

## BUILDING SOCIETIES ACT 1890.

54 VICTORIA, An Act to consolidate the Law relating to Building  
No. 1068. Societies.

[10th July, 1890.]

"The Building Societies Act 1874."

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title commencement and division.

1. This Act may be cited as the *Building Societies Act 1890*, and shall come into operation on the first day of August One thousand eight hundred and ninety, and is divided into Parts as follows:—

PART I.—Building Societies generally ss. 4–41.

PART II.—Building Societies registered under the "*Friendly Societies Statute 1865*" ss. 42–48.

Repeal.  
First Schedule.  
Application to existing societies.

2. The Acts mentioned in the First Schedule to this Act to the extent to which the same are thereby expressed to be repealed are hereby repealed. Provided that such repeal shall not affect the registration or incorporation of any society or the registration or effect of any rules regulations receipts notices or other documents registered recorded signed executed made or published or any contracts entered into under any of the Acts hereby repealed before the commencement of this Act and all societies and all rules and other documents at the commencement of this Act registered or recorded under any of the Acts hereby repealed shall be deemed to be registered or recorded under this Act and this Act shall apply to them accordingly.

Interpretation.  
Fb. & 2.  
"Committee of management."

3. In this Act—

"Committee of Management" means the managing body of any society under this Act, whether called a "board of directors," "committee," or otherwise :

"Court."  
"Investing member."

"Court" means the Supreme Court of Victoria:

"Investing Member" means any member of a society who holds shares which participate in the profits of the society whether such shares have been borrowed or advanced on or not:

"Investing shares."

"Investing Shares" means any shares which participate in the profits of the society whether such shares have been borrowed or advanced on or not:

- “Permanent Society” means a society which has not by its rules any fixed date or certain event or result when it shall terminate: “The Building Societies Act 1874.”  
“Permanent society.”
- “Registrar” means the registrar for the time being of friendly societies, who shall for the purposes of this Act be the registrar of building societies. “Registrar.”
- “Secretary” means the secretary, manager, managing director, or other principal executive officer of a society, by whatever name he may be called: “Secretary.”
- “Terminating Society” means a society which by its rules is to terminate at a fixed date, or when a certain event or result specified in its rules is arrived at. “Terminating society.”

#### PART I.—BUILDING SOCIETIES GENERALLY.

4. Any number of persons not less than ten may establish a society under this Act, either terminating or permanent, for the following objects or any of them, *i.e.*—The raising of a fund by the payment, subscriptions, or contributions of its members and the application of such fund in assisting its members to obtain freehold or leasehold property, or in the making of loans or advances to its members or others, upon the security of freehold or leasehold property, with the periodical repayment of principal and interest by instalments. The persons so intending to establish a society under this Act shall transmit to the registrar two copies of the rules agreed upon by them for the government of the society, signed by three of such persons and by the intended secretary; and the registrar, if satisfied that the rules contain all the provisions set forth in section eight of this Act, and that they are in conformity with this Act, shall return one copy with a certificate of registration to the intended secretary, and shall retain and register the other copy, and thereupon such society shall be deemed to be established and registered under this Act. Purposes for which societies may be established.  
Ib. ss. 2 and 3.  
37 & 38 Vict.  
c. 42 s. 13.  
Establishment and registration of new societies.  
Ib. s. 17.

5. No society shall be registered under this Act by a name identical with that by which an existing society is already registered, or in the opinion of the registrar so nearly resembling the same as to be calculated to deceive, unless such existing society is in course of being terminated or dissolved, and consents to such registration.<sup>(a)</sup> Prohibition of identity of names of societies.  
Ib. s. 4.  
Ib. s. 17.

6. Upon the registration of any society under this Act the registrar shall forthwith notify in the *Government Gazette* in the form or to the effect in the Second Schedule to this Act that such society is registered, and thereupon the then present members of the society together with such other persons as may from time to time become members of the society shall be a body corporate by the name contained in its rules capable forthwith of exercising all the functions of an incorporated society and having perpetual succession and a common seal. Such Incorporation.  
Ib. s. 8.  
Second Schedule.

