *column (3)* of the Schedule. 20

Expenses. 7.—(1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 25

(2) The expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

PART II

ESTABLISHMENT, RULES, POWERS ETC. OF SOCIETIES 30

Establishment of a society. 8.—Any ten or more persons not disqualified under this Act may establish a society by agreeing on rules for the government of the society which comply with *section 10* and by complying with the requirements of *section 11 (1)*.

Use of certain words. 9.—(1) The words “building society” or the words “cumann foirgníochta” shall be included in the name of a society. 35

(2) A person other than a society or other than a public utility society in existence at the commencement of this section shall not use in reference to itself or himself a name, title or descriptive expression containing the words “building society” or the words “cumann foirgníochta” or any translation, variant or derivative of those words. 40

Rules. 10.—(1) The rules of every society shall specify—
(a) the name of the society;
(b) the manner in which the funds of the society are to be raised;
(c) the terms on which shares are to be issued and repaid; 45

- (d) whether preferential shares are to be issued and, if so, within what limits;
- 5 (e) in the case of a society incorporated on or after the commencement of this section, provision for the issue of shares in compliance with *section 18*;
- (f) whether the society intends to borrow money and, if so, within what limits;
- (g) whether deposits are to be accepted and, if so, on what terms;
- 10 (h) the purposes to which the funds of the society are to be applied and the manner in which they are to be invested;
- (i) the manner in which loans are to be made and repaid, any deductions for premiums, and the conditions on which a borrower can redeem the amount due from him before the expiration of the period for which the loan was made;
- 15 (j) provision for the custody of the mortgage deeds and other securities belonging to the society;
- (k) the manner in which losses are to be ascertained and provided for;
- 20 (l) the powers and duties of the board of directors and other officers;
- (m) the manner of appointing, remunerating, and removing the board of directors and other officers (including the filling of casual vacancies), and the manner of remunerating auditors;
- 25 (n) provision for the use of the seal of the society;
- (o) the right of members to requisition meetings, the form of notice for the convening of meetings and the manner of service of the notice;
- 30 (p) the manner in which notice of any resolution to be moved at meetings is to be given to members;
- (q) the procedure to be observed at meetings;
- (r) the voting rights of members, the right of a member to appoint a proxy and demand a poll and the manner in which a poll is to be taken;
- 35 (s) whether disputes between the society and any of its members, or any person claiming by or through any member or under the rules, shall be settled by reference to a court, the Registrar or arbitration;
- 40 (t) any fines and forfeitures to be imposed on members of the society;
- (u) the manner in which membership of the society is to cease;
- (v) the manner in which the society may be wound up.
- 45 (2) (a) The rules of a society shall be binding on each of the members and officers of the society and on all persons claiming on account of a member or under the rules, and all members, officers and such persons shall be taken to have full notice of the rules.
- 50 (b) A society shall supply to any person requiring it a copy of its rules and may charge for the copy a fee of such amount as may from time to time be fixed by the Registrar.

(3) The Minister may prescribe rules, either generally or by reference to a specified class or classes of rules or societies, denoted by reference to such matters as the Minister may consider appropriate.

(4) (a) Where rules of a specified class or classes have been prescribed under *subsection (3)* and the rules of a society established before the commencement of regulations under that subsection are not in the opinion of the Registrar substantially in accordance with the rules as so prescribed, the Registrar shall notify the society of his opinion within six months after the commencement of the regulations, and in such a case the prescribed rules shall (with effect from a date, specified by the Registrar, not earlier than one year from the commencement of the regulations) be deemed to be the rules of the society in substitution for those in force on the date of the making of the regulations.

(b) A society may within a period of three months beginning on the date of receipt of the Registrar's opinion under this subsection appeal to the Court against the opinion.

(c) Where an appeal under this subsection is upheld the rules of the society may remain in operation.

(d) Where an appeal under this subsection fails the rules prescribed shall (with effect from a date not earlier than one year from the commencement of the regulations or six months after the date of the Court's decision on the appeal, whichever is the later) be deemed to be the rules of the society in substitution for those in force on the date of the making of the regulations.

Registration of rules and incorporation of a society.

11.—(1) Where ten or more persons not disqualified under this Act agree on rules for the purpose of establishing a society they shall deliver two copies of the rules, signed by not less than ten of the persons, to the Registrar.

(2) Where copies of rules are delivered to the Registrar in accordance with *subsection (1)*, the Registrar may at his discretion, but subject to this section, register or refuse to register the rules.

(3) The Registrar, if he is satisfied that the rules comply with the relevant requirements of this Act, shall not refuse to register rules delivered to him under *subsection (1)* unless he is of the opinion that the rules are not substantially in accordance with any rules prescribed under *section 10 (3)* or that the name of the proposed society is undesirable or so resembles the name of another society or the name of a person carrying on in the State banking business within the meaning of the Act of 1971 as to be calculated to deceive, or that registration would not be in the interest of the orderly and proper regulation of building society business.

(4) Whenever the Registrar decides to refuse to register rules delivered to him under *subsection (1)*, he shall, within six months of such delivery, notify the signatories of the rules of his decision and of his reasons for it, and an appeal may be made to the Court against the decision by not less than ten such persons.

(5) Where copies of rules are delivered to the Registrar under *subsection (1)* and he does not decide to refuse to register the rules, he shall retain and register one copy, return the other copy to the society, together with a certificate of incorporation of the society in a prescribed form, and notify the registration to the Minister for Finance and the Central Bank.

(6) From the date of its incorporation a society shall be a body corporate (with the name contained in its rules) having perpetual succession and a common seal.

(7) A certificate of incorporation given under this section by the Registrar shall be sufficient evidence until the contrary is shown that all the requirements of this Act relating to registration of rules and matters precedent and incidental to registration of rules have been
5 complied with and that the society is a society authorised to be incorporated and was duly incorporated under this Act.

12.—(1) A society may by special resolution alter its rules.

Alteration of rules.

(2) A society altering its rules shall forward to the Registrar two
10 copies of the alteration (or, in the case of a rescission, two copies of the resolution) signed by three members and the secretary, together with a letter signed by the secretary confirming that a special resolution has been passed in relation to the alteration.

(3) Where copies are forwarded to the Registrar in accordance with
15 *subsection (2)* and he finds that the alteration is in accordance with this Act, he shall return one of the copies to the secretary together with a certificate of registration in a prescribed form, and shall retain and register the other copy.

(4) An alteration under this section shall not have effect until registered under *subsection (3)*.

20 (5) Any provision in the rules of a society that the rules may be altered without passing a special resolution shall be void.

(6) Where the Registrar refuses to register under *subsection (3)* a copy of an alteration or of a resolution forwarded to him under *subsection (2)*, he shall notify the society of his decision and of his reasons
25 for it, and an appeal may be made to the Court against the decision.

(7) This section does not apply to a rule of a society providing for the name of the society.

13.—(1) A society may change its name by special resolution.

Change of name.

(2) Notice of a change of name under this section shall be sent by
30 the society to the Registrar together with two copies of the resolution (signed by three members and the secretary) and a letter signed by the secretary confirming that the resolution has been passed as a special resolution.

(3) Subject to *subsection (4)*, the Registrar shall register the change
35 of name and send to the secretary a certificate of such registration in a prescribed form.

(4) The Registrar shall not refuse to register a change of name by a society sent to him under *subsection (2)* unless he is of the opinion
40 that the proposed name is undesirable or so resembles the name of another society or the name of a person carrying on in the State banking business within the meaning of the Act of 1971 as to be calculated to deceive, or that registration would not be in the interest of the orderly and proper regulation of building society business.

(5) Where the Registrar refuses to register a change of name sent
45 to him under *subsection (2)*, he shall notify the society of his decision and of his reasons for it, and an appeal may be made to the Court against the decision.

(6) A change of name shall not affect any right or obligation of a society or of any member or other persons concerned, or render
50 defective any legal proceedings by or against the society, and any legal proceedings commenced against it by its former name may be continued against it by its new name.

(7) (a) In a case to which this subsection applies, the Registrar may require a society to change its name by giving it notice to that effect.

(b) This subsection applies to the following cases—

(i) where, in the opinion of the Registrar, a society incorporated before the commencement of this section is registered by a name which is either undesirable or so resembles the name of another society or the name of a person carrying on in the State banking business within the meaning of the Act of 1971 as to be calculated to deceive, 5 10

(ii) where a society, on its first registration or on its registration by a new name, is registered (through inadvertence or otherwise) by a name which, in the opinion of the Registrar, is undesirable or so resembles the name of another society or the name of a person carrying on in the State banking business within the meaning of the Act of 1971 as to be calculated to deceive. 15

(8) Where notice is given under subsection (7) to a society it shall be allowed such period as the Registrar may direct to comply with the notice and, in the event of the society's failure to comply with the notice in that period, the Registrar may proceed to suspend the registration of the society under section 94. 20

(9) A society may appeal to the Court against a notice of the Registrar under subsection (7). 25

Chief office.

14.—(1) A society shall, as from the day on which it begins to carry on business or the fourteenth day after the date of its incorporation, whichever is the earlier, have an office in the State (to be known as its chief office) to which all communications and notices may be addressed. 30

(2) Notice of the situation of the chief office and of any change therein shall be given by a society within 14 days after the date of the incorporation of the society or the date of the change (as may be appropriate) to the Registrar, who shall register the information and give to the society a certificate of such registration in a prescribed form. 35

Use of registered name.

15.—(1) A society shall not use any name or title other than its registered name.

(2) A society shall— 40

(a) paint or affix its name in a conspicuous position in easily legible letters on the outside of each of its offices or places of business,

(b) have its name engraved in legible characters on its seal,

(c) mention its name in all notices, letters, cheques, receipts or other documents purporting to be issued or sent by or on behalf of it, 45

(d) include in all its letters particulars of its place of incorporation, the number with which it is registered and the address of its chief office. 50

Land and buildings.

16.—(1) A society shall, so far as is necessary for the purpose for which it was established, have power to hold land with the right of sale.

(2) A society may purchase, build, hire or take on lease a building for conducting its business and may adapt, extend and furnish such a building.

5 (3) A society may purchase or hold on lease any land for the sole purpose of erecting on it a building for conducting the business of the society.

(4) A society may sell, exchange or let the whole or part of any building or land mentioned in *subsection (2)* or *(3)*.

10 (5) Any land or building to which a society becomes absolutely entitled by surrender or other extinguishment of the right of redemption shall, as soon as practicable, be sold or converted into money.

17.—(1) Every person holding one or more shares in a society shall be a member of the society. Membership.

15 (2) Subject to its rules, a society may allow a person to whom a loan is being or has been made to become a member without holding a share in the society, and the liability of such a member shall be no greater than it would be if the rules treated him as being, by reason of the making of the loan, the holder of a share in the society.
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(3) Two or more persons may jointly hold shares in a society.

(4) The liability of a member of a society in respect of any share in the society on which no loan has been made shall be limited to the amount actually paid or in arrear on the share, and, in respect
25 of any share on which a loan has been made, shall be limited to the amount payable thereon under any mortgage or other security or under the rules of the society.

(5) A minor may be admitted as a member of any society the rules of which do not prohibit such admission and can give all
30 necessary receipts, but while he is a minor he shall not be entitled to vote or to hold office.

(6) Where a person who applies for membership of a society in accordance with its rules is refused membership, the society shall furnish in writing to the person a statement of the reason for the
35 refusal.

(7) A person whose application for membership of a society in accordance with its rules has been refused may appeal against the refusal to the District Court at a sitting for the District Court district in which the chief office of the society is situated and the
40 decision of that court on the appeal shall be final, save that any question of law arising in the appeal may be referred to the High Court for determination, and an appeal shall lie by leave of the High Court to the Supreme Court from every such determination.

(8) Notice of an appeal under *subsection (7)* to the District Court
45 shall be in writing and shall set out the grounds on which the appeal is based.

(9) An appeal under *subsection (7)* to the District Court shall not lie after the expiration of six months from the date of notification of the refusal under *subsection (6)*.

50 (10) (a) Where two or more persons jointly hold shares in a society, the following provisions shall apply:—

(i) the person whose name first appears in the records of the society in relation to shares jointly held shall be the senior joint holder;

- (ii) except where the rules of a society otherwise provide, any notice or other document required by this Act to be sent by a society to the holders of shares in the society shall be deemed to be sent to the joint holders if it is sent to the senior joint holder; 5
- (iii) where under this Act a member of a society may attend and vote at a meeting by virtue of being a holder of shares in the society, and such person is a joint holder of such shares, the person entitled to exercise the rights conferred by *sections 52, 53 and 54* shall, notwithstanding anything in those sections, be the senior joint holder; 10
- (iv) a society shall be deemed to have complied with the requirements of *section 73* where the name of the senior joint holder is entered in the register required to be kept under that section; 15
- (v) for the purposes of *sections 25 and 26*, the shares shall be deemed to be held by the senior joint holder alone, and a joint holder of the shares (other than the senior joint holder) shall not be regarded as a member of the society for the purposes of these sections; 20
- (vi) the senior joint holder, but not the other joint holders, shall have the right to join in making an application under *section 29*, and any reference in that section to the total membership shall be construed accordingly. 25
- (b) *Paragraph (a) (ii)* shall not operate so as to prevent any of the joint holders from obtaining from the society, on demand, a copy of its balance sheet or annual return.
- (c) The joint holders shall be entitled to choose the order in which they are named in the records of the society. 30

Restrictions on commencement of business.

