



Jersey

# **INDUSTRIAL AND PROVIDENT SOCIETIES (CHANNEL ISLANDS) ORDER 1965**

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**APPENDIX**

*Jersey Order in Council 7/1966 Industrial and Provident Societies (Channel Islands) Order,  
1965*



Jersey

# **INDUSTRIAL AND PROVIDENT SOCIETIES (CHANNEL ISLANDS) ORDER 1965**

**Jersey Order in Council 7/1966**

**ORDRE**

DE

SA MAJESTÉ EN CONSEIL

en date du 22 décembre 1965

INTITULÉ

**“INDUSTRIAL AND PROVIDENT SOCIETIES (CHANNEL ISLANDS) ORDER,  
1965”,**

AVEC

ACTES DE LA COUR ROYALE ET DES ÉTATS

Y RELATIFS.

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*(Enregistré le 3 juin 1966).*

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**INDUSTRIAL AND PROVIDENT SOCIETIES (CHANNEL ISLANDS) ORDER, 1965.**

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**STATES OF JERSEY.**

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14th December, 1965.

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**THE STATES** approved the terms of a draft Order of Her Most Excellent Majesty in Council entitled “The Industrial and Provident Societies (Channel Islands) Order, 1965”, the effect of which would be to apply to the Island, with modifications, the Industrial and Provident Societies Act, 1965.

**A.D. Le BROCCQ,**

*Greffier of the States.*

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1965*

**À LA COUR ROYALE DE L'ÎLE DE JERSEY.**

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L'An 1966, le 18<sup>e</sup> jour de mars.

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**MONSIEUR LE DÉPUTÉ BAILLI** ayant présenté à la Cour cinq Orders de Sa Très Excellente Majesté en Conseil en date du 31 janvier 1966, transmettant pour enregistrement et publication dans l'Ile copies de certains Actes de Parlement intitulés: -

\* \* \* \* \*

“The Industrial and Provident Societies Act, 1965 (Chapter 12)”,

\* \* \* \* \*

Lecture en ayant été donnée :

LA COUR, conformément aux conclusions de l'Avocat Général de la Reine, a ordonné, en exécution desdits Ordres, que tant lesdits Actes de Parlement que lesdits Ordres les transmettant soient enregistrés sur les records de cette Ile et publiés par l'Officier au lieu ordinaire à jour de marché, afin que toutes personnes puissent en avoir connaissance.

**P.E. Le COUTEUR,**

*Greffier Judiciaire.*

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**À LA COUR ROYALE DE L'ÎLE DE JERSEY.**

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L'An 1966, le 3e jour de juin.

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**MONSIEUR LE DÉPUTÉ BAILLI** ayant présenté à la Cour trois Ordres de Sa Très Excellente Majesté en Conseil, savoir: -

\* \* \* \* \*

Le troisième, en date du 22 décembre 1965, intitulé "The Industrial and Provident Societies (Channel Islands) Order, 1965";

Lecture en ayant été donnée :

LA COUR, conformément aux conclusions du Procureur Général de la Reine, a ordonné que lesdits Ordres soient enregistrés sur les records de l'Île et publié par l'officier au lieu ordinaire à jour de marché, afin que toutes personnes puissent en avoir connaissance.

**P.E. Le COUTEUR,**

*Greffier Judiciaire.*

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**INDUSTRIAL AND PROVIDENT SOCIETIES (CHANNEL ISLANDS) ORDER, 1965.**

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At the Court at Buckingham Palace.

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The 22nd day of December, 1965.

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Present,

**The Queen's Most Excellent Majesty in Council**

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**HER MAJESTY**, in pursuance of the power conferred upon Her by section 75 of the Industrial and Provident Societies Act, 1965, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

1. The Industrial and Provident Societies Act, 1965 in its application to the Channel Islands shall have effect subject to the adaptations and modifications specified in the Schedule to this Order, that is to say, in its application to the Bailiwick of Jersey subject to those specified in Part I of the Schedule, and in its application to the Bailiwick of Guernsey subject to those specified in Part II thereof.

2. This Order may be cited as the Industrial and Provident Societies (Channel Islands) Order, 1965 and shall come into operation on 1st January, 1966.

**W.A. AGNEW.**

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1965*

*SCHEDULE*

*PART I*

JERSEY ADAPTATIONS AND MODIFICATIONS

1. Any reference to the county court or, in relation to civil proceedings, to a Magistrate's court shall be construed, in relation to a case in which the sum in dispute does not exceed £100, as a reference to the Petty Debts Court, and, in any other case, as a reference to the Inferior Number of the Royal Court.

2. The reference in section 58(4) to a misdemeanour shall be construed as a reference to a *délit*.

3. All other offences shall be prosecuted summarily before the Police Court in all cases within the competence of that court, and in all other cases before the Inferior Number of the Royal Court.

4. All fines shall be paid to the officers who are by the law and practice of the Bailiwick entitled to receive the fines imposed by those courts respectively, and shall be paid by those officers to Her Majesty's Receiver General in the Bailiwick on behalf of the Crown.

5. In default of payment fines may be enforced in the same manner as fines paid in the Bailiwick to the Crown.

6. An appeal shall lie in any case which admits of an appeal under the law for the time being in force in the Bailiwick and that law shall apply to any such appeal, but the decision of the Jersey Court of Appeal or of the Royal Court sitting as the Superior Number or as the Inferior Number as the case may be shall be final.

