



ANNO VICESIMO QUARTO

GEORGII V REGIS.

A.D. 1933.

No. 2122.

An Act to amend the Building Societies Act, 1881, and for other purposes.

[Assented to, November 9th, 1933.]

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

1. (1) This Act may be cited as the "Building Societies Act Amendment Act, 1933." Short titles.

(2) The Building Societies Act, 1881, and this Act may be cited together as the "Building Societies Acts, 1881 and 1933." No. 211 of 1881.

(3) The Building Societies Act, 1881, is hereinafter called the "principal Act."

2. This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act. Incorporation.

3. All the powers, functions, rights, duties, and obligations of the Registrar-General of Deeds under The Building Societies Act, 1881, are hereby transferred to and vested in the Public Actuary. All documents filed under the said Act in the office of the Registrar-General of Deeds before the commencement of this Act shall be transferred to the office of the Public Actuary, who shall file them without payment of any fee. Every reference in the said Act to the Registrar shall be construed as a reference to the Public Actuary, who shall upon and from the commencement of this Act be the Registrar of Building Societies. Transfer of administration.

Building Societies Act Amendment Act.—1933.

Amendment of
principal Act,
s. 30—

Removal of
restriction on
investment of
funds.

Enactment of
new section 35A,
35B, and 35C—

Provisions as to
auditors.

List of members.

4. Section 30 of the principal Act, is amended by striking out at the end thereof the following words:—

“but no society shall invest its funds, or any part thereof, in the Savings Bank of South Australia” and inserting in lieu thereof “and notwithstanding the provisions of any Act relating to the Savings Bank of South Australia any society may deposit in that Bank any of its funds without restriction as to amount.”

5. The following sections are hereby enacted and inserted in the principal Act after section 35 thereof:—

35A. (1) Every auditor of the accounts of a society shall be appointed by the members of the society at a general meeting.

(2) At least one of the auditors of every society shall be a person holding one of the following qualifications namely:—

(a) the diploma in commerce of the University of Adelaide; or

(b) membership, fellowship, or associateship of the Institute of Chartered Accountants in Australia, the Institute of Chartered Accountants in England and Wales, the Society of Incorporated Accountants and Auditors, the Commonwealth Institute of Accountants, the Federal Institute of Accountants, or the Australian Institute of Secretaries; or

(c) some other qualification prescribed by regulation under this Act.

(3) Any rule of any society which is inconsistent with this section shall be void to the extent of the inconsistency, and the rules of every society shall be construed as if they contained provisions to the effect of subsections (1) and (2) of this section.

(4) This section shall apply to every society forthwith upon the expiration of its financial year current at the time of the commencement of the Building Societies Act, 1933, but not earlier.

35B. (1) Every society shall keep at its head office and at every branch office a list showing—

(a) the name and address of every member;

(b) if the members are allotted distinguishing numbers, the number assigned to every member; and

(c) if the right to vote at meetings of the society is based on any principle other than that of one vote for each member, the number of votes to which each member is entitled.

The

Building Societies Act Amendment Act.—1933.

The society shall permit any member to inspect the said list at any reasonable time during which the office of the society is open.

(2) If default is made in compliance with this section the secretary and every director of the society shall be guilty of an offence, and liable to a penalty not exceeding ten pounds.

35c. (1) No general meeting of any society called for the purpose of passing any statements of account or balance-sheet, or for the consideration of any amendments of the constitution or rules of the society, shall be deemed to be duly called or held, unless—

Provision as to notice of general meetings.

(a) at least seven days before the day of such meeting an advertisement specifying the time and place for holding such meeting, and the purpose thereof, has been inserted at least twice in a daily newspaper circulating throughout the State; and

(b) notice of the said meeting specifying the said particulars has been posted up in a conspicuous place in the head office and every branch office of the society.

(2) This section shall apply notwithstanding anything in the rules of any society and notwithstanding any agreement between the society and its members, and the rules of every society shall be construed as if they contained provisions to the effect of subsection (1) of this section.

6. Section 36 of the principal Act is repealed, and the following section is hereby enacted and substituted in lieu thereof:—

Repeal of s. 36 and enactment of new provision—

36. (1) At least one per cent. of the total number of members of any society or five members, whichever is the greater number, may apply in writing to the Public Actuary for an investigation into all or any of the accounts, transactions, and affairs of the society. The application shall state fully the reasons why the investigation is desired.