18.—(1) A society which is incorporated on or after the 5th day of December, 1975, or which was incorporated before that date but had not begun to carry on business at that date, shall not exercise any power under *section 22*, unless—

- (a) written evidence has been produced to the Registrar satisfying him that not less than ten of the members who established the society (or where there are less than ten, all such members) have each been issued with shares in the society to a value not less than such sum as may be prescribed by the Minister after consultation with the Minister for Finance, and that the total value of such shares is not less than such sum as may be prescribed by the Minister after such consultation. 35
 - (b) written evidence has been produced to the Registrar satisfying him that such members have paid to the society the prescribed sums in cash for those shares. 40
 - (c) written evidence has been produced to the Registrar satisfying him that the society has complied with *section 20*, and 45
 - (d) the Registrar has certified that the evidence referred to in *paragraphs (a) to (c)* has been produced. 50
- (2) (a) The terms applicable to shares referred to in *subsection (1)* shall not, either at the time when the shares are issued or at any other time before the expiration of five years from the date on which the Registrar's certificate referred 55

to in that subsection is issued, be in any respect more favourable than those applicable to any other shares of that class in the society.

5 (b) Within the five-year period referred to in *paragraph (a)* a society shall not give effect to or recognise any transfer of shares referred to in *subsection (1)*, other than a transfer by operation of law.

10 (3) Within the five-year period referred to in *subsection (2)* a society shall not repay the sum (or any part thereof) subscribed for the shares referred to in *subsection (1)* unless during that period the society is wound up under *section 95* or a transfer of its engagements to another society has been registered by the Registrar under *section 26* or *27*.

15 (4) The evidence referred to in *subsection (1)* shall be produced to the Registrar—

(a) in the case of a society which is incorporated on or after the commencement of this section, within three months from the date of incorporation;

20 (b) in the case of any other society to which *subsection (1)* applies, within three months from the commencement of this section.

(5) Where a society fails to produce to the Registrar within the appropriate period specified in *subsection (4)* the evidence referred to in *subsection (1)*, the following provisions shall apply:—

25 (a) in the case of a society which has not begun to carry on business within that period, the society shall be deemed to be a society which the Registrar is satisfied has ceased to function and accordingly *section 94* shall apply;

30 (b) in the case of a society which has begun to carry on business at the end of that period, the Registrar may make an application to the Court under *section 95* for the winding up of the society.

35 (6) If at any time within the five-year period referred to in *subsection (2)* any provision in that subsection or in *subsection (3)* is not complied with, the Registrar may make an application to the Court under *section 95* for the winding up of the society.

40 (7) For the purposes of this section, “to carry on business” shall include both the raising of funds and the making of loans and the onus of proving to the Registrar that a society has begun to carry on business shall lie on the society.

19.—(1) A society which is incorporated on or after the 5th day of December, 1975, shall not advertise for or otherwise solicit deposits or subscriptions for shares after the commencement of this section without the prior permission in writing of the Registrar. Permission to advertise.

45 (2) A society which on the 5th day of December, 1975, had total assets of less than £1,000,000 shall not advertise for or otherwise solicit deposits or subscriptions for shares on or after the commencement of this section without the prior permission in writing of the Registrar.

50 (3) A permission to advertise given under this section may be expressed to be valid for a specified period, and in such a case a society shall not advertise for or otherwise solicit deposits or subscriptions for shares after the expiration of the specified period without the further permission in writing of the Registrar.

55 (4) The Registrar may at his discretion require a society, which advertises for or otherwise solicits deposits or subscriptions for shares

on or after the commencement of this section other than in accordance with a permission given under this section, to submit to him evidence satisfying him that its total assets on the date specified in *subsection (2)* were not less than the sum required under that subsection.

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(5) The Registrar shall not give permission under this section unless he is satisfied that—

(a) the society has carried on business during portion or all of the period of two years ending on the date of application for such permission in a manner which has not been prejudicial to the orderly and proper regulation of building society business;

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(b) (i) in the case of a society to which *subsection (1)* applies, the requirements of *sections 18* and *20* have been complied with;

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(ii) in the case of a society to which *subsection (2)* applies, the requirements of *section 20* have been complied with;

(c) the name of the society is not undesirable and does not so resemble the name of another society or the name of a person carrying on in the State banking business within the meaning of the Act of 1971 as to be calculated to deceive;

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(d) the society complies with such conditions in relation to liquidity, reserves and other matters of a financial nature as may be prescribed by the Minister for Finance under *Part IV*;

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(e) the society is able to meet its obligations to its creditors, has not suspended any payments lawfully due by it and is not in arrears with any interest due on shares in, or deposits with, the society; and

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(f) there is not outstanding at the date of application for permission under this section any part of a loan of which particulars were or are required under *section 43 (1)* to be included in an annual return submitted to the Registrar.

35

(6) An application for permission under this section shall not be made before a society has sent to the Registrar at least one annual return under *section 70* for a financial year covering a period of not less than twelve months or, in any financial year, before the annual return for the previous financial year has been sent to the Registrar.

40

(7) Where the Registrar refuses to give permission under this section he shall notify the society of his decision and of his reasons for it, and an appeal may be made to the Court against the decision.

Deposit at Central Bank.

20.—(1) A society shall not carry on business or exercise any power under *section 22* unless it maintains in the Central Bank a deposit of an amount determined in accordance with this section.

45

(2) The amount of a deposit under this section shall be five per cent of the total value of the society's shares and deposits, but shall not be less than £20,000 nor more than £500,000.

50

(3) The amount of a deposit under this section shall be calculated by the Central Bank twice yearly (at intervals which, in so far as is practicable, are of equal length) by reference to returns made by the

society at the request of the Central Bank, and in the case of a society incorporated after the commencement of this section the amount of a deposit under this section shall be calculated by the Central Bank as soon as may be after it has been notified by the
5 Registrar of the incorporation of the society under *section 11*.

(4) The amount of a deposit under this section shall, where necessary, be increased to the appropriate amount calculated under *subsection (3)*, not later than seven days after the date of the receipt by the society of notification from the Central Bank of the amount
10 required to effect the increase.

(5) The Central Bank may settle the amount of a deposit under this section at the nearest round figure in hundreds of pounds.

(6) A deposit under this section shall carry interest at such a rate (not being less than the Central Bank's minimum rediscount rate for the time being for exchequer bills fixed and published by it under
15 section 7 (1) (g) of the Central Bank Act, 1942) and payable in such manner and at such times as may be determined by the Central Bank from time to time.

1942, No. 22.

(7) Any charge purported to be created on a deposit under this
20 section shall be void.

(8) A deposit under this section shall not be subject to any form of execution in satisfaction of any claim of, or any judgment, order or decree of any court in the State in favour of any creditor of a society, otherwise than under and in accordance with the provisions
25 of this Act.

(9) The Registrar may require a society to produce a certificate from the Central Bank that the society is complying with the requirements of this section.

(10) (a) In the case of a society which is incorporated on or after the 5th day of December, 1975, or which was incorporated but had not begun to carry on business before that date, the initial calculation of the amount of the deposit for the purposes of this section shall be made by the Bank as soon as may be after the commencement of this section or as soon as may be after notification by the Registrar of incorporation, under *section 11*, whichever
30 is the later.
35

(b) In the case of a society which was incorporated and had begun to carry on business before the 5th day of December, 1975, this section shall not apply during the period of three months beginning at the commencement of this section.
40

(11) For the purposes of this section the onus of proving to the Registrar that it has begun to carry on business shall lie on a society.

45 **21.**—(1) Whenever a person obtains a judgment, order or decree in any court in the State against a society for payment of a deposit maintained by or for him with the society or institutes proceedings against the society claiming such payment, the person or any other person maintaining a deposit with the society—

Provisions supplemental to *section 20*.

50 (a) may by motion *ex parte* apply to the Court for an order under *subsection (2)*, and

(b) on satisfying the registrar or clerk of the court in which the judgment, order or decree was obtained or the proceedings were instituted that he proposes to make an application under this section, shall be entitled to obtain a certificate signed by the registrar or clerk and stating that the judgment, order or decree has been obtained or that the pro-
55

ceedings were instituted (as the case may be), and the certificate shall be evidence of the facts so stated.

(2) Where an application is made under *subsection (1)*—

(a) the Court may by order direct that the deposit or any part thereof maintained under *section 20* in the Central Bank by the society to which the application relates be not released during such period as the Court may deem proper and specify in the order, and 5

(b) if the person making the application has obtained a judgment, order or decree against the society and it appears to the Court, after such enquiry as it deems appropriate, either— 10

(i) that it is unlikely that further claims will be made against the deposit in respect of sums then owed by the society, or

(ii) that, if such claims are made, the deposit is sufficient to meet them in full, 15

the Court may by order direct that the sum specified in the judgment, order or decree, with or without the costs of the application, shall be paid to the person out of the deposit. 20

(3) Where an order is made under *subsection (2) (a)*, the Court may also make an order directing either—

(a) that a bank shall not, except subject to such conditions or in such circumstances as may be specified in the order, make any payment out of any banking account in the name of the society against whom the order is made, or 25

(b) that a specified bank shall not, except subject to such conditions or in such circumstances as may be specified in the order, make any payment out of any banking account or out of a specified banking account or type of banking account kept in the name of the society against whom the order is made by the specified bank. 30

(4) Where—

(a) a judgment, order or decree of the kind referred to in *subsection (1)* having been obtained against a society, an order is made under *subsection (2) (a)* on the application of the person who obtained the judgment, order or decree, or 35

(b) an order is made under *subsection (3)*,

the society shall be deemed for the purposes of *section 95* to be unable to pay its debts. 40

(5) If an appeal is instituted in the Supreme Court—

(a) against an order of the Court made under *subsection (2) (a)* or (3) on the application of a person who has obtained a judgment, order or decree of the kind referred to in *subsection (1)*, or 45

(b) against an order of the Court made under *subsection (3)* on the application of a person who has instituted proceedings of the kind referred to in *subsection (1)*,

subsection (6) and, where appropriate, *subsection (7)* shall apply. 50

(6) The Supreme Court or the Court may by order postpone the application of *subsection (4)* for such period and (subject to *subsection (7)* in the case of an appeal referred to in *subsection (5) (a)*) on such terms as the court concerned may fix and specify in the order.

5 (7) If the Supreme Court or the Court makes an order under *subsection (6)* in the case of an appeal referred to in *subsection (5) (a)*, the court concerned may require the society to which the order relates either, as the court thinks fit, to lodge in court an amount equal to the amount of all the moneys due under the judgment, order or decree (or such lesser amount as the court may direct) or to give such security as the court may direct for the payment of all such moneys, together with, in either case, such further sum or security for costs of the appeal as the court shall consider just.

10 (8) In addition to or in lieu of making an order under *subsection (3)*, the Court may, notwithstanding anything contained in *section 95*, of its own motion and after giving to the society against which the order is made or sought (and to any other person to whom it considers notice should be given) such notice as it considers reasonable, 15 make an order for the winding up of the society.

20 (9) Where in proceedings under this section a winding up order is made, the order shall apply in the same way as if the order had been made on a winding up petition under *section 95* and as if for any reference in the Act of 1963 (as applied by that section) to the presentation of the winding up petition there were substituted a reference to the making of the winding up order under this section.

(10) An order under *subsection (2) (a)*, *(3)* or *(6)* may be revoked or varied by the Court or the Supreme Court, as the case may be.

25 (11) The whole or any part of proceedings under this section or of an appeal in relation to such proceedings may be heard in chambers.

22.—(1) A society may from time to time raise funds for the purpose of the society by the issue of shares of one or more than one denomination, either with or without accumulating interest, and may repay such funds when they are no longer required for such purpose.

Power to raise funds and to borrow money.

30 (2) A repayment of funds under *subsection (1)* may be effected in relation to all shareholders or to a specified class or classes of shareholders (denoted by reference to such matters as the society may think appropriate), but such repayment may not be made to a shareholder (other than at his request) between the date on which he 35 has indicated his intention to put forward a resolution or a special resolution (or to support a nomination) at a meeting of the society and the date of the meeting.

40 (3) A society may borrow money and for this purpose may accept deposits or loans at interest, to be applied to the purpose of the society.

(4) A society shall not accept any deposit except on terms enabling the society to require notice of not less than one month before repayment or withdrawal.

45 (5) For the purposes of this section money deposited with a society as security for a loan made by the society to a member, or as security for a guarantee given in respect of such a loan, shall be treated as money borrowed by the society.

(6) A person other than a society shall not exercise any power conferred by *subsection (1)*.

50 (7) (a) Subject to *paragraph (b)*, a society shall not issue shares under *subsection (1)* to which voting rights do not attach.

(b) *Paragraph (a)* shall not apply to a society which on or before the 5th day of December, 1975, had issued such shares to which voting rights did not attach.

55 23.—(1) Every deposit book, acknowledgment or security of any kind given for a deposit or loan by a society shall have set out in

Provisions supplemental to *section 22*.

writing thereon such information as the Registrar may require from time to time.

(2) A person who subscribes for shares in a society or deposits money with a society shall on first becoming a shareholder or a depositor be entitled to receive from the society free of charge a copy 5 of the financial statement then being displayed by the society under *section 61*.

(3) (a) Where a member of or a depositor with a society who has in the funds of the society a sum of money not exceeding such sum as may from time to time be fixed by the Registrar for the purpose of this subsection dies intestate, the amount due to the member's or depositor's estate may be paid to the person who appears to the directors of the society to be entitled to receive it, without that person taking out letters of administration, upon the society's receiving satisfactory evidence of death and a statutory declaration that the member or depositor died intestate, and that the person so claiming is so entitled. 15

(b) Where a society pays any amount due to the person who appeared to be entitled to the effects of the deceased 20 person the payment shall be valid and effectual with respect to any demand against the funds of the society from any other person claiming as next-of-kin or as the lawful representative of the deceased member or depositor, but such next-of-kin or representative shall have his remedy for the amount of the payment against the person who has received it. 25

Loans by one society to another.

24.—(1) Notwithstanding anything in this Act or in the rules of a society, a society may lend money to another society where the Registrar, with the consent of the Minister for Finance, so authorises. 30

1974, No. 9.