7. Any registered society whose registered office is situated in the Bailiwick may invest any part of its funds in any loans issued by the States of Jersey.

8. Where, on the death of a member of a registered society who is domiciled in the Bailiwick, any sum of money becomes payable by the society, that sum shall, subject to any nomination under section 23, be paid to the member's legal personal representative according to the law of the Bailiwick.

*PART II*

GUERNSEY ADAPTATIONS AND MODIFICATIONS

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**INDUSTRIAL AND PROVIDENT SOCIETIES ACT, 1965**

CHAPTER 12

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Schedule 3 – Forms of receipt on mortgage, heritable security, etc.

Schedule 4 – Forms of bond for officers of society.

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## CHAPTER 12

An Act to consolidate certain enactments relating to industrial and provident societies, being those enactments as they apply in Great Britain and the Channel Islands with corrections and improvements made under the Consolidation of Enactments (Procedure) Act, 1949.

[2nd June, 1965.]

**BE** it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: -

### *Registered societies*

#### SOCIETIES WHICH MAY BE REGISTERED

**1.**-(1) Subject to sections 2(1) and 7(1) of this Act, a society for carrying on any industry, business or trade (including dealings of any description with land), whether wholesale or retail, may be registered under this Act if -

- (a) it is shown to the satisfaction of the appropriate registrar that one of the conditions specified in subsection (2) of this section is fulfilled ; and
- (b) the society's rules contain provision in respect of the matters mentioned in Schedule 1 to this Act ; and
- (c) the place which under those rules is to be the society's registered office is situated in Great Britain or the Channel Islands.

(2) The conditions referred to in subsection (1)(a) of this section are -

- (a) that the society is a *bona fide* co-operative society ; or
- (b) that, in view of the fact that the business of the society is being, or is intended to be, conducted for the benefit of the community, there are special reasons why the society should be registered under this Act rather than as a company under the Companies Act, 1948.

(3) In this section, the expression "co-operative society" does not include a society which carries on, or intends to carry on, business with the object of making profits mainly for the payment of interest, dividends or bonuses on money invested or deposited with, or lent to, the society or any other person.

#### REGISTRATION OF SOCIETY

**2.**-(1) Subject to subsection (2) of this section -

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- (a) no society shall be registered under this Act if the number of the members thereof is less than seven ; and
- (b) an application for the registration of a society under this Act shall be signed by seven members and the secretary of the society and shall be sent with two printed copies of the society's rules to the appropriate registrar.

(2) A society whose members consist solely of two or more registered societies may be registered under this Act if the application for registration is signed by two members of the committee and the secretary of each (or, if more than three, of each of any three) of the constituent societies and is accompanied by two printed copies of the registered rules of each of the constituent societies as well as of the rules of the society sought to be registered.

(3) On being satisfied that a society has complied with the provisions of this Act as to registration thereunder, the appropriate registrar shall issue to the society an acknowledgment of registration in the prescribed form which shall be conclusive evidence that the society is duly registered under this Act unless it is proved that the registration of the society has been cancelled or is for the time being suspended.

#### REGISTRATION TO EFFECT INCORPORATION OF SOCIETY WITH LIMITED LIABILITY

3. A registered society shall by virtue of its registration be a body corporate by its registered name, by which it may sue and be sued, with perpetual succession and a common seal and with limited liability ; and that registration shall vest in the society all property for the time being vested in any person in trust for the society, and all legal proceedings pending by or against the trustees of the society may be brought or continued by or against the society in its registered name.

#### EXISTING SOCIETIES DEEMED TO BE REGISTERED

4. Any society which at the date immediately before the commencement of this Act was registered or deemed to be registered under the Industrial and Provident Societies Act, 1893 (hereafter in this Act referred to as "the Act of 1893"), being a society whose registered office was at that date in Great Britain or the Channel Islands, shall be deemed to be registered under this Act ; and –

- (a) any acknowledgment of registry of that society issued by virtue of section 5(4), 6 or 7(2) of the Act of 1893 shall be deemed to be an acknowledgment of the registration under this Act of that society and, by virtue of section 9 of this Act, of the rules of the society in force at the date of the acknowledgment;
- (b) any acknowledgment of registry of an amendment of the society's rules issued by virtue of section 7(2) or 10(3) of the Act of 1893 shall be deemed to be an acknowledgment of the registration of that amendment under this Act ;
- (c) any change of the society's name duly made before the date of commencement of this Act in accordance with section 52 of the Act of 1893 as in force at the time of the change, and any change in the situation of the society's registered office of which notice was duly given before that date under section 11 of that Act, shall be deemed for the purposes of this Act to be a duly registered amendment of the society's rules ;

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- (d) any rules of that society which, having been made before 1st January, 1894, continued in force immediately before the commencement of this Act by virtue of section 3 of the Act of 1893 shall be deemed to be registered under this Act.

*Name and maximum shareholding*

NAME OF SOCIETY

**5.-(1)** No society shall be registered under this Act under a name which in the opinion of the appropriate registrar is undesirable.

(2) Subject to subsection (5) of this section, the word “limited” shall be the last word in the name of every society registered under this Act.

(3) A registered society may change its name in the following manner and in that manner only, that is to say –

- (a) by a resolution for the purpose passed at a general meeting of the society after the giving of such notice as is required by the rules of the society of such a resolution or, if the rules do not make special provision as to notice of such a resolution, after the giving of such notice as is required by the rules of a resolution to amend the rules ; and
- (b) with the approval in writing –
  - (i) in the case of a society registered, and doing business exclusively, in Scotland, of the assistant registrar for Scotland ; or
  - (ii) in any other case, of the chief registrar.