Inspection of books and affairs of the society.

If the Public Actuary is of opinion that the application discloses good reasons for holding an investigation he shall by notice served on the secretary of the society and on the applicants, or not less than two of them, fix a date not earlier than fourteen days from the service, on which he will hear any relevant evidence, information, or arguments submitted by the representatives of the applicants and of the society. He shall also forward a copy of the application to the secretary of the society.

On the day so fixed no more than two representatives of the society and of the applicants may attend before the Public Actuary and place before him any relevant evidence, information, or arguments.

If,

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If, after hearing the representatives, he considers that an investigation is necessary and that the applicants are not actuated by malicious motives he may by order appoint some competent auditor, accountant, or actuary to make an investigation into all or any of the matters stated in the application. Before an order is made the applicants shall give security to an amount not exceeding fifty pounds for payment of the costs of the investigation.

If the Public Actuary suspects that any fraud or crime has been committed in connection with the affairs of a society he may on his own initiative or on any application made in accordance with the previous provisions of this section appoint an inspector without giving notice to or hearing any person and may dispense with or reduce the amount of security for costs.

Any person appointed by the Public Actuary to conduct an investigation is in this section referred to as "an inspector".

(2) Any inspector appointed under this section may for the purpose of his investigation inspect or require the production of all or any of the books, accounts, securities, or documents of the society, and may examine on oath or affirmation any officer, member, agent, or servant of the society, and may administer an oath or affirmation accordingly.

(3) If any person—

- (a) upon being required by any inspector to produce any books, documents, or securities in his possession or under his control and relevant to the matters under investigation fails to produce them accordingly; or
 - (b) prevents any inspector from inspecting any such books, documents, or securities; or
 - (c) obstructs any inspector in his inspection of such books, documents, or securities; or
 - (d) being required by any inspector to take an oath or affirmation refuses to do so; or
 - (e) fails to answer any question put to him by an inspector relevant to the matters under investigation or knowingly gives a false answer to any such question,
- he shall be guilty of an offence and liable to a fine not exceeding fifty pounds, and in the case of an offence under paragraph (e) of this subsection to a fine not exceeding one hundred pounds or imprisonment for any period not exceeding six months.

(4) On the conclusion of the investigation, the inspector shall report his opinion to the Public Actuary, and the Public Actuary shall forward a copy of the report to the society and to all or any of the applicants requesting the same.

(5) If from the report it appears to the Public Actuary that any person has been guilty of any offence, he shall also send a copy of the report to the Attorney-General.

(6) The

Building Societies Act Amendment Act.—1933.

(6) The Public Actuary may make such order as he thinks just against the society, or any director, member or officer thereof, or against any applicant, as to payment of the whole or any part of the costs of and incidental to the appointment of the inspector, and the making of the investigation.

(7) Any such order or a copy thereof certified by the Public Actuary as correct may be filed in the Local Court nearest to the head office of the society, and when it has been so filed the order may be enforced in all respects as if it were a judgment of that Local Court.

(8) Any person aggrieved by an order of the Public Actuary under the last preceding subsection may appeal to the Supreme Court against the order and the Court may on such appeal affirm, quash, or vary such order or substitute any other order therefor. The jurisdiction conferred upon the Supreme Court by this section may be exercised on summons by a Judge sitting in Chambers.

7. Section 37 of the principal Act is amended by inserting at the end thereof the following subsections (the previous part of the said section 37 being read as subsection (1) thereof) :—

Amendment of
principal Act,
s. 37—
Provision as to
disputes.

(2) If any party to any dispute does not obey any order or award made for the purpose of deciding such dispute the Supreme Court, upon being satisfied that such order or award was made and has not been obeyed, may make any order which it thinks just for enforcing compliance with such order or award. The jurisdiction conferred upon the Supreme Court by this section may be exercised on summons by a judge sitting in chambers.

(3) Nothing in this Act nor in the rules of any society shall prevent any society or any member thereof or any person claiming through or under it or him from obtaining in the ordinary courts of law any remedy in respect of any mortgage or other contract and to which he or the society would otherwise be by law entitled.

(4) In this Act, and in the rules of any society made under this Act, the word "disputes" means disputes between the society and a member or any representative of a member, in his capacity of a member of the society, and does not include any dispute between any society and any member thereof or other person whatever as to the construction or effect of any mortgage, deed, or any contract contained in any document other than the rules of the society.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Deputy Governor.