(2) The powers conferred by *subsection (1)* shall be deemed to authorise loans made since the 1st day of July, 1974, by a society to a society which, pursuant to *section 2* of the Building Societies Act, 1974, was the subject of an application to the Registrar for the transfer of its engagements to the first-mentioned society. 35

Union of societies.

25.—(1) Subject to compliance with *section 28*, two or more societies may unite and become one society, whether with or without a dissolution or division of the funds of one or more of the societies, if—

(a) a proposal to unite is approved by a special resolution of 40 each society, and

(b) either—

(i) the proposal obtains the consent in writing of the holders of not less than two-thirds of the total value of shares in each society, or 45

(ii) the union is confirmed under *section 27*.

(2) Where two or more societies unite under *paragraphs (a)* and *(b) (i)* of *subsection (1)*, notice of the union shall be sent to the Registrar by the united society and shall be duly registered by him, and he shall send to that society a certificate of such registration in a prescribed form. 50

(3) *Sections 18* and *19* shall not apply to a society formed by a union under this section if before the union both those sections or

either of them did not apply to at least one of the societies forming the union.

26.—(1) Subject to compliance with *section 28*, a society may transfer its engagements to another society or undertake to fulfil the engagements of another society if—

Transfer of, and undertaking to fulfil engagements.

10 (a) a proposal for a transfer or undertaking under this section is approved by a special resolution of each society or, in the case of a society proposing to undertake to fulfil the engagements of another society, by resolution of a general meeting or of a meeting of the board of directors of the society so proposing if the Registrar consents to either such meeting being held for the purpose of passing the resolution, and

(b) either—

15 (i) the proposal obtains the consent in writing of the holders of not less than two-thirds of the total value of shares in each society, or

(ii) the transfer or undertaking is confirmed under *section 27*.

20 (2) Where a transfer is made under *paragraphs (a) and (b) (i) of subsection (1)*, notice of the transfer shall be sent to the Registrar by the society undertaking to fulfil the engagements and shall be duly registered by him, and he shall send to that society a certificate of such registration in a prescribed form.

25 27.—(1) Where a proposal referred to in *section 25* or *26* is duly approved, any society concerned in the proposal may apply to the Registrar to confirm the union, transfer or undertaking.

Confirmation and registration of union under *section 25* or transfer or undertaking under *section 26*.

30 (2) (a) Where a society makes an application under *subsection (1)* it shall within seven days after the date of the application cause to be published, in *Iris Oifigiúil* and in at least one daily newspaper published in the State and circulating in the areas in which the chief offices of the societies concerned in the proposal are situated, a notice giving particulars of the application and indicating that objections or representations relating to it may be made in writing to the Registrar within such period (being not less than 21 days after the date of publication of the notice) as may be specified in the notice.

40 (b) A notice under this subsection shall be in such form as the Registrar may direct and shall indicate that a copy of the statement prepared under *section 28* may be obtained on demand at the chief office of the society during the ordinary office hours of the society.

45 (3) Objections and representations relating to an application under *subsection (1)* may be made to the Registrar within the period specified in the relevant notice published under *subsection (2)*.

(4) The Registrar, having considered an application under *subsection (1)* and any objection or representation under *subsection (3)*, shall either—

50 (a) confirm the union, transfer or undertaking, or

(b) where he is not satisfied that *section 28* has been complied with, or is of the opinion that confirmation would not be in the public interest or in the interest of the orderly

and proper regulation of building society business, refuse to confirm the union, transfer or undertaking.

(5) Where the Registrar refuses to confirm a union, transfer or undertaking, he shall notify an applicant under *subsection (1)* of his decision and of his reasons for it, and an appeal may be made to the Court against the decision. 5

(6) (a) Where the Registrar confirms a union, transfer or undertaking, the Registrar shall register the union, transfer or undertaking, and from the date of such registration it shall have effect in accordance with the terms of the relevant proposal. 10

(b) The Registrar shall send to an applicant under *subsection (1)* a certificate of the registration under *paragraph (a)* in a prescribed form.

(7) Subject to *subsection (6)*, registration under this Act of a union or transfer shall operate as an effectual conveyance, transfer or assignment on the date of registration of the funds, property and assets of the societies uniting to the united society, or of the society transferring its engagements to the society to which they are transferred, without any formal conveyance, transfer or assignment, but any such union or transfer shall not affect the rights of any creditor of any society so uniting or transferring. 15 20

Statement for members relating to proposal under *section 25 or 26.*

28.—(1) A society proposing to unite with one or more other societies, to transfer its engagements to another society or to undertake to fulfil the engagements of another society shall cause to be prepared for circulation to persons attending the meeting proposed to be held under *section 25 (1) (a)* or *26 (1) (a)* and, where the Registrar so requires, send to each of its members a statement, in such form as the Registrar may direct, showing— 25

(a) the financial position of each society concerned in the proposed union, transfer or undertaking, 30

(b) the interest of the directors of each society concerned in the proposed union, transfer or undertaking,

(c) any compensation or consideration proposed to be paid or given to the directors or other officers of each society concerned, 35

(d) details of any payments proposed to members of each society concerned in consideration of the proposed union, transfer or undertaking, and

(e) details of the arrangements proposed in relation to employees of the society. 40

(2) Where the Registrar requires a statement to be sent to each member of a society under *subsection (1)*, it shall be so sent that every member of the society receives it not later than the date on which he receives notice of any resolution to be moved at a meeting of the society in favour of the proposal, and where a society applies to its members to obtain their consent in writing under *section 25 (1) (b)* or *26 (1) (b)*, the statement shall be so sent that every member receives it not later than the date on which he receives the application for his consent. 45

PART III

CONTROL OF SOCIETIES BY REGISTRAR

29.—(1) Where—

Power of Registrar
to appoint inspector
or call special
meeting.

- 5 (i) an application is made to the Registrar, in the case of a society having more than 1,000 members, by not less than 100 of those members and, in any other case, by not less than one-tenth of the total number of members of the society, or
- 10 (ii) the Registrar is of the opinion that an investigation should be held into the affairs of a society or that the affairs call for consideration by a meeting of the members of the society,

the Registrar may appoint one or more inspectors to investigate the affairs of the society and to report thereon in such manner as he
15 directs, or may call a special meeting of the society.

(2) The Registrar may, either on the same or on different occasions, both appoint an inspector and call a meeting under
subsection (1).

20 (3) (a) An application under this section shall be supported by such evidence as the Registrar may direct, for the purpose of showing that the applicants have good reason for requiring the investigation to be made or the meeting to be called and that they are not actuated by malicious motives in their application.

25 (b) Such notice of the application shall be given to the society as the Registrar may direct.

30 (c) All expenses of and incidental to the investigation or meeting shall be defrayed (whether by the applicants or out of the funds of the society or by the members or officers or former members or officers of the society) as the Registrar may direct and, before appointing an inspector or calling a meeting, the Registrar may require the applicants to give security, to an amount not exceeding £50, for payment of the cost of the investigation.

35 (4) (a) The Registrar may give such directions as he thinks fit in relation to the calling, holding and conduct of a meeting held under this section (including the time and place of the meeting and what matters are to be discussed and determined at the meeting).

40 (b) The Registrar may appoint a person to be chairman at a meeting held under this section.

(c) The power of a meeting held under this section to appoint its own chairman shall be exercisable in default of such an appointment by the Registrar.

45 (d) A meeting held under this section shall have all the powers of a meeting called according to the rules of the society.

(e) This subsection shall have effect notwithstanding anything in the rules of a society.

50 (5) Before appointing an inspector or calling a meeting under this section the Registrar may, if he is of the opinion that it would not be prejudicial to the interests of members or creditors, notify the society in writing of the action which he proposes to take and of the grounds on which he proposes to take it and, in such a case, the society shall, within 14 days of the receipt of the notification, be entitled to give to
55 the Registrar an explanatory statement in writing.

(6) Where an inspector appointed under this section to investigate the affairs of a society thinks it necessary for the purposes of his investigation to investigate also the affairs of any other society or any body corporate which is or has at any relevant time been associated with the first-mentioned society, he shall with the approval of the Registrar, have power to do so, and shall report on the affairs of the other society or body corporate so far as he thinks the results of his investigation thereof are relevant to the investigation of the affairs of the first-mentioned society. 5

Provisions
supplemental to
section 29.

30.—(1) It shall be the duty of all officers, members and agents of a society the affairs of which are being investigated under section 29 to produce to the inspector all books, accounts, deeds, records or other documents of or relating to the society which are in their power, possession or procurement and otherwise to give to him all assistance in connection with the investigation which they are reasonably able to give, and the inspector may examine on oath the officers, members and agents of the society in relation to its business and for this purpose may administer an oath. 10 15

(2) If any officer, member or agent of the society refuses to produce to the inspector any book or document which it is his duty under this section to produce or refuses to answer any question put to him by the inspector with respect to the affairs of the society, the inspector may certify the refusal under his hand to the Court and the Court may thereupon inquire into the case and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of court. 20 25

(3) Subject to subsection (4), if the inspector thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the Court and the Court may, if it thinks fit, order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination— 30

(a) the inspector may take part therein by solicitor or counsel; 35

(b) the Court may put such questions to the person examined as it thinks fit;

(c) the person examined shall answer all such questions as the Court may put or allow to be put to him, but may at his own cost employ a solicitor (with or without counsel) who shall be at liberty to put to him such questions as the Court may think fit for the purpose of enabling him to explain or qualify any answers given by him; 40

and notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined and may thereafter be used in evidence against him. 45

(4) Notwithstanding anything in subsection (3) (c) the Court may allow the person examined such costs as, in its discretion, it may think fit, and any costs so allowed shall be paid as part of the expenses of the investigation. 50

(5) An inspector appointed under section 29 shall make a report to the Registrar.

(6) The Registrar shall—

(a) forward a copy of any report made by an inspector under this section to the Minister, the Minister for Finance, the Minister for Industry and Commerce and the chief office of the society; 55

- 5 (b) if he thinks fit, furnish a copy thereof on request and on payment of such fee as he may fix to any other person who is a member of the society or of any other body corporate dealt with in the report by virtue of *section 29 (6)* or whose interests as a creditor of the society or of any such other body corporate appear to the Registrar to be affected;
- 10 (c) at the request of the applicants for the investigation, furnish a copy to them on payment of such fee as may be fixed by the Registrar;
- (d) furnish a copy to the Court where application is made to the Court under *subsection (3)*.
- (7) The Registrar may, if he thinks fit, cause the report to be printed and published.
- 15 (8) The Minister may lay the report under *subsection (6)* before each House of the Oireachtas and such publication shall be privileged.
- 20 (9) (a) Where it appears to the Registrar that any person has, in relation to the society the affairs of which have been investigated under *section 29*, been guilty of any offence for which he is criminally liable, the Registrar shall refer the matter to the Director of Public Prosecutions.
- (b) Where the Director of Public Prosecutions institutes proceedings consequent on the receipt by him of a report under *paragraph (a)*, it shall be the duty of all officers, members and agents of the society (other than the defendants in the proceedings) to give him all assistance in connection with the prosecution which they are reasonably able to give.
- 25 (10) Where it appears to the Registrar after consideration of the inspector's report under *subsection (5)* that it is expedient to do so he may, unless the society is being wound up by the Court, petition the Court for an order to wind up the society under *section 95*.
- 30 (11) (a) Where it appears to the Registrar after consideration of an inspector's report under *subsection (5)* that proceedings ought in the public interest to be brought by the society for damages, in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation of the society, for the recovery of any property misapplied or wrongfully retained, the Registrar may himself bring proceedings for that purpose in the name of the society.
- 35 (b) The Minister may indemnify the society against any costs or expenses incurred by it in or in connection with any proceedings brought under *paragraph (a)*.
- 40 (12) A copy of any report of an inspector appointed under *section 29* shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.
- 45 (13) Nothing in this section shall require disclosure to the Registrar or to an inspector appointed by him—
- 50 (a) by a solicitor of any privileged communication made to him in that capacity, or
- (b) by bankers of any information as to the affairs of any of their customers other than the society the affairs of which are being investigated.
- 55 (14) (a) In this section any reference to officers or to agents of a

society shall include past as well as present officers and agents and, for the purposes of this section, "agents" shall include the bankers, solicitors and auditors of the society.

- (b) Where an inspector investigates under *section 29 (6)* the affairs of any other society or any body corporate, any reference in this section to officers or to agents of a society shall be construed as including a reference to officers or agents of that other society or body corporate. 5

Power of Registrar to suspend raising of funds, etc.

31.—(1) Where the Registrar is of the opinion that a society has become or is likely to become unable to meet its obligations to its creditors, or considers it expedient in the interests of its members or of the orderly and proper regulation of building society business or if the society is being investigated under *section 29*, he may direct a society in writing to suspend for such period, not exceeding two months, as shall be specified in the direction one or more of the following:— 10 15

(a) the acceptance of any subscriptions for shares (other than subscriptions which fell due but were not paid before the date of the direction) or any deposits or loans; or

(b) payments which have not been authorised by the Registrar. 20

(2) A direction under this section shall have effect in accordance with its terms but, notwithstanding the issue of a direction, a society may borrow money from a bank or from an officer of the society if the Registrar consents in writing to such borrowing.