(4) No change in the name of a registered society shall affect any right or obligation of the society, or of any member thereof, and any pending legal proceedings may be continued by or against the society notwithstanding its new name.

(5) If the appropriate registrar is satisfied that the objects of a society applying for registration under this Act or of a registered society are wholly charitable or benevolent, he may register the society by a name which does not contain the word “limited” or, as the case may be, permit the society to change its name to one which does not contain that word ; but if it subsequently appears to that registrar that the society, whether in consequence of a change in its rules or otherwise, is not being conducted wholly for charitable or benevolent objects, he may direct that the word “limited” be added as the last word in the name of the society and shall notify the society accordingly.

(6) Every registered society shall cause its registered name to be painted or affixed, and to be kept painted or affixed, in a conspicuous position and in letters easily legible, on the outside of its registered office and every other office or place in which the business of the society is carried on, and shall have that name engraved in legible characters on its seal and mentioned in legible characters –

- (a) in all notices, advertisements and other official publications of the society ;
- (b) in all business letters of the society ;

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- (c) in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of the society ;
  - (d) in all bills, invoices, receipts, and letters of credit of the society.
- (7) Any officer of a registered society, or any other person acting on such a society's behalf, who –
- (a) uses any seal purporting to be a seal of the society which does not have the society's registered name engraven on it in legible characters ; or
  - (b) issues or authorises the issue of any document such as is mentioned in subsection (6)(a) or (d) of this section in which that name is not mentioned in legible characters; or
  - (c) signs or authorises to be signed on behalf of the society any document such as is mentioned in subsection (6)(c) of this section in which that name is not so mentioned,

shall be liable on summary conviction to a fine not exceeding fifty pounds and, in the case of a conviction by virtue of paragraph (c) of this subsection, shall further be personally liable to the holder of any such document as is referred to in that paragraph for the amount specified in the document unless that amount is duly paid by the society.

#### MAXIMUM SHAREHOLDING IN SOCIETY

**6.-(1)** Where a society is, or is to be, registered under this Act, no member thereof other than –

- (a) a registered society; or
- (b) an authority who acquired the holding by virtue of section 119(3) of the Housing Act, 1957, section 79(2) of the Housing (Scotland) Act, 1950, or any enactment re-enacted with or without modifications by either of those sections; or
- (c) a member who acquired the holding by virtue of paragraph 2 of Part I of the Schedule to the Agricultural Credits Act, 1923 at a time when section 2 of that Act applied to the society,

shall have or claim any interest in the shares of the society exceeding one thousand pounds.

- (2) Where in the case of a society to which section 4 of this Act applies –
- (a) immediately before 27th April, 1952 the rules of the society provided for the maximum amount of the interest in the shares of the society permitted to be held by a member (other than a registered society) to be two hundred pounds; and
- (b) no amendment of the rules of the society has been registered since that date; and
- (c) on or after that date and before 22nd July, 1961 the society's committee has by a resolution recorded in writing resolved that the said maximum amount shall be a

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specified amount greater than two hundred pounds but not greater than five hundred pounds,

then, subject to subsection (4) of this section, the registered rules of the society shall have effect subject to that resolution.

- (3) Where in the case of a society to which section 4 of this Act applies –
  - (a) immediately before 22nd July, 1961 the rules of the society provided for the maximum amount aforesaid to be five hundred pounds; and
  - (b) no amendment of the society's rules has been registered since that date; and
  - (c) on or after that date and before 22nd January, 1963 the society's committee has by a resolution recorded in writing resolved that the said maximum amount shall be a specified amount greater than five hundred pounds but not greater than one thousand pounds,

then, subject to subsection (4) of this section, the registered rules of the society shall have effect subject to that resolution.

- (4) Where subsection (2) or (3) of this section applies to any society, the society's committee shall not have power to vary or revoke the resolution referred to in that subsection; but upon the registration after the commencement of this Act under section 10 thereof of any amendment of the society's rules the registered rules of the society shall have effect as if the resolution had not been passed, so, however, that this subsection shall not affect any interest in the shares of the society held by a member immediately before the date of that registration.

*Operations of registered society*

**CARRYING ON OF BANKING BY SOCIETIES**

**7.-(1)** A society which has any withdrawable share capital –

- (a) shall not be registered with the object of carrying on, and
- (b) if a registered society shall not carry on, the business of banking.

(2) Every registered society which carries on the business of banking shall on the first Monday in February and August in each year make out, and until the next such Monday keep hung up in a conspicuous position in its registered office and in every other office or place of business belonging to the society where the business of banking is carried on, a statement in the form set out in Schedule 2 to this Act or as near thereto as the circumstances admit.

(3) The taking of deposits of not more than two pounds in any one payment and not more than fifty pounds for any one depositor, payable on not less than two clear days' notice, shall not be treated for the purposes of subsections (1) and (2) of this section as carrying on the business of banking; but no society which takes such deposits shall make any payment of withdrawable capital while any payment due on account of any such deposit is unsatisfied.