(a) If the registrar has formed a real opinion that the name by which a society is proposed to be registered so nearly resembles the name by which an existing society is already registered as to be calculated to deceive, the court will not order the society to be registered because its

opinion does not coincide with that of the registrar; otherwise if the dissimilarity between the two names were so great that the opinion expressed by the registrar could not be supposed to be a real one.—In the matter of *The Fourth South Melbourne Building Society*, 9 V.L.R. (Eq.), 54.

"The Building Societies Act 1874."

Proof of incorporation.  
*Ib.* s. 9.  
37 & 38 Vict.  
c. 42 s. 20.  
Third Schedule.

Rules to contain certain matters.  
*Ib.* s. 12.  
*Ib.* s. 16.

Act No. 723 s. 2.

*Ib.* s. 3.

"The Building Societies Act 1874" s. 12.

notice shall be conclusive evidence that all the requirements of this Act in respect of registration have been complied with.<sup>(a)</sup>

7. A certificate in the form or to the effect in the Third Schedule to this Act under the hand of the registrar for the time being (whose handwriting it shall not be necessary to prove, and who is hereby required to give such certificate to any person applying for the same on payment of one shilling) shall be conclusive evidence that the society named in such certificate is incorporated under this Act.

8. The rules of every society established under this Act shall set forth<sup>(b)</sup>—

- (I.) The name of the society and chief office or place of meeting for the business of the society:
- (II.) The manner in which the stock or funds of the society are to be raised; the terms upon which the paid-up shares (if any) are to be issued and dealt with and whether preferential shares are to be issued, and if so within what limits if any; and whether the society intends to avail itself of the borrowing powers contained in this Act, and if so within what limits not exceeding the limits prescribed by this Act:
- (III.) The purposes to which the funds of the society are to be applied and the manner in which they are to be invested:
- (IV.) Whether or not shares may be withdrawn and if so upon what terms and the terms upon which mortgages may be redeemed:
- (V.) The manner of altering and rescinding the rules of the society and of making additional rules:
- (VI.) The duties and powers of and manner of appointing remunerating and removing the committee of management auditors and other officers:
- (VII.) The manner of calling general and special meetings of the members, the quorum necessary to constitute such meetings, and the mode of voting and number of votes to be given by each member at such meetings:
- (VIII.) The mode of drawing and signing cheques drafts bills of exchange promissory notes and other negotiable instruments for and on behalf of the society:
- (IX.) The species of security to be given by any paid officer of the society having the receipt or charge of any money belonging to the society:
- (X.) Provision for an annual or more frequent audit of the accounts, and inspection by the auditors of the mortgages and other securities belonging to the society:
- (XI.) 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 arbitration or how otherwise:

(a) The production of a copy of the *Government Gazette* containing the notification of the registration of a society is sufficient evidence of its incorporation.—*Sandhurst, &c., Building Society v. Delaney*, 3 V.L.R. (L.), 234.

(b) The affairs of a building society must be regulated by its registered rules notwithstanding any course of practice in the society, however well established, to the contrary.—*Watson v. Bendigo Building Society*, 10 V.L.R. (L.), 26.

- (XII.) Provision for the device custody and use of the seal of the society, which shall in all cases bear the registered name thereof: "The Building Societies Act 1874."
- (XIII.) Provision for the custody of the mortgage deeds and other securities belonging to the society:
- (XIV.) The fines and forfeitures to be imposed on members of the society:
- (XV.) The manner in which the society whether terminating or permanent shall be terminated or dissolved.

9. Any society under this Act may in a schedule to its rules prescribe the forms of conveyance mortgage transfer agreement bond security for deposit or loan or other instrument necessary for carrying its purposes into execution. Forms of conveyance &c. may be prescribed. *Ib.* s. 13. 37 & 38 Vict. c. 42 s. 19.

10. Every society under this Act altering or rescinding any rule or making an additional rule shall forward to the registrar two copies of every resolution for rescission of a rule, and of every alteration or addition to its rules, signed by three members and the secretary, and if the registrar is satisfied that such alteration addition or rescission is in conformity with this Act, he shall register one of such copies and return the other to the secretary with a certificate of registration, and no such rescission alteration or addition shall be of any force or validity until so registered. Alteration of rules to be registered. *Ib.* s. 15. *Ib.* s. 18.