(3) (a) Where he considers that it would not be prejudicial to the members or creditors or to the orderly and proper regulation of building society business, the Registrar may give the society and every director of the society not less than 14 days' notice of his intention to issue a direction under *subsection (1)* and any such notice shall specify the considerations by reference to which he considers the issue of a direction to be necessary. 25 30

(b) The Registrar shall not give a notice under this subsection where he is of the opinion that the society concerned has become, or is likely to become, unable to meet its obligations to its creditors. 35

(4) Where notice of intention to give a direction is given under *subsection (3)*, the Registrar shall consider any representations made to him in relation to the proposed direction within such period (of not less than 7 days) as he may specify from the date on which the notice is given. 40

(5) A direction under this section by the Registrar to a society shall specify the considerations (being considerations specified in a notice under *subsection (3)*) by reference to which he considered it necessary to issue the direction. 45

(6) A notice under this section may be served on a director of a society by sending it by post to his address as notified to the Registrar, but failure so to serve such a notice shall not affect the validity of a direction under this section.

(7) A direction may be revoked at any time by the Registrar. 50

(8) The Registrar shall cause to be published in *Iris Oifigiúil*, and in such other way as appears to him expedient for informing the public, notice of the issue of a direction and of its revocation.

(9) Where at the time a direction is given to a society by the

Registrar a member of the society is under an obligation to pay instalments to the society by way of subscriptions for shares, the obligation to pay such instalments shall be suspended for the period during which the direction is in force and, accordingly, if the direction is revoked the subscriptions shall again become payable by instalments.

(10) (a) This subsection applies where the Registrar has made a direction under this section and the direction has not been revoked.

10 (b) It shall be the duty of the society to make reasonable arrangements for using the funds of the society to meet applications by depositors or shareholders in the society (being applications duly made in accordance with the rules of the society) for repayment of the money deposited or subscribed by them.

15 (c) Where it appears to the Registrar that the society has been applying an undue proportion of the funds of the society in making loans, in preference to meeting such applications as are mentioned in *paragraph (b)* he may, after giving notice to the society and affording it an opportunity of making representations, petition the Court under *section 95* for an order to wind up the society under that section.

25 (11) Reference in this section to the amount due by way of subscriptions for a share in a society shall not include amounts due in respect of a share which represents interest on, or the repayment of, an advance made to the holder of the share.

32.—(1) Where the Registrar is of the opinion that a society has become or is likely to become unable to meet its obligations to its creditors, or considers it expedient in the interests of its members or of the orderly and proper regulation of building society business, or where a society is being investigated under *section 29*, he may issue a direction to the society—

Power of Registrar to suspend advertising.

35 (a) in relation to the information which the society shall include in any advertisement to be published by or on its behalf or in any statement to the public to be made by it or on its behalf, or

(b) not to advertise for or otherwise solicit deposits or subscriptions for shares, or

40 (c) not to issue an advertisement of a description specified in the direction or substantially similar to such description, or

45 (d) to take all practical steps to withdraw any notice, circular, photograph or film used or capable of being used to advertise for or otherwise solicit deposits or subscriptions for shares.

(2) A direction under this section may relate to one or more of the matters referred to at *paragraphs (a) to (d)* of *subsection (1)*.

50 (3) Where he considers that it would not be prejudicial to the members or creditors or to the orderly and proper regulation of building society business, the Registrar may give a society and every director of the society not less than 14 days' notice of his intention to issue a direction under this section, and any such notice shall specify the considerations by reference to which he considers the issue of a direction to be necessary.

(4) Where notice of intention to give a direction is given under

subsection (3), the Registrar shall consider any representations made to him in relation to the proposed direction within such period (of not less than 7 days) as he may specify from the date on which the notice is given.

(5) A direction under this section by the Registrar to a society shall specify the considerations (being considerations specified in a notice under *subsection (3)*) by reference to which he considered it necessary to issue the direction. 5

(6) A notice under this section may be served on a director of a society by sending it by post to his address as notified to the Registrar but failure so to send such a notice shall not affect the validity of a direction under this section. 10

(7) A direction under this section may be varied or revoked by the Registrar at any time.

Order by
Court regarding
direction under
section 31 or 32.

33.—(1) A society to which a direction is given under *section 31 or 32* may apply to the Court for an order setting aside the direction and the Court may grant such an order. 15

(2) The whole or part of proceedings under this section or of an appeal in relation thereto may be heard in chambers.

Power to inspect
and obtain
documents, etc.

34.—(1) The Registrar may at any time serve a notice on a society or on any person who has in his power, possession or procurement books, accounts, deeds, records or other documents relating to the business of a society, or who is or has been an officer, servant, auditor or agent of a society, requiring the production to the Registrar of such documents or the furnishing to him of such information relating to the business of the society, as he may consider necessary for the purposes of his powers under *sections 31 and 32*. 20 25

(2) A notice under *subsection (1)* may not require a person, other than a person who has been an officer, servant, auditor or agent of the society, to produce a document which does not belong to the society, unless the document is a title document relating to property mortgaged to the society. 30

(3) (a) The Registrar or a person duly authorised in writing in that behalf by the Registrar may, for the purpose of the performance by the Registrar of his functions under this Act and on production of his authorisation if so required, at all reasonable times enter premises and inspect and take copies of or extracts from the books and records of a society. 35

(b) A person who has in his power, possession or procurement any book or other document referred to in *subsection (1)* shall produce them at the request of the Registrar or a person duly authorised under this section and shall permit the person to inspect and take copies of or extracts from them and give him any information which he may reasonably require regarding any entries in them. 40 45

(4) A person who fails to comply with a notice or request under this section, or obstructs a person acting in the course of his duties under *subsection (3)*, refuses to permit the taking of copies or extracts under this section or refuses to give information required under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200, and in the case of a continuing offence shall be liable to a further fine of £10 for each day on which the offence is continued. 50

35.—(1) The Registrar may give directions relating to the matter and form of any advertisement or other means of soliciting deposits or subscriptions for shares in a society, and may direct a society to take all practical steps to withdraw an advertisement. Control of advertising.

5 (2) Without prejudice to the generality of *subsection (1)*, a direction under this section may require that advertisements or other means of soliciting deposits or subscriptions for shares in a society shall include a statement concerning the financial position of the society or giving any particular information relating to the society.

10 (3) A direction under this section may apply to all societies or to a specified class or classes of societies (denoted by reference to such matters as the Registrar may consider appropriate) and to all advertising or other means of soliciting deposits or subscriptions for shares in a society or to a specified class or classes (so denoted) of advertising or other means of soliciting deposits or subscriptions for shares in a society.

36.—(1) The Registrar may fix the form of any application, notice or other document made or sent to him under this Act or required to be so made or sent. Forms and fees.

20 (2) Without prejudice to any other power conferred by this Act, the Registrar may, with the consent of the Minister for Finance, fix fees to be paid for the inspection of any document or the furnishing of any copies in his custody or in connection with the exercise by him of any of his functions under this Act, and any moneys received 25 by him under this subsection shall be paid into the Exchequer.

PART IV

CONTROL BY MINISTER FOR FINANCE

37.—(1) The Minister for Finance may, after consultation with the Minister and the Central Bank, require a society to maintain— Control of ratios between assets and liabilities.

- 30 (a) a specified ratio,
- (b) a ratio not exceeding a specified ratio, or
- (c) a ratio which is not less than a specified ratio,

between its assets and its liabilities, and the specified ratio may be expressed as a percentage of the assets or liabilities concerned.

35 (2) A requisition under this section may be expressed to apply in relation to—

- (a) all societies,
- (b) a specified class or classes of societies (denoted by reference to such matters as the Minister for Finance considers appropriate),
- 40 (c) total assets or total liabilities, or
- (d) a specified class or classes of assets or liabilities (denoted by reference to such matters as the Minister for Finance considers appropriate).

45 (3) A requisition under this section shall have effect in accordance with its terms and may be varied or revoked by the Minister for Finance, after consultation with the Minister and the Central Bank.

Investment of surplus funds.

38.—(1) The Minister for Finance, after consultation with the Minister and the Central Bank, may prescribe the investments in which a society may invest such portion of its funds as are not immediately required by it for the purpose of the society.

(2) To the extent that a society's surplus funds are not invested in accordance with *subsection (1)*, the society may keep them in cash in the custody of officers of the society or on current account, or on deposit with the Central Bank, a bank, the Post Office Savings Bank, a trustee savings bank certified under the Trustee Savings Banks Acts, 1863 to 1965, the Agricultural Credit Corporation Limited or the Industrial Credit Company Limited.

(3) The Minister for Finance, after consultation with the Minister and the Central Bank, may prescribe limits (whether by reference to amounts or to a proportion of total investments or otherwise) in respect of investments by a society in securities or in a specified class or classes of securities (denoted by reference to such matters as the Minister for Finance may consider appropriate), and in respect of funds of a society kept in cash or on current or deposit account, and different limits may be prescribed for different classes of societies.

(4) The investments which the Minister for Finance may prescribe under *subsection (1)* may, with the consent of the Central Bank, include Central Bank Reserve Bonds and in such a case section 48 of the Act of 1971 shall, notwithstanding *subsection (3)* of that section, apply to a society as if it were a bank.

(5) Where a society's surplus funds stand invested in a manner which was authorised under an enactment repealed by this Act or under *subsection (1)* but which, apart from this section, has ceased to be so authorised, authority is hereby given to continue to keep the funds invested in that manner.

PART V

MANAGEMENT AND ADMINISTRATION OF SOCIETIES

Officer to give security and to account for money.

39.—(1) Subject to *subsection (2)*, every officer of a society having the receipt or charge of any moneys belonging to the society shall, for the purpose of securing the society against loss caused by his fraud or embezzlement, become bound with at least one sufficient surety in a bond in such form as the Registrar may require, or give the security of a licensed or authorised insurer or such other security as the society may direct, in such sum as the society may require.

(2) With the consent of the Registrar a society may make arrangements by way of fidelity guarantee insurance or otherwise to secure the safety of money, and in such a case *subsection (1)* shall not apply.

(3) Every officer of a society or his executors or administrators shall, upon demand made or notice in writing given or left at his last or usual place of residence, render an account as may be required by the directors of the society, to be examined and allowed or disallowed by them, and shall, on a like demand or notice, pay over all moneys remaining in his hands, and deliver all securities and effects, books, papers and property of the society in his hands or custody, to such person as the society may appoint, and in case of any neglect or refusal to comply with this subsection the society may sue on the bond or in respect of any other security or apply to the Circuit Court, which may make such order as in its discretion it thinks proper.

Directors.

40.—(1) A society shall have not less than three directors.

(2) A society shall not have as a director a body corporate.

41.—(1) A director of a society who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the society shall declare the nature of his interest at a meeting of the board of directors of the society—

Disclosure of interest by director.

5 (a) in a case of a proposed contract, at the meeting of the directors at which the question of entering into the contract is first taken into consideration or, if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he becomes so interested, or, if the contract is not one that will be
10 taken into consideration at a meeting of the directors, as soon as may be, and

(b) in a case where the director becomes interested in a contract after it is made, at the first meeting of the directors held
15 after he becomes interested in the contract.

(2) Subject to *subsection (3)*, a general notice given to the directors of a society by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that
20 company or firm, shall be deemed to be a sufficient declaration for the purposes of *subsection (1)*.

(3) A notice under *subsection (2)* shall not be of effect unless either it is given at a meeting of the directors or the director takes reasonable steps to secure that it is brought up and read at the next
25 meeting of the directors after it is given.

(4) A copy of every declaration made and notice given under this section shall, within three days after being made or given, be entered in a book kept for the purpose and this book shall be open for inspection without charge by any officer, auditor or member of the
30 society at the chief office of the society and shall be produced at every general meeting of the society, and at any meeting of the directors if any director so requests in sufficient time to enable the book to be available at the meeting.

(5) Nothing in this section shall affect the operation of any rule
35 of law restricting directors of a society from having any interest in contracts with the society.

42.—(1) A person who is a bankrupt and whose bankruptcy still subsists or who has been convicted on indictment of any offence involving fraud or dishonesty shall not—

Prohibition on bankrupts and other persons.

40 (a) be a person establishing a society,

(b) act as a director of a society,

(c) directly or indirectly take part in or be concerned in the management of a society, or

(d) permit his name to be put forward for election or appointment to any office referred to in *paragraph (b)* or *(c)*.
45

(2) Whenever a person holding an office referred to in *subsection (1) (b)* or *(1) (c)* becomes ineligible by virtue of that subsection to hold office, he shall forthwith cease to hold that office and the vacancy shall be deemed to be a casual vacancy and may be filled in the manner provided for such a vacancy in the rules of the society.
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43.—(1) Every annual return of a society submitted to the Registrar under *section 70* shall contain particulars showing the amount of any

Loans to directors, etc.

loan made by the society during the financial year to which the return relates to—

- (a) any director of the society,
- (b) any person who after the making of the loan became during that financial year a director of the society, 5
- (c) any member of the family of an officer, and
- (d) any body corporate in relation to which, when the loan was made or at any later time in that financial year, an officer of the society or a member of his family
 - (i) held, either directly or through a nominee, shares to a nominal value exceeding 20 per cent of the shares of the body corporate, or 10
 - (ii) was a director, manager or secretary of the body corporate, 15and giving particulars of his shareholding in the body corporate.

(2) The accounts required under *section 60* to be laid before the annual general meeting of a society shall contain particulars showing the amount of any loan made during the financial year to which the accounts relate to any officer or a member of the family of an officer— 20

- (a) exceeding such amount as may be fixed by the Registrar for the purposes of this section, or
- (b) for any purpose other than a purpose approved by the Registrar for the purposes of this section. 25

(3) (a) Where a society approves a loan in favour of a member of the family of an officer, the terms applicable to the loan shall not be in any respect more favourable than those applicable to other loans of a like amount made by the society for a similar purpose at the time when the first-mentioned loan is paid. 30

- (b) In this subsection “terms” means the interest rate applicable to the loan and the period during which the loan is repayable.