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(4) Where, in the case of a society to which section 4 of this Act applies, being a society registered under the Act of 1893 before 27th April, 1952 –

- (a) no amendment of the society's registered rules has been registered since that date; and
- (b) those rules permit the taking of deposits up to, but not in excess of, ten shillings in any one payment and twenty pounds for any one depositor; and
- (c) the society's committee has since that date by a resolution recorded in writing, whether passed before or after the commencement of this Act, resolved that there shall be substituted for the said limits of ten shillings and twenty pounds specified higher limits not exceeding two pounds and fifty pounds respectively,

then, subject to subsection (5) of this section, the society's registered rules shall have effect subject to that resolution.

(5) Where subsection (4) of this section applies to any society, the society's committee shall not have power to vary or revoke any resolution such as is mentioned in paragraph (c) of that subsection; but upon the registration after the commencement of this Act under section 10 thereof of any amendment of the rules of the society –

- (a) the registered rules of the society shall have effect as if any such resolution had not been passed; and
- (b) if not already exercised, the power of the society's committee to pass such a resolution shall determine,

so, however, that paragraph (a) of this subsection shall not affect any sums standing deposited with the society immediately before the date of registration of the amendment.

(6) Any registered society which –

- (a) carries on the business of banking in contravention of subsection (1) of this section; or
- (b) fails to comply with subsection (2) of this section; or
- (c) makes any payment of withdrawable capital in contravention of subsection (3) of this section,

shall be liable on summary conviction to a fine not exceeding five pounds.

**SOCIETY REGISTERED IN ONE AREA CARRYING ON BUSINESS IN ANOTHER**

**8.-(1)** Subsection (2) of this section shall have effect where a registered society whose registered office is situated in one of the registration areas for the purposes of this Act, that is to say –

- (a) England, Wales and the Channel Islands; or
- (b) Scotland,

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carries on business in the other of those areas.

- (2) The society shall not be entitled in that other area to any of the privileges of this Act as a registered society until a copy of the registered rules of the society has been sent by the society to, and those rules have been recorded by, the appropriate registrar for that other area; and any registered amendment of the rules so recorded shall not have effect in that other area until a copy of that amendment has been so sent and the amendment so recorded.

*Provisions as to rules*

ACKNOWLEDGMENT OF REGISTRATION OF RULES

9. Without prejudice to section 53(3) of this Act, an acknowledgment of the registration of a society issued under section 2(3) of this Act shall also constitute an acknowledgment, and be conclusive evidence, of the registration under this Act of the rules of that society in force at the date of the society's registration.

AMENDMENT OF REGISTERED RULES

10.-(1) Subject to subsection (2) of this section, any amendment of a society's rules as for the time being registered under this Act shall not be valid until the amendment has been so registered, for which purpose there shall be sent to the appropriate registrar two copies of the amendment signed –

- (a) in the case of a society for the time being consisting solely of registered societies, by the secretary of the society and by two members of the committee and the secretary of each (or, if more than three, of each of any three) of the constituent societies;
- (b) in any other case, by three members and the secretary of the society.

(2) The foregoing subsection shall not apply to a change in the situation of a society's registered office or in the name of a society; but –

- (a) notice of any change in the situation of a society's registered office shall be sent to the appropriate registrar; and
- (b) where such a notice is duly sent, or where a change in the name of a registered society is made in accordance with section 5(3) of this Act, the change in the situation of the society's registered office or, as the case may be, the change in the society's name shall be registered by the appropriate registrar as an amendment of the society's rules.

(3) The appropriate registrar, on being satisfied that any amendment of a society's rules is not contrary to the provisions of this Act, shall issue to the society in respect of that amendment an acknowledgment of registration in the prescribed form which shall be conclusive evidence that it is duly registered.

RULES AS TO FUND FOR PURCHASE OF GOVERNMENT SECURITIES

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**11.-(1)** The rules of a society registered or to be registered under this Act may make provision for the setting up and administration by the society of a fund for the purchase on behalf of members contributing to the fund of defence bonds or national saving certificates or such other securities of Her Majesty's Government in the United Kingdom as may for the time being be prescribed under section 8(1) of the Societies (Miscellaneous Provisions) Act, 1940 by the chief registrar or some other person appointed by him for the purpose; and any such rules may make provision for enabling persons to become members of the society for the purpose only of contributing to that fund and without being entitled to any rights as members other than rights as contributors to that fund.

(2) Any rule which, immediately before the commencement of this Act, was included among the registered rules of a registered society by virtue of section 8(3) of the said Act of 1940 shall have effect as if it had been duly passed by the society.

#### **RULES OF AGRICULTURAL, HORTICULTURAL OR FORESTRY SOCIETY**

**12.** Where a society registered or to be registered under this Act consists mainly of members who are producers of agricultural or horticultural produce or persons engaged in forestry, or organisations of such producers or persons so engaged, and the object or principal object of the society is the making to its members of advances of money for agricultural, horticultural or forestry purposes, registration under this Act of the Rules of the society or any amendment thereof shall not be refused on the ground that the rules provide, or would as amended provide, for the making of such advances without security.

#### **SUPPLEMENTARY PROVISIONS AS TO RULES**

**13.-(1)** The rules of a registered society or any schedule thereto may specify the form of any instrument necessary for carrying the purposes of the society into effect.

(2) The rules of a registered society may impose reasonable fines on persons who contravene or fail to comply with any of those rules.

(3) Any fines imposed by the rules of a registered society shall be recoverable on the summary conviction of the offender.

(4) Any provision of, or of any instrument made under, this or any other Act requiring or authorising the rules of a registered society to deal with particular matters shall be without prejudice to the power of such a society to make rules with respect to any other matter which are not inconsistent with any such provision or with any other provision of this or any other Act and which are not otherwise unlawful.