11. Every society under this Act shall supply to any person requiring the same a complete printed copy of its rules for the time being in force, with a printed copy of its certificate of registration appended thereto, and shall be entitled to charge therefor a sum not exceeding one shilling. Copy rules &c. to be supplied. *Ib.* s. 16. *Ib.* s. 17.

12. The rules of a society under this Act shall be binding on the several members and officers of the society, and on all persons claiming on account of a member, or under the rules, all of whom shall be deemed and taken to have full notice thereof, and shall not have power to question or impugn the legality or validity thereof. Rules binding on members. *Ib.* s. 17. *Ib.* s. 21.

13. A society under this Act may change its name by resolution of three-fourths of the members present at a meeting called for the purpose, provided that the new name is not identical with that of any society previously registered and still subsisting, or in the opinion of the registrar so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and consents to such registration. Notice of the change of name shall be sent to the registrar and registered by him, and he shall give a certificate of registration within seven days from receipt of such notice. Such change of name shall not affect any right or obligation of the society, or of any member thereof, or other person concerned. Change of name. *Ib.* s. 13. *Ib.* s. 22.

14. Unless otherwise provided by the rules of such society, a minor may be a member of any society under this Act, and may execute all instruments give all necessary acquittances and enjoy all the privileges, except holding office, and be liable to all the responsibilities appertaining to members of mature age, notwithstanding his incapacity or disability in law to act for himself. Minors. *Ib.* s. 19. *Ib.* s. 33.

"The Building Societies Act 1874" s. 20.

Joint holders and corporations.

37 & 38 Vict. c. 42 s. 39.

Liability of members.

Ib. s. 21.

Ib. s. 14.

Employment of funds.

Ib. s. 22.

Ib. ss. 13, 25.

Issue of shares.

Ib. s. 23.

Ib. s. 13.

Power to acquire and deal with business premises.

Act No. 892 s. 1.

Ib. s. 37.

Deposits and loans.

"The Building Societies Act 1874" s. 25.

Ib. s. 15.

**15.** Two or more persons jointly, or any corporation or incorporated company, may hold shares in any society under this Act.

**16.** The liability of any member of a society under this Act in respect of any share upon which no advance has been made, shall be limited to the amount actually paid or in arrear on such share, and in respect of any share upon which an advance has been made shall be limited to the amount payable thereon under any mortgage or other security, or under the rules of the society.

**17.** Any society under this Act may employ its funds for such of the following purposes as are provided for in its rules:—

To make advances to members of the society upon security of their shares:

To make advances to members and other persons and to corporate bodies upon the security of freehold or leasehold estate by way of mortgage:

To make advances to other building societies:

To buy and sell freehold or leasehold estate, and generally to carry out such purposes of mutual advantage as are provided for in the rules, and the society may accept the security of other property by way of collateral security.<sup>(a)</sup>

**18.** Any society under this Act may from time to time when and as provided in its rules raise funds by the issue of shares of one or more denominations, either paid up in full or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may repay such funds at such time as is provided in the rules of the society.

**19.** Any society under this Act although not empowered by its rules to buy freehold or leasehold estate may purchase build hire or take upon lease any building for conducting its business, and may adapt and furnish the same and may purchase or hold upon lease any land for the purpose of erecting thereon a building to be used either wholly or partially for conducting the business of the society, and may sell mortgage exchange or let any such land or building or any land or building vested in any such society acquired erected or used either wholly or partially for any of the purposes aforesaid or any part thereof respectively.

**20.** Any society under this Act may receive deposits or loans at interest, from the members or other persons, or from corporate bodies, joint stock companies, or from any other building or friendly society, to be applied to the purposes of the society, provided that the total amount received on deposit or loan and not repaid by any society in the case of a permanent society shall not at any time exceed three times the amount for the time being of the existing paid-up capital or subscriptions of the society and the accumulations thereon, or in the case of a terminating society shall not exceed three years' income on the shares for the time being in force. Any member or other person, corporate body, joint stock company or other building or friendly society depositing or lending money with or to any society under this Act shall not be bound to see to the application thereof, or that the society has not exceeded its borrowing limit.