(4) It shall be the duty of every officer of a society to give notice in writing to the society as soon as may be of such matters relating to himself and members of his family as may be necessary for the purposes of this section and of *section 44*. 35

(5) Where notice under *subsection (4)* is given otherwise than at a meeting of directors, the officer giving it shall take reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given. 40

(6) In any proceedings against an officer in respect of an offence under this section, it shall be a defence to prove that at the time of the alleged offence he did not know that the society had made the loan concerned to the other person or body corporate concerned and that at that time reasonable arrangements were in operation to bring to his notice any loan of a kind referred to in *subsections (1) to (3)*. 45

(7) Where the requirements of this section are not complied with, it shall be the duty of the auditor of the society to include in his 50

report on the annual return or the annual accounts (as the case may be) a note of such non-compliance and, so far as he is reasonably able to do so, a statement giving the relevant particulars required by this section.

- 5 44.—(1) The accounts of a society shall show the aggregate amount of the directors' emoluments, of directors' or former directors' pensions and of any compensation to directors or former directors for loss of office. Payments made to director.

(2) Emoluments shown under this section shall—

- 10 (a) include any amounts paid to or receivable by any person in respect of his services as a director of a society or in respect of his services while director of a society in connection with the management of the society's affairs,
- 15 (b) distinguish between emoluments in respect of services as director and other emoluments, and
- 20 (c) include fees and percentages, sums paid by way of expenses allowance in so far as those sums are charged to income tax, any contribution paid by the society in respect of him under any pension scheme and the estimated money value of any other benefits received other than in cash, in so far as they are charged to income tax.

(3) Pensions shown under this section shall—

- 25 (a) not include any pension paid or receivable under a pension scheme if the contributions under the scheme are substantially adequate for its maintenance, but otherwise shall include any pension paid or receivable in respect of such services of a director or former director of the society as are mentioned in *subsection (2)*, whether to or by him or, on his nomination or by virtue of dependence on or other connection with him, to or by any person, and
- 30 (b) distinguish between pensions in respect of services as director and other pensions.

(4) Compensation for loss of office shown under this section shall—

- 35 (a) include any sums paid to or receivable by a director or former director by way of compensation for loss of office as director of the society or for the loss while director of the society or on or in connection with his ceasing to be a director of the society or of any other office in connection with the management of the society's affairs,
- 40 (b) distinguish between compensation in respect of the office of director and compensation in respect of other offices, and
- (c) include sums paid as consideration for or in connection with a person's retirement from office.

- 45 (5) The amounts shown under this section for any financial year shall be the sums receivable in respect of that year whenever paid or, in the case of sums not receivable in respect of a period, the sums paid during that year, in such a manner that where any sums paid by way of expenses allowance are charged to income tax after the end of the relevant financial year, those sums shall to the extent to which
- 50 they are so charged be shown separately in the first accounts in which it is practicable to show them.

(6) Where necessary for the making of any distinction required by this section in any account to be shown thereunder, the directors may apportion any payment between the matters in respect of which they have been paid or are receivable in such manner as they think appropriate.

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(7) Where the requirements of this section are not complied with it shall be the duty of the auditors by whom the relevant accounts are examined to include in their report on those accounts, so far as they are reasonably able to do so, a statement giving the required particulars.

10

(8) In this section—

“pension” includes any superannuation allowance, superannuation gratuity or similar payment;

“pension scheme” means a scheme for the provision of pensions in respect of services as a director or otherwise which is maintained in whole or in part by means of contributions;

15

“contribution”, in relation to a pension scheme, means any payment (including an insurance premium) paid for the purposes of the scheme by or in respect of persons rendering services in respect of which pensions will or may become payable under the scheme, but does not include any payment in respect of two or more persons if the amount paid in respect of each of them is not ascertainable.

20

Prohibition of tax-free payment to directors.

45.—(1) It shall not be lawful for a society to pay a director remuneration (whether as director or otherwise) free of income tax or otherwise calculated by reference to or varying with the amount of his income tax or to or with the rate of income tax, except under a contract which was in force on the 5th day of December, 1975, and provides expressly (and not solely by reference to the rules of the society) for payment of such remuneration.

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(2) Any provision in a society's rules, or in any contract other than a contract referred to in *subsection (1)*, or in any resolution of a society or a society's directors, for payment to a director of remuneration as aforesaid shall have effect as if it provided for payment, as a gross sum subject to income tax of the net sum for which it actually provides.

35

(3) This section shall not apply to remuneration due or in respect of a period before the commencement of this section.

Directors' names on business letters, etc.

46.—A society shall in all business letters on or in which the society's name appears and which are sent by the society to any person state in legible characters in relation to every director his present surname together with his present forename (or the initials of that forename) and any former names.

40

General provisions relating to disputes.

47.—(1) *Sections 48 to 50* apply to—

(a) any dispute between a society and a member of the society in his capacity as a member, or a representative of such a member in his capacity as a member, in respect of any matter other than the construction or effect of a mortgage deed or of any other contract comprised in or based on a document other than the rules of the society, and

45

(b) any other dispute or class of dispute to which the rules of a society expressly apply those sections,

50

and, accordingly, in those sections "dispute" means a dispute to which those sections apply.

(2) Nothing in sections 48 to 50 shall prevent a society, any member of a society or any person claiming through or under a member, from obtaining in the ordinary course of law any remedy to which the society, member or person is entitled by law in respect of any mortgage or of any other contract other than the rules of a society.

(3) Any reference in the rules of a society to a dispute shall, except in so far as they otherwise expressly provide, be construed as referring only to a dispute to which sections 48 to 50 apply.

48.—(1) Subject to this section, the Act of 1954 shall, subject to any necessary modifications, apply to a dispute where the rules of a society provide that the dispute shall be determined by arbitration. Determination of disputes by arbitration.

(2) Where the rules of a society provide that a dispute shall be determined by arbitration, the following provisions shall apply:—

(a) the rules shall, for the purposes of subsection (1), be deemed to be an arbitration agreement within the meaning of the Act of 1954;

(b) arbitrators shall be named and selected in accordance with the rules or, if they make no such provision, at the first general meeting of the society;

(c) an arbitrator shall not be beneficially interested, whether directly or indirectly, in the funds of the society;

(d) the names of arbitrators appointed by the society shall be duly entered in a register kept by the society for this purpose.

49.—(1) Subject to this section, the Act of 1954 shall, subject to any necessary modifications, apply to a dispute where the rules of a society provide that such dispute shall be determined by the Registrar. Determination of disputes by Registrar.

(2) Where the rules of a society provide that a dispute shall be determined by the Registrar, the following provisions shall apply:—

(a) the rules shall, for the purposes of subsection (1), be deemed to be an arbitration agreement within the meaning of the Act of 1954;

(b) the Registrar shall be deemed to be a single arbitrator for the purposes of that Act, and any provision contained therein relating to the appointment of additional arbitrators or umpires shall not apply.

50.—(1) The Circuit Court may hear and determine a dispute to which section 47 applies where the rules of a society so provide. Determination of disputes by Circuit Court.

(2) A determination of a dispute by the Circuit Court shall be final and binding on the parties and any persons claiming under them, shall not be subject to appeal and shall not be removed into or restrained by the injunction of any other court.

(3) The Circuit Court may at the request of a party to the dispute state a case to the High Court on a point of law.

Notice of meeting.

51.—(1) Any provision in a society's rules providing for the calling of a meeting of the society (other than an adjourned meeting) by a shorter notice than 21 days' notice shall be void.

(2) Notice of a meeting of a society shall not be given to members of the society more than 42 days before the date of the meeting. 5

(3) A meeting of a society called by a shorter notice than 21 days' notice shall be deemed to have been properly called if it is so agreed by the auditor of the society and by the Registrar on application being made to him in writing by the society.

(4) A society shall give notice of a meeting of the society— 10

(a) by publishing in at least one daily newspaper published in the State and circulating in the area in which the chief office of the society is situated a notice in such form as the Registrar may direct, or

(b) sending to every person entitled to attend the meeting a notice in such form as the Registrar may direct. 15

(5) The notice, in the case of a meeting of a society at which it is intended to propose a resolution as a special resolution, shall specify the intention to propose such a resolution.

(6) Neither accidental omission to give notice of a meeting of a society to a person entitled to receive notice of the meeting nor the non-receipt by such a person of a notice of such a meeting shall invalidate the proceedings at that meeting. 20

Right to attend meetings.

52.—(1) The persons entitled to attend a meeting of a society shall be all members who, at the end of the last financial year before the date of the meeting, held shares to which voting rights attached which were issued by the society under *section 22 (1)*. 25

(2) The rules of a society may confer a right to attend a meeting of the society on a person other than a person entitled to attend such a meeting under *subsection (1)*. 30

Voting at meeting.

53.—(1) (a) Subject to *paragraph (b)*, the persons entitled to vote at a meeting of a society shall be all members who, at the end of the last financial year before the date of the meeting, held shares to which voting rights attached which were issued by the society under *section 22 (1)* to a value of not less than £25. 35

(b) A minor shall not be entitled to vote at a meeting of a society.

(2) A person entitled to vote on a show of hands or on a poll on a special resolution shall have one vote. 40

(3) A person entitled to vote on a poll on a resolution other than a special resolution shall have the number of votes indicated in the Table to this subsection.

TABLE

Value of shares under <i>section 22 (1)</i> held	Number of Votes
Not less than £25 and not exceeding £100	1
Exceeding £100 and not exceeding £500	2
Exceeding £500 and not exceeding £1,000	3
Exceeding £1,000 and not exceeding £3,000	4
Exceeding £3,000	5

54.—(1) Any member of a society entitled to attend and vote at a meeting of the society shall be entitled to appoint another person as his proxy to attend and vote instead of him, and a proxy so appointed shall have the same right as the member to speak at the meeting and to vote on a poll. Proxies.

(2) In every notice calling a meeting of a society there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote instead of him and that a proxy need not be a member of the society.

(3) Any provision in the rules of a society which would have the effect of requiring the instrument appointing a proxy (or any other document necessary to show the validity of, or otherwise relating to, the appointment of a proxy) to be received by the society or any other person more than 48 hours before a meeting or adjourned meeting in order that the appointment may be effective at the meeting, shall be void.

(4) Subject to *subsection (5)*, where for the purposes of any meeting of a society invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the society's expense to some only of the members entitled to attend the meeting and to vote at the meeting by proxy, every officer of the society who knowingly and wilfully authorises or permits such issue shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding £300.

(5) An officer shall not be liable under *subsection (4)* by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy or of a list of persons willing to act as proxy, if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

55.—(1) Any provision in the rules of a society which would either— Right to demand a poll.

(a) exclude the right to demand a poll at a meeting of the society on any question other than the election of the chairman of the meeting or the adjournment of the meeting, or

(b) make ineffective a demand for a poll on any such question which is made by not less than five members having the right to vote at the meeting,

shall be void.

(2) The instrument appointing a proxy to vote at a meeting of a society shall be deemed also to confer authority to demand or join in demanding a poll, and for the purposes of *subsection (1)* a demand by a person as a proxy for a member shall be the same as a demand by the member.

56.—(1) A resolution of a society shall be a special resolution when it has been passed by a majority of such members of the society as, being entitled to do so, vote in person or by proxy on a poll on the resolution at a meeting of the society in relation to which notice specifying the intention to propose the resolution as a special resolution has been duly given. Special resolution.

(2) Notwithstanding anything in the rules of a society, the business which may be dealt with at any meeting of the society may include any resolution to be passed as a special resolution.

(3) The terms of any special resolution before a general meeting of a society may be amended by ordinary resolution moved at the meeting if the terms of the resolution as amended will still be such that adequate notice of the intention to pass the resolution can be deemed to have been given.

5

Members' special resolution.

57.—(1) Where a member of a society who is entitled under section 53 to vote on a special resolution makes application in writing to a society to propose a resolution (the text of which is included in the application) as a special resolution at a meeting of the society, it shall, subject to subsection (2), be the duty of the society to include in the notice of the meeting a notice specifying the intention to move that resolution as a special resolution at the meeting.

10

(2) Where the board of a society is of the opinion that the subject matter of a resolution the subject of an application under subsection (1) is—

15

(a) vexatious or frivolous,

(b) on a subject not related to the affairs of the society, or

(c) such that if the motion were passed the society would be involved in activities likely to be *ultra vires*,

the society may, within ten days after the receipt of the application, notify the member of the refusal of the society to give notice of the resolution and of the grounds of the refusal.

20

(3) Where under subsection (2) a society refuses to give notice of a member's special resolution, the member may require the matter to be treated as a dispute between him and the society for the purposes of sections 47 to 50.

25

(4) Where an application under subsection (1) does not specify the meeting at which the member intends to propose the resolution, or if it specifies a meeting which will be held 42 days or less after the receipt of the notice by the society and the society does not exercise its powers under subsection (2), the society shall assume that the member intends to propose the resolution at the first meeting of the society held more than 42 days after the date of the application.

30

Annual general meeting.

58.—(1) Subject to subsections (2) and (3), every society shall in the first four months of each financial year hold a meeting in the State as its annual general meeting in addition to any other meetings in that year, and shall describe the meeting as the annual general meeting in the notices calling it.

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(2) A society need not hold an annual general meeting in the year in which it is incorporated.

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(3) The Registrar may at his discretion, upon application being made to him in writing, fix a longer period than four months for the purposes of subsection (1) in relation to a society or a particular class or classes of society or all societies.

45

(4) Where default is made in complying with subsection (1), the Registrar may call or direct the calling of a general meeting and may give such ancillary or consequential directions as he thinks

expedient, including directions modifying or supplementing the operation of the rules of the society in relation to the calling, holding and conduct of the meeting.