#### **RULES TO BIND MEMBERS**

**14.-(1)** Subject to subsections (2) and (3) of this section, the registered rules of a registered society shall bind the society and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name and affixed his seal thereto and there were contained in those rules a covenant on the part of each member and any person claiming through him to conform thereto subject to the provisions of this Act.

(2) A member of a registered society shall not, without his consent in writing having first been obtained, be bound by any amendment of the society's rules registered after he

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became a member, being an amendment registered after 27th March, 1928, if and so far as that amendment requires him to take or subscribe for more shares than the number held by him at the date of registration of the amendment, or to pay upon the shares so held any sum exceeding the amount unpaid upon them at that date, or in any other way increases the liability of that member to contribute to the share or loan capital of the society.

(3) In the case of a society to which section 4 of this Act applies which was a registered society under the Act of 1893 on 1st January, 1894, the society or the members thereof may respectively exercise any power given by this Act and not made to depend on the provisions of the society's rules notwithstanding anything in any of those rules registered before 12th September, 1893.

(4) In its application to Scotland, subsection (1) of this section shall have effect as if the words "and affixed his seal" were omitted.

#### PROVISION OF COPIES OF RULES

**15.-(1)** A copy of the registered rules of any registered society shall be delivered by the society to any person who demands it, subject to payment by that person of such sum not exceeding two shillings as the society may see fit to charge.

- (2) If any person, with intent to mislead or defraud, gives to any other person –
- (a) a copy of any rules other than rules for the time being registered under this Act on the pretence that they are the existing rules, or that there are no other rules, of a registered society; or
  - (b) a copy of the rules of a society which is not registered under this Act on the pretence that they are the rules of a registered society,

he shall be liable on summary conviction to a fine not exceeding five pounds.

#### *Cancellation, suspension or refusal of registration of society or rules*

#### CANCELLATION OF REGISTRATION OF SOCIETY

**16.-(1)** Subject to the provisions of this section and sections 18(1)(c) and 59 of this Act, and without prejudice to section 52(4) thereof, the appropriate registrar may, by writing under his hand or seal or, in Scotland, in writing, cancel the registration of any registered society –

- (a) if at any time it is proved to his satisfaction –
  - (i) that the number of members of the society has been reduced, in the case of a society for the time being consisting solely of registered societies, to less than two or, in any other case, to less than seven; or
  - (ii) that an acknowledgment of registration has been obtained by fraud or mistake; or
  - (iii) that the society has ceased to exist;

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- (b) if he thinks fit, at the request of the society, to be evidenced in such manner as he shall from time to time direct;
- (c) with the approval of the Treasury –
  - (i) on proof to his satisfaction that the society exists for an illegal purpose, or has wilfully and after notice from a registrar violated any of the provisions of this Act or any enactment repealed thereby; or
  - (ii) if at any time it appears to him that neither of the conditions specified in section 1(2) of this Act is fulfilled in the case of that society; or
  - (iii) in the case of a society whose registered rules contain such a provision as is authorised by section 12 of this Act, if it appears to him that the society no longer consists mainly of such members as are mentioned in that section or that the activities carried on by it do not mainly consist in making advances to its members for such purposes as are so mentioned.

(2) Subsection (1)(c)(ii) of this section shall not authorise the cancellation of the registration of any society to which section 4 of this Act applies which was registered or deemed to be registered under the Act of 1893 before 26th July, 1938 if no invitation to subscribe for or to acquire or offer to acquire securities, or to lend or deposit money, has been made on or after that date by or on behalf of the society.

(3) Not less than two months previous notice in writing specifying briefly the ground of the proposed cancellation shall be given by the appropriate registrar to a society before its registration is cancelled otherwise than –

- (a) at its own request; or
- (b) by virtue of section 52(4) of this Act; or
- (c) after the lodging with the appropriate registrar of such a certificate as is referred to in section 59 of this Act;

and if before the expiration of the period of that notice the society duly lodges an appeal under section 18(1)(c) of this Act, then, without prejudice to section 17(2) of this Act, the society's registration shall not be cancelled before the date of the determination or abandonment of the appeal.

(4) Where the ground specified in any notice under subsection (3) of this section is that referred to in subsection (1)(c)(ii) thereof –

- (a) the appropriate registrar shall consider any representations with respect to the proposed cancellation made to him by the society within the period of duration of the notice and, if the society so requests, afford it an opportunity of being heard by him before its registration is cancelled;
- (b) if it appears to the appropriate registrar at any time after the expiration of one month from the date of the giving of the notice that there have not been taken the steps which by that time could reasonably have been taken for the purpose –

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- (i) of converting the society into, or amalgamating it with, or transferring its engagements to, a company in accordance with section 52 of this Act; or
- (ii) of dissolving the society under section 55 of this Act,

he may give such directions as he thinks fit for securing that the affairs of the society are wound up before cancellation of the registration takes effect.

(5) Any person who contravenes or fails to comply with any directions given by the appropriate registrar under subsection (4)(b) of this section shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both.

(6) Notice of every cancellation under this section of a society's registration shall, as soon as practicable after it takes place, be published in the Gazette and in some local newspaper circulating in or about the locality in which the society's registered office is situated.

(7) As from the date of the publication in the Gazette under subsection (6) of this section of notice of the cancellation of a society's registration, the society shall absolutely cease to be entitled to any of the privileges of this Act as a registered society, but without prejudice to any liability actually incurred by the society which may be enforced against it as if the cancellation had not taken place.