(a) A building society is not authorized except in cases falling within the powers conferred by section 19 to take land on lease or to build.—In

the matter of *The Metropolitan Permanent Building Society*, 7 V.L.R. (Eq.), 86.

21. Every society registered under this Act not expressly prohibited by its rules shall be and from the registration of the society under "*The Building Societies Act 1874*," if the society has been so registered, be deemed to have been empowered to secure the repayment of any money lawfully borrowed by such society whether by way of deposit loan or otherwise by mortgage of its real and personal property or any part thereof.

*Act No. 892 s. 2.*  
Power to secure repayment of borrowed money.

22. No member of any society under this Act, nor any purchaser of any land from any such society shall be obliged to inquire into the application of the consideration money mentioned in any conveyance or reconveyance, receipt or statutory release or be answerable or accountable for the misapplication non-application or loss thereof.

Purchaser &c. not bound to see to application of purchase money.  
"*The Building Societies Act 1874*" s. 20.

23. Any society under this Act may from time to time, unless its rules otherwise direct, invest any portion of its funds not immediately required for its purposes in the public funds, or in or upon any Government debentures, stock or securities, or in or upon any debentures, stock or securities, payment of the interest on which is guaranteed by authority of Parliament.

Investment of funds.  
*Ib.* s. 27.  
37 & 38 Vict. c. 42 s. 25.

24. Every paid officer of a society under this Act having the receipt or charge of any money belonging to the society shall give such security as the rules of the society direct, in such sum as the committee of management require, for rendering a just and true account of all moneys received and paid by him on account of the society, and for payment of all sums of money due from him to the society at such times as its rules appoint or as the committee of management may require.

Paid officers to give security.  
*Ib.* s. 28.  
*Ib.* s. 23.

25. Every paid officer of a society under this Act his executors or administrators shall upon demand made or notice in writing given or left at his last or usual place of residence give in to the committee of management an account of all moneys received by him from or on account of the society to be examined and allowed or disallowed by them, and shall on the like demand or notice pay over all the moneys remaining in his or their hands and deliver all securities and effects books papers and property of the society in his or their hands or custody to such person as the committee of management shall appoint, and in case of any neglect or refusal to deliver such account or to pay over such moneys or to deliver such securities and effects books papers and property in manner aforesaid the society may sue upon the security given by such officer, or may apply to the court by motion either upon notice or *ex parte* as the court may think fit, and the court may proceed thereupon in a summary way and make such order thereon and as to the costs of such application as to the court in its discretion shall seem just, which order shall be final and conclusive.

Paid officers to account and deliver up books &c. on demand.  
*Ib.* s. 29.  
*Ib.* s. 24.

26. Contracts on behalf of any society under this Act may be made varied or discharged as follows, viz. :—

Contracts.  
*Ib.* s. 30.

Any contract which if made between private persons would be by law required to be in writing under seal may be made varied or discharged in the name and on behalf of the society in writing under the common seal of the society.

"The Building Societies Act 1874."

Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith may be made varied or discharged in the name and on behalf of the society in writing signed by any person acting under the express or implied authority of the society.

Any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing may be made varied or discharged by parol in the name and on behalf of the society by any person acting under the express or implied authority of the society.

And all contracts made according to the provisions herein contained shall be effectual in law and shall be binding upon the society and all other parties thereto their heirs executors and administrators as the case may be.

Annual account.  
Ib. s. 81.  
27 & 28 Vict.  
c. 42 s. 40.

