



ANNO VICESIMO SECUNDO

GEORGII V REGIS.

A.D. 1931.

No. 2018.

An Act to amend the Friendly Societies Acts, 1919
to 1925.

[Assented to, November 12th, 1931.]

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 "Friendly Societies Act Short titles.
Amendment Act, 1931".

(2) The Friendly Societies Acts, 1919 to 1925, and this Act may
be cited together as the "Friendly Societies Acts, 1919 to 1931".

(3) The Friendly Societies Act, 1919, is hereinafter referred to as No. 1387 of 1919.
"the principal Act".

2. This Act is incorporated with the other Acts mentioned in section Incorporation.
1 of this Act, and those Acts and this Act shall be read as one
Act.

3. Section 5 of the principal Act is further amended by adding at Amendment of
principal Act, s. 5—
the end thereof the following subsection:—

(3) The Governor may, from time to time, by proclamation Power to specially
authorise societies.
add to the list of societies contained in the Second Schedule,
the name of any society formed for any purpose which the
Governor may authorise as a purpose to which the provisions
of

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of this Act, or such of them as are specified in the authority, ought to be extended, with or without any of the purposes enumerated in section 7. But no such name shall be added as aforesaid which is the same as that of any society specified in the said Schedule, or is so similar thereto as to be likely to be mistaken for it.

Amendment of
principal Act,
s. 10—

4. Section 10 of the principal Act is amended by striking out subsections (3) and (4) thereof, and by inserting in lieu thereof the following subsections:—

Rules.

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

(4) On receiving the said copies as aforesaid, the Public Actuary shall transmit one copy to the Crown Solicitor, who, if he is of opinion that the general laws or rules in question, or the rescission, alteration, or variation thereof is not contrary to this Act or the general law of South Australia, shall certify to the Public Actuary accordingly.

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

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

Amendment of
principal Act, s. 12—
Transfer of
investments.

5. Subsection (1) of section 12 of the principal Act is amended by striking out the words "by the respective trustees of such society or branch" in paragraph 1. of the proviso thereto, and by inserting in lieu thereof the words "by three of the trustees of the society or branch and countersigned by the secretary of the society or branch".

Amendment of
principal Act, s. 17—
Receipts.

6. Section 17 of the principal Act is amended—

(a) by inserting after the word "secured" in the sixth line thereof the word "either"; and

(b) by

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(b) by adding at the end of subsection (1) thereof the words “or, unless the mortgagor requires a receipt as aforesaid, a receipt in the said form, with such modifications as may be necessary, shall be given upon a separate instrument, signed by two of the trustees for the time being of the society or branch, and countersigned by the secretary thereof”;

(c) by inserting after the word “indorsed” in the first line of subsection (2) thereof the words “or given”.

7. Section 27 of the principal Act is amended—

Amendment of
principal Act, 27—
Transfer from funds.

(a) by striking out the words “be authorised to” in the proviso to subsection (2) thereof; and

(b) by adding, at the end of the proviso to subsection (2) the words “unless the Chief Secretary upon the recommendation of the Public Actuary, and upon a report of the Public Actuary that there is a surplus in the fund, authorises the transfer”.

8. The principal Act is amended by inserting therein after section 27 the following sections:—

Amendment of
principal Act—

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

Appropriation and
transfer of surplus
funds.
cf. N.Z. No. 12,
1909, s. 41.

I. An increase of sickness benefits:

II. An increase of funeral benefits:

III. A reduction in the contributions of members:

IV. Assistance to members in distressed circumstances:

v. Management purposes of the society or any branch thereof.

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

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

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

27B. (1) After the passing of the Friendly Societies Act Amendment Act, 1931, all trustees and auditors of every society

Appointment of
trustees and
auditors.

or

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or branch shall, subject to subsection (2) hereof, be appointed by a resolution or a ballot passed or taken at a general meeting of the society or branch duly convened for that or some other purpose.

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

(3) No member of the committee of management of any society or branch shall hold office as auditor of that society or branch, and no trustee of a society or branch shall hold office as auditor of that society or branch. The Chief Secretary may, by notice in writing, exempt any branch from the requirements of this subsection, and may, by notice in writing, revoke any such exemption.

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

Amendment of
principal Act,
s. 28—
Auditors.

9. Section 28 of the principal Act is amended—

(a) by striking out the words “manner prescribed by” in the third and fifth lines thereof, and by inserting in lieu thereof in each case the words “accordance with”; and

(b) by inserting before paragraph (a) in subsection (2) thereof, the following paragraph:—

(a)1 shall obtain from every bank in which any moneys of the society or branch are deposited particulars of the amounts so deposited at the time of the half-yearly audit:

Annual returns.