#### SUSPENSION OF REGISTRATION OF SOCIETY

**17.-(1)** Where under section 16(1)(c) of this Act the appropriate registrar might with the approval of the Treasury cancel the registration of a registered society, that registrar may, by writing under his hand or seal –

- (a) subject to subsection (3) of this section, suspend the registration of that society for any term not exceeding three months; and
- (b) with the approval of the Treasury, but subject to section 18(1)(d) of this Act, from time to time renew any such suspension for the like period.

(2) Where before the expiration of the period of a notice under section 16(3) of this Act of the proposed cancellation of a society's registration, that society duly lodges an appeal from the proposed cancellation under section 18(1)(c) of this Act, the appropriate registrar may by writing under his hand or seal suspend the society's registration from the expiration of that period until the date of the determination or abandonment of the appeal.

(3) Not less than two months previous notice in writing specifying briefly the ground of the proposed suspension shall be given by the appropriate registrar to a society before its registration is suspended under subsection (1)(a) of this section.

(4) Notice of every suspension of a society's registration under subsection (1)(a) or (2) of this section and of any renewal of a suspension under subsection (1)(b) thereof shall, as soon as practicable after it takes place, be published in the Gazette and in some local newspaper circulating in or about the locality in which the society's registered office is situated.

(5) From the date of publication in the Gazette of a notice under subsection (4) of this section of the suspension of any society's registration under subsection (1)(a) or (2) of this

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section until the period of that suspension and any renewal thereof under subsection (1)(b) of this section ends (whether on the expiration of that period or on a successful appeal under section 18(1)(d) of this Act from such a renewal) the society shall not be entitled to any of the privileges of this Act as a registered society, but without prejudice to any liability actually incurred by the society which may be enforced against it as if the suspension had not taken place.

(6) In the application of this section to Scotland, subsections (1) and (2) thereof shall have effect as if for the words “by writing under his hand or seal” there were substituted the words “in writing”.

**APPEAL FROM REFUSAL, CANCELLATION OR SUSPENSION OF REGISTRATION OF SOCIETY OR RULES**

**18.-(1)** A society may appeal from any decision of the appropriate registrar –

- (a) to refuse registration of the society (including a refusal by reason only of anything contained in or omitted from the society’s rules) on any ground other than that he is not satisfied that either of the conditions specified in section 1(2) of this Act is fulfilled; or
- (b) to refuse registration of any amendment of the society’s rules; or
- (c) to cancel the society’s registration (being a cancellation of which notice is required under section 16(3), and not being a cancellation by virtue of section 16(1)(c)(ii), of this Act) if the appeal is lodged before the expiration of the period of notice of the proposed cancellation given under the said section 16(3); or
- (d) to renew under section 17(1)(b) of this Act a suspension of the society’s registration so far as that renewal provides for the suspension to continue more than three months from the original date of suspension.

(2) An appeal under the foregoing subsection shall lie –

- (a) from a decision of the central office, to the High Court;
- (b) from a decision of the assistant registrar for Scotland, to the chief registrar and, if the chief registrar confirms the decision, to the Court of Session.
- (3) If any decision such as is mentioned in subsection (1)(a) or (b) of this section is overruled on appeal, the appropriate registrar shall thereupon issue to the society an acknowledgment of registration of the society under section 2(3), or, as the case may be, of the amendment under section 10(3), of this Act.

*Membership and special provisions affecting members*

**BODIES CORPORATE AS MEMBERS OF SOCIETY**

**19.-(1)** Shares in a registered society may be held by any other body corporate (if that body’s regulations so permit) by its corporate name.

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(2) Where a registered society is a member of another registered society, then, for the purposes of any enactment with respect to the making or signing of any application, instrument or document by members of a registered society, any reference therein to such a member shall, in relation to the first-mentioned society as a member of the second-mentioned society, be construed as a reference to two members of the committee and the secretary of the society.

#### MEMBERS UNDER 21

**20.** A person under the age of twenty-one but above the age of sixteen may be a member of a registered society unless provision to the contrary is made by the society's registered rules and may, subject to those rules and to the provisions of this Act, enjoy all the rights of a member and execute all instruments and give all receipts necessary to be executed or given under those rules, but shall not be a member of the committee, trustee, manager or treasurer of the society.

#### ADVANCES TO MEMBERS

**21.** Without prejudice to any provision included by virtue of section 12 of this Act, the rules of a registered society may provide for advances of money to members –

- (a) on the security of real or personal property or, in Scotland, of heritable or moveable estate; or
- (b) if the society is registered to carry on banking business, in any manner customary in the conduct of such business.

#### REMEDY FOR DEBTS FROM MEMBERS

**22.-(1)** All moneys payable to a registered society by a member thereof shall be a debt due from that member to the society and shall be recoverable as such in the county court, or, in Scotland, before the sheriff, within whose jurisdiction the society's registered office is situate or within whose jurisdiction the member resides, at the option of the society.

(2) A registered society shall have a lien on the shares of any member for any debt due to the society by that member, and may set off any sum credited to the member on those shares in or towards the payment of that debt.