27. The secretary of every society under this Act shall once in every year at least prepare a general statement of its funds and effects liabilities and assets, showing the amounts due to the holders of the various classes of shares respectively to depositors and creditors and also the balance due or outstanding on its mortgage and other securities (not including prospective interest) and the amount invested in other securities, and every such general statement shall be attested by the auditors to whom the mortgage deeds and other securities belonging to the society shall be produced, and such general statement shall be countersigned by the secretary and published in the *Government Gazette* and in one newspaper circulating in the locality in which the chief office of the society is situate, and every member depositor and creditor shall be entitled on application therefor to the secretary to receive from the society a copy of such general statement, and a copy thereof shall be sent to the registrar within fourteen days after the annual or other general meeting at which it is presented, and another copy thereof shall be suspended in a conspicuous place in the chief office of the society and be kept so suspended until the suspension in like manner of the next succeeding similar general statement.

Disputes.  
Ib. s. 32.

28. Every dispute between any member of any society under this Act or any person claiming through or under such member and the society or any officer thereof shall be decided in the manner directed by its rules, and the decision so made shall be binding and conclusive on all parties and shall be final to all intents and purposes and shall not be subject to appeal and shall not be removed or removable into any court of law or restrained or restrainable by the injunction of any court of equity.<sup>(a)</sup>

Termination or dissolution of society.  
Ib. s. 33.  
Ib. s. 32.

29. A society under this Act may terminate or be dissolved—

(I.) Upon the happening of any event declared by its rules to be the termination of the society:

(II.) By dissolution in manner prescribed by its rules:

(a) A society may recover in ejectment on its legal title as mortgagee as against one of its members unless it be shown that there is some

dispute between the society and the defendant *quâ* member.—*Delaney v. Sandhurst Building Society*, 5 V.L.R. (L.), 189

- (III.) In cases where no manner is prescribed by its rules by "The Building Societies Act 1874." dissolution with the consent of three-fourths of the investing members holding not less than two-thirds in value of the investing shares in the society then current testified by their signatures to the instrument of dissolution. The instrument of dissolution shall set forth—
- (a) The liabilities and assets of the society in detail;
  - (b) The number of members and the amount standing to their credit in the books of the society;
  - (c) The claims of depositors and other creditors and the provision to be made for their payment;
  - (d) The intended appropriation or division of the funds and property of the society;
  - (e) The names of one or more persons to be appointed trustees for the special purpose of winding-up the society and their remuneration.

Alterations in the instrument of dissolution may be made with the like consent testified in the same manner. The instrument of dissolution and all alterations therein shall when signed by the required number of members be transmitted to the registrar together with a statutory declaration by the secretary verifying the signatures thereto and that it is signed by the required number of members, and shall thereupon be registered by the registrar and shall be binding upon all the members of the society:

37 & 38 Vict.  
c. 42 s. 32.

- (IV.) By winding-up by the court if the court shall so order on the petition of any member, authorized by three-fourths of the investing members holding not less than two-thirds in value of the investing shares in the society then current present at a general meeting of the society specially called for the purpose to present the same on behalf of the society, or on the petition of any judgment creditor<sup>(a)</sup> for not less than one hundred pounds, but not otherwise. General rules or orders for regulating the proceedings of the court in relation to the winding-up of societies under this Act may be from time to time made by any three judges of the court. In the absence of such rules or orders any rules or orders for the time being regulating the winding-up of incorporated companies registered under any general law for the time being in force relating to the incorporation of trading companies shall apply so far as applicable:

Notice of the commencement and termination of every dissolution or winding-up shall be sent to the registrar, and registered by him.

(a) *Seemle*, the assignee of a judgment creditor who has obtained judgment against the society is a judgment creditor within the meaning of this sub-section. In a petition for winding up a building society it was alleged that a judgment had been recovered against the society, and that demand for payment had been made unsuccessfully, and that the amount was wholly unpaid and unsatisfied. There was also the statement that

the society was unable to pay its debts, and that under the circumstances it was just and equitable that the society should be wound up. There was no statement as to what were the assets and liabilities of the society. *Held*, that the petition was sufficient in form, and that there was sufficient evidence of the inability of the society to pay its debts.—*In re The Premier Permanent, &c., Association*, 16 V.L.R., 20.



"The Building Societies Act 1874" s. 34.

Societies may unite or transfer engagements. 37 & 38 Vict. c. 42 s. 33.