- 59.—(1) Every society shall cause to be kept proper books of
5 account relating to all sums of money received and expended by it, the matters in respect of which income and expenditure takes place and all assets and liabilities of the society. Keeping of books of account, etc.
- (2) Every society shall establish and maintain a system of control
10 and inspection of its books of account and a system for supervising its cash holdings and all receipts and remittances.
- (3) For the purposes of *subsection (1)*, proper books of account
15 shall be deemed to be kept in relation to the matters mentioned in that subsection only if there are kept such books as are necessary to give a true and fair view of the state of the society's affairs and to explain its transactions.
- (4) Every society shall establish and maintain a system to ensure
the safe custody of all documents of title belonging to the society and of the deeds relating to property mortgaged to the society.
- (5) For the purposes of *subsection (4)*, a society shall be deemed
20 not to have established a proper system unless under the system the consent of the board of directors (or of a person so authorised by the board of directors) is required on each occasion on which any such document of title or deed is released from the custody of the officers of the society.
- (6) The books of account of a society shall be kept at the chief
25 office of the society or, with the written consent of the Registrar, at such other place as the directors think fit and shall at all reasonable times be open to inspection by the directors.
- (7) Every record (other than a document or deed referred to in
30 *subsection (4)*) required to be kept under this section shall be preserved by the society for a period of six years after the date to which it relates.
- (8) (a) Where a director of a society fails to take all reasonable
35 steps to secure compliance by the society with this section or has by his own wilful act been the cause of any default by the society thereunder, he shall, in respect of each such failure or act, be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding £300.
- (b) In any proceedings under this subsection for an offence of
40 failing to take all reasonable steps to comply with this section, it shall be a defence to prove that the defendant had reasonable grounds for believing that a competent and reliable person was charged with the duty of ensuring such
45 compliance and was in a position to discharge that duty.

- 60.—(1) The directors of a society shall cause to be laid before the
annual general meeting of the society an income and expenditure
account for the period, in the case of the first account, since the
incorporation of the society and, in any other case, since the preceding
50 account, made up in every case to the end of the preceding financial year. Annual accounts.

(2) The directors of a society shall cause to be prepared and laid
before the annual general meeting of the society a balance sheet as
at the end of the preceding financial year.

(3) Every income and expenditure account of a society shall give a true and fair view of the income and expenditure of the society for the relevant period, and every balance sheet shall give a true and fair view of the state of affairs of the society as at the end of the relevant period. 5

(4) (a) Where a director of a society wilfully fails to take all reasonable steps to secure compliance with this section, he shall in respect of such failure be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding £300. 10

(b) In any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable grounds for believing that a competent and reliable person was charged with the duty of seeing that this section was complied with and was in a position to discharge that duty. 15

Display of financial statement.

61.—(1) A society shall display and at all time keep displayed in a conspicuous place in every office, branch or other place of business of the society a statement in relation to the business carried on by it.

(2) The statement required to be displayed by this section shall be in such form as the Registrar may direct. 20

Form of accounts.

62.—(1) The income and expenditure account and balance sheet of a society shall be in such form and shall contain such particulars as the Registrar may direct either generally or with respect to a specified class or classes of societies, denoted by reference to such matters as the Registrar thinks fit. 25

(2) Unless the Registrar otherwise directs, the income and expenditure account and the balance sheet of a society for any financial year shall include corresponding particulars for the preceding financial year. 30

Signing of balance sheet.

63.—(1) Every balance sheet of a society shall be signed on behalf of the board of directors by two of the directors and by the secretary or another officer of the society.

(2) There shall be annexed to every balance sheet of a society the income and expenditure account and the auditor's report, and any account so annexed shall be approved by the board of directors before the balance sheet is signed on their behalf. 35

Directors' report.

64.—(1) There shall be attached to every balance sheet laid before the annual general meeting of a society a report by the directors (signed on their behalf by two directors) on the state of the society's affairs. 40

(2) The report required by this section shall include such particulars relevant to the society's affairs as the Registrar may direct, relating to all societies or to a specified class or classes of societies.

Provisions relating to certain documents.

65.—(1) A copy of every balance sheet (including every document required under this Act to be annexed to it) which is to be laid before the annual general meeting of a society, together with a copy of the auditor's report, shall, not later than 21 days after the date of the meeting, be sent to the Registrar. 45

(2) Every member of a society and every depositor with a society shall be furnished on demand with a copy of the most recently available balance sheet of the society (including every document required under this Act to be annexed to it) together with a copy of the auditor's report, on payment of such fee as may be fixed by the Registrar for this purpose.

(3) The documents referred to in *subsection (1)* shall be available for inspection by any person at the chief office of a society during the office hours of the society.

(4) The Registrar may if he thinks fit require a society to send a copy of a document referred to in *subsection (1)* to every person entitled to attend its meetings.

66.—(1) A society shall at each annual general meeting appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.

Appointment of auditor.

(2) Subject to *subsection (3)*, at any annual general meeting a retiring auditor, however appointed, shall be re-appointed without any resolution being passed, unless—

(a) he is not qualified under *section 68* for re-appointment, or

(b) a resolution has been passed at that meeting appointing somebody instead of him or providing expressly that he shall not be re-appointed, or

(c) he has given the society notice in writing of his unwillingness to be re-appointed.

(3) Where notice is given of an intended resolution to appoint some other person or persons in place of a retiring auditor and by reason of the death, incapacity or disqualification of that person or of all those persons (as the case may be) the resolution cannot be proceeded with, the retiring auditor shall not be re-appointed solely by virtue of *subsection (2)*.

(4) The first auditor of a society may be appointed by the directors at any time before the first annual general meeting, and an auditor so appointed shall hold office until the conclusion of that meeting.

(5) Subject to *sections 67* and *68*, a society may at a general meeting remove any auditor appointed under *subsection (4)* and may appoint in his place any other person who has been nominated for appointment by any member of the society and of whose nomination notice has been given to the members of the society not less than 14 days before the date of the meeting.

(6) (a) Where the directors fail to exercise their powers under *subsection (4)*, a society at its first annual general meeting may appoint the first auditor.

(b) Where at an annual general meeting no auditor is appointed or re-appointed, the Registrar may appoint a person to fill the vacancy.

(7) The directors of a society may fill any casual vacancy in the office of auditor but, while any such vacancy exists, any surviving or continuing auditor or auditors may act.

(8) The appointment of a firm by the name of the firm to be the auditor of a society shall be deemed to be an appointment of those persons who from time to time during the period of the appointment are the partners in that firm as from time to time constituted and are qualified to be the auditor of the society.

Resolutions relating to appointment and removal of auditor.

67.—(1) Subject to *subsection (2)*, a resolution at an annual general meeting of a society, appointing as auditor a person other than a retiring auditor or providing expressly that a retiring auditor shall not be re-appointed, shall not be effective unless notice of the intention to move it has been given to the society not less than 28 days before the meeting at which it is moved. 5

(2) Where, after notice of the intention to move such a resolution has been given to the society, an annual general meeting of the society is called for a date less than 28 days after the notice has been given, the notice, although not given within the time required by *subsection (1)*, shall be deemed to have been properly given for the purposes of that subsection. 10

(3) A society shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, it shall give them not less than twenty-one days' notice of the resolution either by advertisement in a daily newspaper published in the State and circulating in the area in which the society's chief office is situated or in any other way permitted by the rules of the society. 15

(4) On receipt of notice of such an intended resolution, a society shall forthwith send a copy of the notice to any retiring auditor. 20

(5) (a) Subject to *subsection (6)*, where notice is given of such an intended resolution and the retiring auditor makes in relation to it representations in writing to the society not exceeding a reasonable length and requests their notification to the members of the society, the society shall, unless the representations are received by it too late for it to do so, send a copy of the representations to every member of the society entitled to attend and vote at a meeting of the society. 25 30

(b) Where a copy of the representations is not sent as provided in *paragraph (a)* because they were received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that his representations shall be read out at the meeting. 35

(6) Copies of the representations need not be so sent out and the representations need not be read out at the meeting if, on the application either of the society or of any other person who claims to be aggrieved, the Court is satisfied that the rights conferred by this section are being, or are likely to be, abused in order to secure needless publicity for defamatory matter, and the Court may order the society's costs on an application under this section to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application. 40 45

(7) *Subsections (5) and (6)* shall apply to a resolution to remove the first auditor appointed by virtue of *section 66 (4) or 66 (6) (b)* as they apply in relation to a resolution that a retiring auditor shall not be re-appointed.

Qualifications for appointment as auditor.

68.—(1) A person shall not be qualified for appointment as auditor of a society unless he is a member of a body of accountants for the time being recognised by the Minister for Industry and Commerce for the purposes of *section 162 (1) (a)* of the Act of 1963 or is for the time being authorised by the Minister for Industry and Commerce under *section 162 (1) (b)* of that Act to be appointed auditor of a company. 50 55

(2) Where an auditor of a society is convicted of a criminal offence arising out of or connected with the performance of his duties or his conduct as an auditor, he shall not be qualified for appointment as auditor of a society without the permission of the Court. 60

(3) None of the following persons shall be qualified for appointment as an auditor of a society :

- (a) an officer or servant of the society (other than an auditor);
 - (b) a person who is a partner of or in the employment of or who employs an officer or servant of the society (other than an auditor);
- 5 (c) a body corporate.

69.—(1) The auditor of a society shall make a report to the members on the accounts examined by him and on every balance sheet and every income and expenditure account laid before the society at an annual general meeting during his tenure of office.

Auditor's report, right of access to books and to attend meetings, etc.

10 (2) The auditor's report shall be read at the annual general meeting of the society and shall be open to inspection by any member of the society.

(3) The auditor's report shall state whether—

15 (a) he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of his audit,

20 (b) in his opinion, proper books of account have been kept by the society so far as appears from his examination of those books, and proper returns adequate for the purposes of his audit have been received from branches not visited by him,

(c) the balance sheet and income and expenditure account are in agreement with the books of account and records of the society, and

25 (d) in his opinion and to the best of his information and according to the explanations given to him, the society's balance sheet and income and expenditure account give the information required by this Act in the manner so required and give a true and fair view—

30 (i) in the case of the balance sheet, of the state of the society's affairs as at the end of its financial year, and

(ii) in the case of the income and expenditure account, of the income and expenditure of the society for its financial year.

35 (4) It shall be the duty of the auditor in preparing his report under this section to carry out such investigations as will enable him to form an opinion as to whether—

(a) the society has kept proper books of account and records, and

40 (b) the society has maintained a satisfactory system of control over its transactions and records and, in particular, whether subsections (2) and (4) of section 60 have been complied with;

45 and, where the auditor is of opinion that the society has failed to keep proper books of account and records or to maintain a satisfactory system of control over its transactions and records, he shall so state in his report.

50 (5) Every auditor of a society shall have a right of access at all reasonable times to the books, accounts, records and vouchers of the society and to all other documents relating to its affairs (including deeds relating to property mortgaged to the society), and shall be entitled to require from the officers of the society such information and explanations as he thinks necessary for the performance of the duties of the auditor.

(6) The auditor of a society shall be entitled to attend any general meeting of the society, to receive at least 21 days notice of the holding of any such meeting (together with any communications relating to such a meeting which any member of the society may receive) and to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as an auditor. 5

Submission of annual and other returns.

70.—(1) Every society shall submit an annual return to the Registrar within 21 days after the date of the annual general meeting in such form as he shall direct and shall submit such other information and returns within such period as the Registrar may require from time to time. 10

(2) The annual return shall be signed by two directors and by the secretary or another officer of the society. 11

(3) The Registrar may at his discretion, on application being made to him in writing, fix a period other than the period referred to in *subsection (1)* for the submission of the annual return in relation to a society or a particular class or classes of society or all societies. 15

(4) The auditor of a society shall make a report on the annual return, and a copy of his report shall be attached to the return sent to the Registrar under this section. 20

(5) The auditor's report on the annual return shall include the following—

(a) whether in his opinion the annual return is properly drawn up in accordance with the requirements of this Act and any regulations under this Act, 25

(b) whether the return gives a true and fair view of the matters dealt with in it, and

(c) whether the return is in agreement with the accounts and records of the society. 30

(6) Every member of a society and every depositor with a society shall be furnished on demand with a copy of the most recently available annual return (including the auditor's report thereon) on payment of such fee as may be fixed by the Registrar for this purpose. 35

(7) A person who has effected a mortgage in favour of a society, and any person to whom have passed (whether by operation of law or otherwise) any of the rights or liabilities under such a mortgage of the person who effected it, shall be entitled to be furnished by the society with a copy of so much of any return made under this section as related to that mortgage. 40

(8) Every society shall submit such information and returns as the Minister may require from time to time and within such period as may be so required.

Liability of officer and auditor.

71.—(1) Any provision (whether contained in the rules of a society or in any contract with a society or otherwise) for exempting an officer of a society from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society shall, subject to *subsection (2)*, be void. 45

(2) (a) Nothing in this section shall operate to deprive any person

of any exemption or right to be indemnified in respect of anything done or omitted to be done by him before the commencement of this section.

- 5 (b) A society may indemnify such officer against any liability incurred by him in defending proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under *section 72* in which relief is granted to him.

10 **72.**—(1) Where in any proceedings for negligence, default, breach of duty or breach of trust against an officer of a society it appears to the court hearing the case that that officer is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he acted honestly and reasonably and that, having
15 regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused for the negligence, default or breach of duty or breach of trust that court may relieve him (either wholly or partly) from his liability on such terms as the court may think fit.

Court's power to grant relief to officer of a society.

20 (2) Where an officer of a society has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the Court for relief, and the Court on any such application shall have the same power to relieve him as it would have had under
25 this section if it had been a court before which proceedings against that person for such negligence, default, breach of duty or breach of trust had been brought.

30 (3) Where any case to which *subsection (1)* applies is being tried by a judge with a jury the judge after hearing the evidence may, if he is satisfied that the defendant ought under that subsection be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

35 **73.**—(1) Every society shall keep a register of the names and addresses of its members.

Register of members.