#### NOMINATION TO PROPERTY IN SOCIETY

**23.-(1)** Subject to subsections (2) and (3) of this section, a member of a registered society may, by a written statement signed by him and delivered at or sent to the society's registered office during his lifetime or made in any book kept at that office, nominate a person or persons to become entitled at his death to the whole, or to such part or respective parts as may be specified in the nomination, of any property in the society (whether in shares, loans or deposits or otherwise) which he may have –

- (a) in the case of a nomination made before 1st January, 1914, at the date of the nomination; or
- (b) in any other case, at the time of his death.



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(2) The nomination by a member of a society under the foregoing subsection of a person who is at the date of the nomination an officer or servant of the society shall not be valid unless that person is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator.

(3) For the purposes of the disposal of any property which is the subject of a nomination under subsection (1) of this section –

- (a) if the nomination was made before 1st January, 1914 and at the date of the nomination the amount credited to the nominator in the society's books exceeded one hundred pounds, the nomination shall not be valid;
- (b) if the nomination was made after 31st December, 1913 and before 5th August, 1954 and at the date of the nominator's death the amount of his property in the society comprised in the nomination exceeds one hundred pounds, the nomination shall be valid to the extent of one hundred pounds but not further or otherwise;
- (c) if the nomination was made after 4th August, 1954 and at the date of the nominator's death the amount of his property in the society comprised in the nomination exceeds two hundred pounds, the nomination shall be valid to the extent of two hundred pounds, but not further or otherwise.

(4) A nomination by a member of a society under subsection (1) of this section may be varied or revoked by a subsequent nomination by him thereunder or by any similar document in the nature of a revocation or variation signed by the nominator and delivered at or sent to the society's registered office during his lifetime, but shall not be revocable or variable by the will of the nominator or by any codicil thereto.

(5) Every registered society shall keep a book in which the names of all persons nominated under subsection (1) of this section and any revocation or variation of any nomination under that subsection shall be recorded.

(6) The marriage of a member of a society shall operate as a revocation of any nomination made by him before the marriage and after 31st December, 1913; but if any property of that member has been transferred by an officer of the society in pursuance of that nomination in ignorance of a marriage contracted by the nominator subsequent to the date of the nomination, the receipt of the nominee shall be a valid discharge to the society and the society shall be under no liability to any other person claiming the property.

#### PROCEEDINGS ON DEATH OF NOMINATOR

**24.-(1)** Subject to subsections (2) and (4) of this section, where any member of a registered society has made a nomination under section 23 of this Act, the committee of the society, on receiving satisfactory proof of the death of that member, and if and to the extent that the nomination is valid under subsections (2) and (3) of that section, shall in the case of each person entitled under the nomination either transfer to him, or pay him the full value of, any property to which he is so entitled.

(2) Where any of the property comprised in such a nomination as aforesaid consists of shares in the society, the foregoing subsection shall have effect notwithstanding that the rules of the society declare the shares therein not to be transferable; but if the transfer of any shares comprised in the nomination in the manner directed by the nominator would raise the share

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capital of any nominee beyond the maximum for the time being permitted in the case of that society, the committee of the society shall not transfer to that nominee more of those shares than will raise his share capital to that maximum and shall pay him the value of any of those shares not transferred.

(3) Where any sum falls to be paid under the foregoing provisions of this section to a nominee who is under sixteen years of age, the society may pay that sum to either parent, or to a guardian, of the nominee or to any other person of full age who will undertake to hold it on trust for the nominee or to apply it for his benefit and whom the society may think a fit and proper person for the purpose, and the receipt of that parent, guardian or other person shall be a sufficient discharge to the society for all moneys so paid.

(4) Where in the case of any nominator the principal value of the property or money to be transferred or paid under this section exceeds eighty pounds and the total property of the nominator in the society at his death exceeds two hundred pounds, the committee of the society shall, before making any transfer or payment to any person other than the personal representatives of the nominator, require production of a certificate from the Commissioners of Inland Revenue of the payment of the estate duty payable in respect of the property or money so transferred or paid or a certificate that no estate duty is payable thereon.

#### PROVISION FOR INTESTACY

**25.-(1)** If any member of a registered society dies intestate and at his death his property in the society in respect of shares, loans or deposits does not exceed in the whole one hundred pounds and is not the subject of any nomination under section 23 of this Act, then, subject to subsection (2) of this section, the committee of the society may, without letters of administration or, in Scotland, without confirmation having been obtained, distribute that property among such persons as appear to the committee on such evidence as they deem satisfactory to be entitled by law to receive it.

(2) If the member aforesaid was illegitimate and leaves no widow, widower or issue, and his mother does not survive him, the committee shall deal with his property in the society as the Treasury shall direct.

#### PAYMENTS IN RESPECT OF MENTALLY INCAPABLE PERSONS

**26.-(1)** Subject to subsection (2) of this section, where in the case of a member of a registered society or a person claiming through such a member the society's committee are satisfied after considering medical evidence that the member or person is incapable through disorder or disability of mind of managing his own affairs and are also satisfied that no person has been duly appointed to administer his property on his behalf, and if it is proved to the satisfaction of the committee that it is just and expedient so to do, the society may pay the amount of any shares, loans, and deposits belonging to that member or person to any person whom they judge proper to receive it on his behalf, whose receipt shall be a good discharge to the society for any sum so paid.

(2) The foregoing subsection shall not apply when the member or person in question is

—

(a) a patient within the meaning of Part VIII of the Mental Health Act, 1959; or

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- (b) a person as to whom powers are exercisable and have been exercised under section 104 of that Act.