30. Two or more societies under this Act may unite and become one society with or without a dissolution or division of the funds of such societies or either of them, or a society under this Act may transfer its engagements to any other society under this Act, upon such terms as shall be agreed upon by three-fourths of the investing members (holding not less than two-thirds in value of the investing shares then current) of each of such societies present at general meetings respectively convened for the purpose; but no such union or transfer shall prejudice any right of any creditor of either society. Notice of every such union or transfer shall be sent to the registrar, and registered by him.

Receipt to operate as re-conveyance. *Ib.* s. 35.

Fourth Schedule. *Ib.* s. 42.

31. When all moneys intended to be secured by any mortgage or further charge given to a society under this Act have been fully paid or discharged the society may endorse upon or annex to such mortgage or further charge a receipt under the seal of the society, in the form specified in the Fourth Schedule to this Act, and such receipt shall vacate the mortgage or further charge and debt, and also all further charges relating to the same land dated subsequently to the mortgage or further charge on or to which such receipt may be endorsed or annexed and prior to the date of the receipt, and vest the estate of and in the property therein comprised in the person for the time being entitled to the equity of redemption, without any re-conveyance or re-assignment whatever, and so that the person for the time being entitled to the equity of redemption in cases where he was the original mortgagor of the property, shall hold the property to the same uses and upon the same trusts so far as they have not been varied or altered as he held the property before mortgaging, and in cases where the person for the time being entitled to the equity of redemption is not the original mortgagor of the property shall hold the property to the same uses and upon the same trusts as he held the equitable estate.

Administration may be dispensed with in certain cases. *Ib.* s. 36. *Ib.* s. 29.

32. If any member of or depositor with a society under this Act having in the funds thereof a sum of money not exceeding one hundred pounds die intestate, or if any person entitled to the equity of redemption of any property mortgaged to any society under this Act die intestate, and upon sale of the mortgaged premises any money not exceeding one hundred pounds remains in the hands of the society after paying the amount due to the society and the costs and expenses of sale, then and in either of such cases such money may be paid to any person who appears to the society to be entitled to obtain letters of administration of the estate of such deceased member depositor or person as aforesaid without his taking out letters of administration, upon such person giving such security and upon such evidence as the committee of management consider satisfactory of such death and intestacy, and that the person so claiming is entitled as aforesaid; and whenever the society has paid any sum of money not exceeding one hundred pounds under the provision aforesaid the receipt of the person to whom the same has been paid shall be a valid and effectual discharge to the society for the money so paid, but nevertheless the person who has received the same shall be liable to account to the next of kin or personal representative of such deceased member depositor or person as aforesaid for the amount so received.

33. The same fees shall be payable upon the registration of transfers under the *Transfer of Land Act 1890* to and from any society under this Act and for any certificate thereon as are now payable in respect of transfers to and from a friendly society and the certificates thereon.

*"The Building Societies Act 1874" s. 37.*  
Fees under *Transfer of Land Act 1890.*

34. If upon any application to have a society or any alteration of or addition to its rules registered under this Act the registrar refuse or for a space of fourteen days after the transmission to him of any such original altered or additional rules as aforesaid neglect to register the same, it shall be lawful for the secretary or intended secretary of such society by notice in writing to require the registrar to set forth in writing under his hand the grounds of such refusal or neglect, and if the registrar do not within seven days after service upon him of such notice in writing set forth such grounds and deliver a copy thereof to such secretary or intended secretary upon application therefor such secretary or intended secretary may call upon the registrar by summons before a judge of the court to show cause why he should not furnish such grounds, and such judge may make such order thereon as he shall see fit. And upon such grounds being furnished such secretary or intended secretary may summon the registrar to appear before the court to substantiate and uphold such grounds of refusal or neglect, such summons to be issued under the hand of a judge of the court and to be served upon the registrar six clear days at least before the day appointed for hearing the same. And upon such hearing the court may make such order thereon as the circumstances of the case may require. And upon any such summons or hearing the judge or court, as the case may be, may make such order as to costs as to him or it may seem fit.<sup>(a)</sup>

Registrar refusing to register to state reasons.  
*Ib. s. 38*

35. All orders made by the court under this Act, may be enforced in like manner as any other judgment or order of the court of the like nature or to the like effect may be enforced.