(2) The register shall show—

(a) the date at which each person was entered in the register as a member, and

40 (b) the date at which any person ceased to be a member.

(3) Entries under *subsection (1)* and *subsection (2) (a)* shall be made within 28 days after the date on which a person becomes a member and under *subsection (2) (b)* within 28 days after the date on which a person ceases to be a member or on which the society
45 becomes aware that he has ceased to be a member, whichever is the later.

(4) The register shall be kept at the chief office of the society or, with the consent in writing of the Registrar, at one or more offices of the society other than its chief office.

50 (5) Every society having more than fifty members shall, unless the register of members is in such a form as to constitute an index, keep an index of the names of the members of the society and shall, within 14 days after the date on which any alteration is made in the register of members, make any necessary alteration in the

index, and the index shall at all times be kept at the same place as the register of members.

(6) A member of a society may make a written application to the secretary of the society to obtain names and addresses from the register for the purpose of communicating with members of the society on a subject relating to its affairs and the secretary, if satisfied that the application is *bona fide* and having regard to the interests of the members as a whole and to any other relevant circumstances, shall subject to *subsection (11)*, give him reasonable facilities for inspecting the register and taking a copy of any names and addresses in the register. 5 10

(7) An applicant to whom the secretary of a society proposes to give reasonable facilities under *subsection (6)* may require a copy of the register or any part thereof on payment of such sum as the Registrar may fix, and the society shall cause any copy so required to be sent to the applicant within 10 days after the day on which the request for the copy is received by the society. 15

(8) In the event of the refusal of a society to accede to an application under *subsection (6)*, the secretary of the society shall notify the applicant of the grounds for such refusal and the applicant may refer the refusal to the Registrar. 20

(9) A decision on an application under *subsection (6)* shall be notified to the applicant within a period of one month after the day on which the application is received by the society.

(10) Where an applicant makes a reference to the Registrar under *subsection (8)*, the Registrar may, having heard any representations made by the society, direct the society to give to the applicant, subject to such limitations or conditions as the Registrar may think fit, reasonable facilities under *subsection (6)* for inspecting the register and taking a copy of names and addresses therein. 25 30

(11) A society may, on giving notice in writing to the Registrar, close the register of members for any time or times not exceeding in all 30 days in each year.

Register of directors and secretary.

74.—(1) Every society shall keep at its chief office or (with the consent in writing of the Registrar) at one or more of the offices of the society other than its chief office a register containing the following particulars relating to each director and the secretary of the society— 35

(a) his present surname and forenames and any former names; and 40

(b) his present residential address.

(2) A register under this section shall also contain the following particulars relating to each director of a society—

(a) his business occupation (if any); and

(b) any other directorships of bodies corporate in the State held. 45

(3) (a) A society shall, within the appropriate period referred to in *paragraph (b)*, send to the Registrar a return in such form as he may require of the particulars contained in a register under this section and a notification of any change of director or secretary of a society, together with the date of such change. 50

(b) The periods mentioned in *paragraph (a)* are, in the case of the return, 14 days from the appointment of the first

directors, and in the case of a change, 14 days from the change.

5 (4) Any member of a society or any other person may require a copy of the register, or of any part thereof on payment of such sum as the Registrar may fix, and the society shall cause any copy so required to be sent to the person within a period of ten days after the day on which the request for the copy is received by the society.

10 (5) A register under this section shall be open to inspection by any member free of charge and by any other person on payment of such sum as the Registrar may fix, subject to such reasonable restrictions as the society concerned may impose at a general meeting, but so that not less than two hours in each day be allowed for inspection.

15 (6) In the case of a refusal by a society to allow an inspection under this section the Court may by order compel such inspection.

20 75.—(1) A society shall not give any commission in consideration of or in connection with the introduction of mortgage business to the society, or in consideration of or in connection with an undertaking to introduce such business. Commission,
insurance, etc.

25 (2) A society shall not enter into an arrangement with a person having a financial interest in the disposition of an estate (or with any person acting on his behalf) under which, or the effect of which is, that the society will receive commission in consideration of or in connection with the making of, or with a decision or an undertaking to make, a loan in respect of the estate.

30 (3) A person shall not accept any commission in consideration of or in connection with the introduction of mortgage business to a society, or in consideration of or in connection with an undertaking to introduce such business.

(4) An officer, solicitor or surveyor of a society shall not accept, in addition to the remuneration authorised by the rules of the society, any commission for or in connection with any loan made or proposed to be made by the society.

35 (5) An officer, solicitor or surveyor of a society, who is also an auctioneer, shall not accept any commission in his capacity as auctioneer for or in connection with a transaction involving a property for which a loan is made or proposed to be made by the society.

40 (6) An officer, solicitor or surveyor of a society shall not accept any commission in connection with the effecting of an insurance policy (including a life assurance policy), where—

(a) a charge on the policy is given as additional security for a loan made or proposed to be made by the society,

45 (b) the society makes an addition to a loan to enable payment to be made of a premium on the policy, or

(c) the policy is taken out to comply with the terms on which a loan is made or proposed to be made by the society.

50 76.—(1) The Minister may, after consultation with the Minister for Finance, make such regulations relating to the management of societies as he considers necessary or expedient for the purpose of securing their proper and efficient management or for the purpose of promoting the orderly and proper regulation of building society business. Regulations
relating to
management of
society.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide—

(a) for limits (calculated by reference to amounts, percentages or otherwise) on the expenditure that may be incurred by a society for the purpose of or arising from its operation and management, 5

(b) for a code of practice relating to societies, with which societies shall take all practicable steps to comply.

(3) Regulations under this section may apply to all societies or to a specified class or classes of societies, and to all expenditure of the type referred to in *subsection (2) (a)* or to a specified class or classes of that expenditure, and different limits and different provisions of a code of practice may apply to a specified class or classes of societies, and a class or classes of societies may be so specified by reference to such matters as the Minister may consider appropriate. 15

PART VI

LOANS

Amounts,
purposes and
conditions of loans.

77.—(1) Whenever the Minister considers it expedient, in the interests of the orderly and proper regulation of building society business and having regard to the demand for loans for house purchase and the financial needs of the national housing programme, he may, subject to the consent of the Minister for Finance, make regulations in relation to the purposes and amounts of loans by societies and the conditions subject to which such loans may be made. 20

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide for all or any one or more of the following— 25

(a) the maximum amount of a loan that a society may make;

(b) the purposes for which loans may or may not be made by a society; and 30

(c) the maximum amount that a society may lend to a body corporate and the total amount of such loans.

(3) Regulations under this section may be expressed to apply to all societies or to all loans or to a specified class or classes of societies and loans (denoted by reference to such matters as the Minister, with the consent of the Minister for Finance, considers appropriate), and may provide for limits by reference to amounts or to percentages or otherwise and for the application of specified limits to a specified class or specified classes of societies and loans (denoted by reference to such matters as the Minister, with such consent, considers appropriate). 35 40

(4) A society shall not make a loan to a body corporate within a period of two years after the society's incorporation or after the granting to it under *section 19* of permission to advertise, whichever is the later. 45

Security for loans.

78.—(1) A loan made by a society shall not exceed the valuation in accordance with *section 79* on the freehold or leasehold estate offered as security for the loan.

(2) In determining the amount of a loan a society may take into account the value of any additional security, other than freehold or leasehold estate, which is available in respect of the loan. 50

(3) The Registrar may give a direction in relation to the classes of security (other than freehold or leasehold estate) which may be taken into account by a society in determining the amount of a loan, and for this purpose may direct the conditions or arrangements which shall apply to the taking into account of a specified class or classes of additional security.

(4) Where a loan is sought for the purpose of defraying the purchase price of an estate and security (other than freehold or leasehold estate) is taken into account in determining the amount of the loan, the amount of the loan shall not exceed that purchase price and shall not exceed by more than 25 per cent the maximum amount which the society would consider it proper to advance on the security of the estate if no other security were taken by the society.

79.—(1) It shall be the duty of every director of a society to satisfy himself that the arrangements for assessing the adequacy of the security to be taken in respect of loans to be made by the society are such as may reasonably be expected to ensure that—

Valuation of security for loans.

(a) the adequacy of the security to be taken will be assessed either by the directors or by a director or other officer who is not disqualified by this section to make the assessment, and

(b) there will be available to every person who has to assess the adequacy of the security to be so taken a written report prepared and signed by a competent person (who shall not be an officer of the society) experienced in matters relevant to the determination of the value of the security, and

(c) the report relates to the value of any freehold or leasehold estate in the security and to any other matter likely to affect the value of the security.

(2) A report by a person who has a financial interest in the disposal of an estate in relation to which a loan is to be made by a society shall not be accepted by the person or persons assessing the adequacy of the security as a report for the purposes of subsection (1) (b).

(3) A person assessing the adequacy of a security for a loan by a society shall not be a person who has a financial interest in the disposal of the estate in relation to which the loan is to be made or a person who is entitled to receive any commission for introducing the parties to the transaction involving that disposition.

80.—(1) A society shall not make a loan on the security of any freehold or leasehold estate which is subject to a prior mortgage unless the prior mortgage is in favour of the society making the loan.

Loan on second mortgage.

(2) Where a loan is made in contravention of this section the directors of the society who authorised the loan shall be jointly and severally liable for any loss on the loan occasioned to the society.

81.—A society shall not cause or permit applicants for loans to ballot for precedence or in any way permit the making of a loan depend on any chance or lot.

Prohibition of balloting for loans.

82.—(1) Where an estate mortgaged to a society is sold in exercise of a power given by the mortgage, the society shall pay to the mortgagor a sum equal to the value of the interest in the estate at

Sale of mortgaged property.

the disposal of the society, after deducting the amount of the loan then remaining unpaid and any sum due for interest and all costs incurred by the society in the recovery and disposal of the estate.

(2) (a) In exercising any power of sale under a mortgage a society shall ensure as far as is reasonably practicable that the estate is sold at the best price reasonably obtainable. 5

(b) To the extent that any agreement relieves (or may have the effect of relieving) a society or any person from the obligation imposed by *paragraph (a)*, the agreement shall be void. 10

(3) (a) Where an estate is sold under *subsection (1)*, the society shall, within 21 days after the completion of the sale, send a notice by registered post to the mortgagor at his last known address, containing particulars of the sale in such form as the Registrar may require. 15

(b) Nothing in this section shall affect the operation of any rule of law relating to the duty of a mortgagee to account to a mortgagor.

(4) In this section "mortgagor" means a person to whom a loan is made by a society, and includes the successor in title of such person. 20

Records of loans.

83.—(1) Every society shall cause records to be kept showing in relation to every loan the amount of the loan, the purpose for which it was made, the value placed on the freehold or leasehold estate, the name of the person by whom the report under *section 79 (1)* was made and particulars of any additional security taken by the society. 25

(2) The records required by *subsection (1)* shall include such other information relative to loans made by the society as the Registrar may from time to time direct. 30

Discharge of mortgage.
1964, No. 16.

84.—(1) Where in relation to unregistered land within the meaning of the Registration of Title Act, 1964, all moneys intended to be secured by a mortgage or a further charge given to a society have been fully paid or discharged, the society may endorse on or annex to the mortgage or further charge either a reconveyance of the mortgaged property to the then owner of the equity of redemption (or to such persons and to such uses as he may direct) or a receipt under the seal of the society. 35

(2) A receipt under this section shall operate to vacate the mortgage or further charge and shall, without any reconveyance or re-surrender, vest the estate of and in the property comprised in the mortgage or further charge in the person for the time being entitled to the equity of redemption. 40

1707, c.2.

(3) (a) Where a mortgage or further charge given to a society has been registered in the Registry of Deeds established by the Registration of Deeds Act, 1707, the Registrar under that Act shall, on production of a receipt under *subsection (1)*, make an entry opposite the entry of the mortgage or charge to the effect that the mortgage or charge is satisfied, and shall grant a certificate (either on the mortgage or charge or separately) to the like effect. 45 50

1832, c.87.

(b) The power conferred on the Minister for Justice by section 35 of the Registry of Deeds (Ireland) Act, 1832, as adapted by the Registry of Deeds (Ireland) Act, 1832 55

5 (Adaptation) Order, 1956 (S.I. 281 of 1956), to fix fees shall include power to fix fees to be paid for making the entry and granting the certificate under this subsection, and any moneys received under this subsection shall be paid into the Exchequer.

(4) A certificate under *subsection (3)* shall be received in evidence in all courts and proceedings without any further proof, and an entry under that subsection shall have the effect of clearing the register or record of the relevant mortgage.

10

PART VII

MISCELLANEOUS

85.—(1) The Registrar of Friendly Societies shall, for the purposes of this Act, be the Registrar of Building Societies (in this Act referred to as the Registrar). Registrar of Building Societies.

15 (2) Any power conferred by this Act on the Registrar to give directions and fix fees shall, except where the context otherwise requires, include power to vary or revoke such directions and to vary such fees.

20 86.—The Registrar shall submit an annual report on the exercise by him of his functions under this Act to the Minister, the Minister for Industry and Commerce and the Minister for Finance, and a copy of the report shall be laid before both Houses of the Oireachtas. Annual report by Registrar.

25 87.—(1) The Minister for Finance may, if he so thinks fit, guarantee in such form and manner and on such terms and conditions as he thinks fit the due repayment by a society of the principal of any moneys borrowed by the society (other than deposits accepted under *section 22 (3)*), or the payment of interest on such moneys, or both the repayment of the principal and the Guarantee by Minister for Finance of borrowings by societies.
30 payment of the interest, together with any incidental expenses arising in connection with such borrowings.

(2) The total amount of the principal remaining outstanding of any moneys the repayment of which is guaranteed under this section shall not exceed £20,000,000.