10. (1) On or before the first day of September, nineteen hundred and thirty-two, every society shall send to the Public Actuary a general statement of the receipts, funds, and effects of the society as provided by section 29, for the period of eighteen months ending on the thirtieth day of June, nineteen hundred and thirty-two.

(2) Section 29 of the principal Act is amended by striking out the word “May” in the first line thereof and by inserting in lieu thereof the word “September”.

11. The

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11. The principal Act is amended by inserting after section 30 the following section:—

Amendment of principal Act—

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

Power to submit proposals to improve financial position.
cf. Q. No. 13, 1913, s. 23.

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

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

12. Section 39 of the principal Act is amended by inserting after the word “Actuary” in the first line thereof the words “or any person authorised by him”.

Amendment of principal Act, s. 39—
Inspection by Public Actuary.

13. The principal Act is amended by inserting therein after section 45 the following sections:—

Amendment of principal Act—

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

Dissolution of societies.
cf. Vic. No. 3686 of 1928, s. 24.

I. Upon the happening of any event declared by the laws or rules to be the termination of the society:

II. By the consent of five-sixths in value of the members (excluding honorary members if any) testified by their signature to the instrument of dissolution together with the written consent of every person for the time being receiving or entitled to receive any relief or other benefit from the funds of the society unless the claim of such person is first duly satisfied or adequate provision made for satisfying such claim:

III. By the award of the Public Actuary in the cases specified in section 45F.

(2) The instrument of dissolution shall set forth—

- (a) the liabilities and assets of the society in detail:
- (b) the number of members and the nature of their interests in the society respectively:
- (c) the claims of creditors (if any) and the provision to be made for their payment:

(d) the

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(d) the intended appropriation or division of the funds and property of the society, unless the same is stated in the instrument of dissolution to be left to the award of the Public Actuary.

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

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

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

(6) In addition to the methods hereinbefore provided for the termination or dissolution of a society, a society which is unable to pay its debts within the meaning of Part VI. of the Companies Act, 1892, may be wound up under the provisions of the said Part VI. on the application of a creditor of the society. For the purposes of the said Part VI. the society shall be deemed to be an unregistered company, and all the provisions of the said Part shall apply to and in respect of any such application by a creditor of the society, but in any such winding-up the Public Actuary shall be appointed as liquidator.

Notice of dissolution.

45B. The Public Actuary shall cause a notice of the dissolution to be advertised at the expense of the society in the manner provided by this Act for advertising an award of the Public Actuary for dissolution, and unless within three months from the date of the *Gazette* in which such advertisement appears a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the instrument of dissolution shall be considered to have been duly obtained without proof of the signatures thereto.

Voting values.

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

(2) No instrument of dissolution shall direct or contain any provision for a division or appropriation of the funds of the society, or any part thereof, otherwise than for the purpose of carrying into effect the objects of the society as declared in the laws or rules thereof for the time being, unless the claim of every

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every member or person claiming any relief or other benefit from the funds thereof is first duly satisfied or adequate provision is made for satisfying such claim.

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

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

45F. (1) Upon the application of one-fifth of the whole number of members of any society, or of one hundred members in the case of a society of one thousand members and not exceeding ten thousand, or of five hundred members in the case of a society of more than ten thousand members, made in writing under their hands setting forth that the funds of the society are insufficient to cover the benefits assured and the grounds upon which such insufficiency is alleged, and requesting an investigation into the affairs of the society or branch with a view to the dissolution thereof, the Public Actuary may, by himself, or by any actuary or public auditor whom he may appoint in writing under his hand, investigate the affairs of the society, giving nevertheless not less than two months' previous notice in writing to the society whose affairs are to be investigated, at the registered office of the society. Dissolution by award of Public Actuary.

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

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

(4) Every

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

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

Notice of proceedings to set aside dissolution.

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

Amendment of principal Act, s. 58—
Summary procedure.

14. Section 58 of the principal Act is amended by striking out the words "this Act" therein, and by inserting in lieu thereof the passage "any provision of this Act (other than section 45A, 51, or 53)".

Amendment of principal Act, The Third Schedule.

15. The Third Schedule to the principal Act is amended by adding, at the end thereof, the following paragraph:—

17. Provisions empowering the committee of management of the society to determine the mode of investment, subject to this Act, of any funds of the society or of any branch thereof, and the rate or rates of interest to be earned thereon, and to provide for the carrying into effect by any such branch of any such determination.

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

A. HORE-RUTHVEN, Governor.