Orders how enforced.  
*Ib. s. 39.*

36. If any society hereafter formed under this Act, or any persons representing themselves to be a society under this Act, commence business without first becoming incorporated under this Act, or if any society under this Act makes default in forwarding to the registrar any returns or information by this Act required, or makes a return wilfully false in any respect, the committee of management, secretary, and every other officer of such society, or pretended society, shall be liable for every day business is carried on, or for every such default or false return, upon summary conviction before justices at the complaint of the registrar, to a penalty not exceeding Five pounds. If any society under this Act receives loans or deposits in excess of the limits prescribed by this Act, every member of the committee of management of such society shall be personally liable for the amount so received in excess.

Penalties for breach of this Act.  
*Ib. s. 41.*  
*37 & 38 Vict. c. 42 s. 43.*

37. If any person whosoever, by false representation or imposition, obtains possession of any moneys, securities, books, papers, or other effects of a society under this Act, or, having the same in his possession, withholds or misapplies the same, or wilfully applies any part thereof

Offences.  
*Ib. s. 42.*  
*Ib. s. 31.*

(a) *Semble*, the registrar is entitled to his costs of the summons unless he is shown to have taken a very captious objection.—In the matter of *The*

*Metropolitan Permanent Building Society*, 7 V.L.R. (Eq.), 86.

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to purposes other than those expressed or directed in the rules of the society and authorized by this Act, he shall be liable on summary conviction to a penalty not exceeding Twenty pounds, with costs not exceeding Twenty shillings, and to be ordered to deliver up to the society, or to any person named in the order, all such moneys, securities, books, papers, or other effects of the society, or to repay the amount of money applied improperly, and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs to be imprisoned, with or without hard labour, for any time not exceeding three months; but nothing herein contained shall prevent any such person from being prosecuted under any law now or hereafter to be in force, if a conviction has not been previously obtained against him for the same offence under the provisions of this Act.

Application of penalties.  
*Ib.* s. 43.

38. The whole or any part of any penalty imposed under this Act may be applied in or towards payment of the costs of the proceedings or in or towards the rewarding the person upon whose information or at whose suit such penalty has been recovered.

Inspection &c. of documents.  
*Ib.* s. 44.

39. Any person may inspect the documents kept by the registrar relating to societies under this Act, and may obtain a copy or extract of any such document, or any part thereof, on payment of such fee as the Governor in Council shall direct.

Printed copies of rules evidence.  
*Act No. 723 s. 4.*

40. Copies of rules of any society registered under this Act or "*The Building Societies Act 1874*" printed for the society and certified by the secretary or any other authorized person shall be *prima facie* evidence of such rules in any court of justice or before any person having by law or by consent of parties authority to hear receive and examine evidence whether such rules are in force or have been rescinded or altered, and any printed document purporting to be a copy of such rules and so printed and certified as aforesaid shall be deemed to be such copy so printed unless the contrary be shown.

Regulations.  
"The Building Societies Act 1874" s. 44.

41. The Governor in Council may from time to time make regulations respecting the fees (if any) to be paid for the registration and inspection of documents under this Act, and generally for carrying this Act into effect.

## PART II.—BUILDING SOCIETIES REGISTERED UNDER THE "FRIENDLY SOCIETIES STATUTE 1865."

Registration of existing societies.  
*Ib.* s. 5.

42. Any existing society before the first day of January One thousand eight hundred and seventy-five registered or deemed to be registered under the "*Friendly Societies Statute 1865*" for the objects specified in sub-sections (VII.) and (VIII.) of the fourth section thereof or any of such objects shall be entitled to be registered under this Act, and when so registered its rules shall so far as the same are not contrary to any express provision of this Act continue in force until altered or rescinded as hereinafter mentioned, but any of its rules which are contrary to any express provision of this Act shall after such registration cease to be of any force or validity save as to any transactions matters or things done prior to such registration.