35 (3) Where a guarantee under this section is in force the society in respect of which it is given shall, if the Minister for Finance so requires, give to him such security as may be specified in the request for the purpose of securing to him the repayment of any moneys which he may be liable to pay or has paid under the guarantee.

40 (4) The Minister for Finance shall, as soon as may be after the end of every year, lay before each House of the Oireachtas a statement specifying with respect to each guarantee under this section given during that year, or given at any time before the commencement of that year and in force at such commencement:—

45 (a) particulars of the guarantee,

(b) in case any payment has been made by the Minister for Finance under the guarantee before the end of that year, the amount of the payment and any amount repaid to him on foot of the payment,

50 (c) the amount of principal covered by the guarantee which was outstanding at the end of that year.

(5) All moneys from time to time required by the Minister for Finance to meet sums which may become payable by him under this section shall be advanced out of the Central Fund or the growing produce thereof.

(6) The Minister for Finance may, for the purpose of providing for the advance of sums out of the Central Fund under this section, borrow on the security of the Central Fund or the growing produce thereof any sums required for that purpose and, for the purpose of such borrowing, may create and issue securities bearing such rate of interest and subject to conditions as to repayment, redemption or otherwise as he thinks fit, and shall pay all moneys so borrowed into the Exchequer.

(7) The principal of and interest on all securities issued under subsection (6) and the expenses incurred in connection with the issue of such securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

(8) Moneys paid by the Minister for Finance under a guarantee under this section shall be repaid to him (with interest thereon at such rate or rates as he determines) by the society in respect of which the guarantee was given within two years from the date of the advance of the moneys out of the Central Fund.

(9) Where the whole or any part of moneys required by subsection (8) to be repaid to the Minister for Finance has not been paid in accordance with that subsection, the amount so remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

(10) Notwithstanding the provision of moneys under subsection (9) to repay the amount to the Central Fund, the society concerned shall remain liable to the Minister for Finance in respect of that amount and that amount (with interest thereon at such rate or rates as the Minister for Finance determines) shall be repaid to the Minister for Finance by the society at such times and in such instalments as he determines and, in default of such repayments and without prejudice to any other method of recovery, shall be recoverable as a simple contract debt in a court of competent jurisdiction from the society concerned.

(11) Moneys paid by a society under subsection (8) or (10) shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance thinks fit.

(12) The powers conferred by subsections (1) and (2) shall be deemed to authorise the guarantee by the Minister for Finance of any moneys borrowed by a society from a bank since the 18th day of October, 1973.

Financial year of a society.

88.—A society the financial year of which does not end on a 31st day of December shall, as soon as practicable after the commencement of this section, alter its financial year to the year ending on that date by making up its accounts for one period of more than six months and not more than 18 months ending on a 31st day of December.

Provisions as to evidence.

89.—(1) A certificate of incorporation or of registration or other document relating to a society, purporting to be signed by the Registrar, shall, in the absence of any evidence to the contrary, be deemed to have been signed by the Registrar and shall be received in evidence accordingly.

(2) A printed document purporting to be a copy of the rules of a society and certified by an officer of the society to be a true copy of its registered rules shall, in the absence of any evidence to the contrary, be deemed to be a true copy of its rules and shall be received
5 in evidence accordingly.

90.—(1) Any register, record or book of account required by this Act to be kept by a society or by the Registrar may be kept either by making entries in bound books or by recording the matters in question in any other manner.

Form of registers, records and books of account.

10 (2) Where any register, record or book of account required to be kept by a society is not kept by making entries in a bound book but by some other means, adequate precautions shall be taken by the person required to keep the register, record or book for guarding
15 against falsification and for facilitating the discovery of any such falsification.

91.—Stamp duty shall not be payable on any of the following instruments—

Exemption from stamp duty.

(a) any transfer of a share in a society;

20 (b) any bond or other security (other than a mortgage) to be given to, or on account of, a society or by an officer of a society;

(c) any order on an officer of a society for payment of money to a member;

25 (d) any instrument appointing an agent of a society or revoking such an appointment;

(e) any other instrument or document other than a mortgage, required or authorised to be given, issued, signed, made or produced in pursuance of this Act, or of the rules of a society.

30 92.—(1) A person who or a society which contravenes a requirement of or under this Act or fails to comply with a requirement of this Act, including any direction given by the Registrar in pursuance of his powers under this Act but excluding any requirement in respect of which an offence is provided for failure to comply
35 with the requirement, shall be guilty of an offence and shall be liable—

Offences.

(a) on summary conviction, to a fine not exceeding £100; or

(b) on conviction on indictment, to a fine not exceeding £5,000,

40 and if the contravention or failure in respect of which he or it was convicted is continued after the conviction he or it shall be guilty of a further offence and shall be liable on conviction on indictment to a fine not exceeding £250 for each day on which the contravention or failure is so continued.

45 (2) Where an offence under this Act is committed by a society or by a person purporting to act on behalf of a society and is proved to have been so committed with the consent or approval of, or to have been facilitated by any wilful neglect on the part of, any person who is an officer of the society, that person shall also be
50 guilty of the offence.

Provisions relating to judgments against a society.

93.—(1) Whenever a person (in this section referred to as a judgment creditor) obtains in any court in the State a judgment, order or decree against a society for the payment of a sum of money due to the judgment creditor by the society, the registrar or clerk of the court concerned shall notify the Registrar as soon as may be of the judgment, order or decree and of its terms and of any appeal against the judgment, order or decree and of the result thereof. 5

(2) Subject to subsection (3), if within the period of twenty-one days beginning on the date of the judgment, order or decree, the society does not pay all moneys due (or, in the case of costs, at the option of the society, give security thereof in lieu of payment) or satisfy all claims under the judgment, order or decree, the society shall be deemed to be unable to meet its obligations to its creditors and for the purposes of section 95 to be unable to pay its debts. 10

(3) If an appeal is instituted in any court against the judgment, order or decree, that court or the court by which the judgment, order or decree was made may by order postpone the application of subsection (2) for such period and, subject to subsection (4), on such terms as the court concerned may fix and specify in the order. 15

(4) If a court makes an order under subsection (3), it may require the society to which the order relates, either, as that court thinks fit, to lodge in court an amount equal to the amount of all moneys due under the judgment, order or decree (or such lesser amount as the court may direct) or to give such security as the court may determine for the payment to the judgment creditor of all such moneys, together with, in either case, such further sum or security for the costs of the appeal as the court shall consider just. 20 25

(5) An order under subsection (3) may be varied or revoked by the court that made it or before which an appeal in relation to it is brought. 30

Suspension and cancellation of registration.

94.—(1) (a) Where the Registrar is satisfied that a society has wilfully and after notice from the Registrar violated any provision of this Act or failed to comply with a requirement of or under this Act, he may suspend the registration of the society for a period of not more than three months and may extend the suspension from time to time by not more than three months on each occasion. 35

(b) Where the Registrar is satisfied that a society has ceased to function, he may cancel the registration of the society. 40

(2) As soon as practicable after a cancellation or suspension under this section takes effect, the Registrar shall cause a notice of the cancellation or suspension to be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State and circulating in the area in which the chief office of the society is situated. 45

(3) The Registrar shall, as soon as may be after a cancellation or suspension under this section, notify the Central Bank of the cancellation or suspension.

(4) Where the registration of a society is cancelled or suspended under this section the society may, within the period of two months beginning on the date of receipt of the Registrar's decision, appeal to the Court and the Court may, if it thinks proper, set aside the cancellation or suspension. 50

(5) Without prejudice to any other provision of this section, the Registrar may cancel the registration of a society at the society's request, evidenced in such manner as he may direct. 55

(6) Where the registration of a society is cancelled or suspended under this section, the society shall, subject to *subsection (4)*, cease from the coming into effect of the cancellation or suspension (and, in the case of a suspension, for as long as it continues) to enjoy
5 the privileges of a society.

(7) *Subsection (6)* shall have effect without prejudice to any liability actually incurred by the society and any such liability may be enforced against the society as if the cancellation or suspension had not taken place.

10 95.—(1) Subject to this section, a society may be wound up in accordance with Part VI of the Act of 1963, and accordingly that Part of that Act shall, subject to any necessary modifications, apply as if the society were a company. Winding up.

(2) Notwithstanding section 213 of the Act of 1963, a society
15 may be wound up under this section by the Court if—

(a) the society has by special resolution resolved that the society be wound up by the Court;

(b) the society does not commence its business within a year from its incorporation or suspends its business for a
20 period of twelve months;

(c) the society is unable to pay its debts;

(d) the Court is of opinion that it is just and equitable that the society should be wound up.

(3) (a) Notwithstanding anything in section 215 (as applied by
25 this section) of the Act of 1963, an application under that section for the winding up of a society may be made by the Registrar.

(b) Section 215 (d) of the Act of 1963 shall not apply to the winding up of a society.

(4) The winding up of a society shall not bar the right of the
30 Registrar to have it wound up by the Court.

(5) Where a society is being wound up, a person to whom a loan has been made by the society, under a mortgage or other security shall not be liable to pay the amount payable in respect of the loan
35 except at the time or times and subject (as may be appropriate) to the conditions set out in the mortgage or other security.

(6) Where a society is being wound up under this section the Court may on the application of the liquidator of the society order that the amount deposited by it under section 20 with the Central
40 Bank, together with any interest accrued thereon, shall vest in the liquidator by his official name, and thereupon that amount and interest shall vest accordingly.

(7) The liquidator shall pay from the amount vested in him under *subsection (6)* to the persons maintaining deposits with the
45 society the amount of each deposit (including interest credited to such persons) remaining due by the society to such persons or, if the amount so vested in him is insufficient for that purpose, shall distribute it to such persons in proportion to the amount of each such deposit so remaining due, and, before making such payments
50 or distribution, the liquidator shall pay or retain out of the amount so vested in him—

(a) any such costs and expenses of the liquidator in relation to the amount aforesaid and to the payments or distribution to such persons as the Court may allow,

(b) any sum which satisfies any claim in relation to interest payable by the society by agreement on amounts deposited with the society,

and any amount remaining after such use of the said balance shall be included in the assets of the society for the purpose of the winding up. 5

(8) If the total amount so vested in the liquidator is not sufficient to discharge the claims of the persons among whom he is required by subsection (7) to distribute it, those persons may claim as ordinary creditors of the society in respect of the unsatisfied portion of their claims. 10

(9) Where the winding up of a society commences within one year after the society has changed its name, the former name as well as the existing name shall appear on all notices and advertisements relating to the winding up. 15

(10) In this section "company" has the same meaning as in the Act of 1963.

Savings.

96.—(1) Nothing in this Act shall affect any order, rule, regulation, loan, conveyance, lease, mortgage, reference, appeal, application, decision, payment or agreement made or any resolution passed or any consent, approval or direction given or any notice served, register kept, requirement imposed, certificate or instrument issued or any other thing done under any enactment repealed by this Act, and any such order, rule, regulation, loan, conveyance, lease, mortgage, reference, appeal, application, decision, payment, agreement, resolution, consent, approval, direction, notice, register, requirement, certificate, instrument or other thing, if in force immediately before the repeal shall— 20 25

(a) in so far as it could have been made, passed, given, served, kept, imposed, issued or done (as the case may be), under this Act have effect as if made, passed, given, served, imposed, issued or done (as the case may be), under the corresponding provision of this Act, and 30

(b) in so far as it could not have been so made, passed, given, served, kept, imposed, issued or done (as the case may be), continue to be in force as if this Act had not been passed. 35

(2) The repeals affected by this Act shall not affect the registration or incorporation of any society registered or incorporated under an enactment so repealed, and any such registration or incorporation shall be deemed to be a registration or incorporation under this Act. 40

(3) Where any act or omission is an offence under an enactment repealed by this Act and that enactment provides a penalty for the continuation of the offence, the continuation of the act or omission after the commencement of this section shall be an offence under the provision of this Act which corresponds to the provision of the repealed enactment creating the offence. 45

(4) Where, in its application to a particular building society, a period of time specified in a provision (referred to as the repealed provision) of an enactment repealed by this Act has not expired at the commencement of the provision (referred to as the corresponding provision) of this Act corresponding to the repealed provision, the corresponding provision shall have effect as if it had been in operation at the commencement of the period. 50 55

(5) A reference in any document to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as a reference to the corresponding provision of this Act.

5 (6) In this Act "under this Act" shall, where the context requires, include any Act repealed by this Act or the corresponding provision of such a repealed Act, and cognate words and phrases shall be construed accordingly.

Section 6

SCHEDULE

10

ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Short title (2)	Extent of repeal (3)
37 & 38 Vict., c. 42.	The Building Societies Act, 1874.	The whole Act.
38 Vict., c. 9.	The Building Societies Act, 1875.	The whole Act.
40 & 41 Vict., c. 63.	The Building Societies Act, 1877.	The whole Act.
47 & 48 Vict., c. 41.	The Building Societies Act, 1884.	The whole Act.
57 & 58 Vict., c. 47.	The Building Societies Act, 1894.	The whole Act.
No. 51 of 1936.	Registry of Friendly Societies Act, 1936.	Sections 2 (1) (a) and 5 (2); in section 2 (2) (a) the words "in the Building Societies Acts, 1874 to 1894, or".
No. 9 of 1942.	The Building Societies Act, 1942.	The whole Act.
No. 9 of 1974.	The Building Societies Act, 1974.	The whole Act.

BILLE

(mar a tugadh isteach)

dá ngairtear

Acht do dhéanamh comhdhlúthú mar aon le leasuithe ar an dlí a bhaineann le cumainn fhoirgníochta.

BILL

(as introduced)

entitled

An Act to consolidate with amendments the law relating to building societies.

An Seanadóir Micheál Ó hUiginn a thug isteach

Introduced by Senator Michael J. O'Higgins

*Ordáiodh ag Seanad Éireann a chlóbhualadh,
22 Iúil, 1975*

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