43. No such existing society shall be registered under this Act except by the authority of a general meeting of the society convened and held in accordance with its rules for the time being and specially called for the purpose, and the registrar may require a statutory declaration from the secretary and such other evidence, if any, as he may think fit, that such authority was duly given.

*"The Building Societies Act 1874" s. 6.*  
Authority to register existing society.

44. Any such existing society entitled to be registered under this Act and desirous of being so registered shall transmit to the registrar two copies of its rules purporting to be duly registered or certified under the "*Friendly Societies Statute 1865*," or some Act thereby repealed, authenticated by the statutory declaration of the secretary and such other evidence if any as the registrar may require; and the registrar if satisfied that such rules were duly registered or certified under the said Acts or some or one of them, and that the necessary authority for the registration of the society under this Act has been given shall return one copy to the secretary with a certificate of registration and shall retain and register such rules, and thereupon such society shall be deemed to be registered under this Act.

Mode of registration of existing society.  
*Ib. s. 7.*  
*37 & 38 Vict. c. 42 s. 11.*

45. Upon the registration under this Act of any such existing society, such society shall forthwith by passing a new rule for the purpose make provision for the device custody and use of the common seal of the society, which shall in all cases bear the registered name thereof.

Common seal.  
*Ib. s. 10.*  
*Ib. s. 9.*

46. All rights of action and other rights, and all estates and interests in real and personal estate whatsoever, including land under the provisions of the *Transfer of Land Act 1890*, belonging to or held in trust for any such existing society registered under this Act, shall on the incorporation of the society under this Act vest in the society without any conveyance transfer or assignment whatsoever.

Property &c. to vest on incorporation.  
*Ib. s. 11.*  
*Ib. s. 27*

47. Any such existing society registered or deemed to be registered under this Act may alter or rescind any of its rules or make any additional rule in manner prescribed by its rules, or if no manner be so prescribed then by the vote of two-thirds of the members present at a general meeting of the society convened and held in accordance with its rules for the time being and specially called for the purpose by notice of seven days at the least specifying the proposed alteration rescission or addition.

Existing society may alter rules.  
*Ib. s. 14.*  
*Ib. s. 13.*

48. Any deposits with or loans to any such existing society made before its registration under this Act or "*The Building Societies Act 1874*," in accordance with its certified rules, are hereby declared to be valid and binding on the society although such deposits or loans may exceed the limit prescribed by this Act, but all such deposits and loans shall be taken into account in determining the amount which any such society may legally receive on deposit or loan after being registered under this Act.<sup>(a)</sup>

Validation of deposits or loans upon registration.  
*Ib. s. 25.*

(a) Where a building society registered under the Act No. 254 becomes incorporated under this Act, that does not relieve its members from their

liability for the debts of the society contracted before its incorporation.—*Colonial Bank of Australasia v. Draper*, 4 V.L.R. (L.), 527.

## SCHEDULES.

Section 2.

## FIRST SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
38 Vict. No. 493 ...	"The Building Societies Act 1874" ...	So much as has not been already repealed.
46 Vict. No. 728 ...	"An Act to amend 'The Building Societies Act 1874'"	The whole.
50 Vict. No. 892 ...	"An Act to further amend 'The Building Societies Act 1874'"	The whole.

Section 6.

## SECOND SCHEDULE.

## THE BUILDING SOCIETIES ACT 1890.

Notice is hereby given that a Building Society called "The Society" is duly registered under the provisions of the above Act.

Building

Dated this                    day of                    One thousand eight hundred

Registrar of Building Societies.

Section 7.

## THIRD SCHEDULE.

This is to certify that [*name of society indicating change if any since incorporation*] was on the                    day of                    One thousand eight hundred and                    duly incorporated under the provisions of the *Building Societies Act 1890*.

Given under my hand at Melbourne, in the colony of Victoria, this                    day of                    One thousand eight hundred

Registrar of Building Societies.

Section 31.

## FOURTH SCHEDULE.

[*Name of society*] hereby acknowledges to have received the sum of                    in full satisfaction and discharge of all moneys owing on the security of the land comprised by the within indenture.

Dated this                    day of                    One thousand eight hundred and

and