#### VALIDITY OF PAYMENT TO PERSONS APPARENTLY ENTITLED

**27.** All payments or transfers made by the committee of a registered society under section 25 or 26(1) of this Act or any corresponding provision of any Act repealed by this Act to any person appearing to the committee at the time of the payment or transfer to be entitled thereunder shall be valid and effectual against any demand made upon the committee or society by any other person.

*Contracts, property, etc., of society*

#### PROMISSORY NOTES AND BILLS OF EXCHANGE

**28.** A promissory note or bill of exchange shall be deemed to have been made, accepted or endorsed on behalf of any registered society if made, accepted or endorsed in the name of the society, or by or on behalf or account of the society, by any person acting under the authority of the society.

#### CONTRACTS

**29.-(1)** Any contract which, if made between private persons, would be by law required to be in writing and, if made according to English law, to be under seal may be made, varied or discharged on behalf of a registered society in writing under the common seal of the society; and any contract which may be or have been made, varied or discharged in accordance with this subsection shall, so far as concerns its form, be effectual in law and binding on all parties thereto, their heirs, executors or administrators, as the case may be.

(2) A signature purporting to be made by a person holding any office in a registered society attached to a writing whereby any contract purports to be made, varied or discharged by or on behalf of the society shall, until the contrary is proved, be taken to be the signature of a person holding that office at the time when the signature was made.

(3) Subsection (1) of this section shall not apply to Scotland; and nothing in that subsection shall prejudice the operation in England and Wales of the Corporate Bodies' Contracts Act, 1960.

#### HOLDING OF LAND

**30.-(1)** A registered society may, unless its registered rules direct otherwise, hold, purchase or take on lease in its own name any land and may sell, exchange, mortgage or lease any such land and erect, alter or pull down buildings on it; and –

- (a) no purchaser, assignee, mortgagee or tenant shall be bound to inquire as to the authority for any such dealing with the land by the society; and
- (b) the receipt of the society shall be a discharge for all moneys arising from or in connection with any such dealing.

(2) In the application of the foregoing subsection to Scotland –

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- (a) for the word “exchange” there shall be substituted the word “excamb”;
- (b) for the word “mortgage” there shall be substituted the words “grant a heritable security over”;
- (c) for the word “mortgagee” there shall be substituted the words “creditor in a heritable security”.

## INVESTMENTS

**31.** A registered society may invest any part of its funds in or upon any security authorised by its registered rules, and also, unless those rules direct otherwise –

- (a) in or upon any mortgage, bond, debenture, debenture stock, corporation stock, annuity, rentcharge, rent or other security (not being securities payable to bearer) authorised by or under any Act of any local authority within the meaning of the Local Loans Act, 1875;
- (b) in the shares or on the security of any other registered society, of any society registered under the Building Societies Acts, or of any company registered under the Companies Acts or incorporated by Act of Parliament or by charter, being a society or company with limited liability;
- (c) in or upon any other security, being a security in which trustees are for the time being authorised by law to invest, for which purpose sections 1 to 6 of the Trustee Investments Act, 1961 shall apply as if the society were a trustee and its funds were trust property.

## PROXY VOTING BY SOCIETIES

**32.-(1)** A registered society which has invested any part of its funds in the shares or on the security of any other body corporate may appoint as proxy any one of its members notwithstanding that he is not personally a shareholder of that other body corporate.

(2) Any member of the society so appointed shall during the continuance of his appointment be taken by virtue thereof as holding the number of shares held by the society for all purposes other than the transfer of any such share or the giving of a receipt for any dividend thereon.

## DISCHARGE OF MORTGAGES IN ENGLAND AND WALES

**33.-(1)** Where, in the case of any mortgage or other assurance to a registered society of any property in England or Wales, a receipt in full for all moneys secured thereby on that property is endorsed on or annexed to the mortgage or other assurance, being a receipt –

- (a) signed by two members of the committee and countersigned by the secretary of the society or, if the society is in liquidation, signed by the liquidator or liquidators for the time being, described as such; and
- (b) in one of the forms set out in Part I of Schedule 3 to this Act, or in any other form specified in the rules of the society or any schedule thereto,

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then, for the purposes of the provisions of section 115 of the Law of Property Act, 1925 specified in subsection (2) of this section, that receipt shall be deemed to be a receipt which fulfils the requirements of subsection (1) of that section.

- (2) The provisions of the said section 115 referred to in the foregoing subsection are –
- (a) subsection (1) so far as it relates to the operation of such a receipt as is mentioned in that subsection;
  - (b) if, but only if, the receipt under this section states the name of the person who pays the money, subsection (2);
  - (c) subsections (3), (6), (8), (10) and (11);
  - (d) where consistent with the terms of the form authorised by subsection (1)(b) of this section which is used for the receipt, subsection (7).

#### DISCHARGE OF SECURITIES IN SCOTLAND

**34.**-(1) Where land in Scotland is held in security by a registered society by virtue of a heritable security constituted by an *ex facie* absolute conveyance, whether qualified by a back letter or not, a receipt in or as nearly as may be in form C in Part II of Schedule 3 to this Act endorsed on or annexed to the conveyance shall, on the registration thereof in the General Register of Sasines, effectually discharge that heritable security and disburden the land comprised therein, and vest that land in the person or persons entitled thereto at the date of the granting of the receipt in the like manner and to the like effect as if a conveyance containing all usual and necessary clauses had been granted by the society to that person or persons and duly registered as aforesaid.

(2) Where land in Scotland is held in security by a registered society by virtue of a heritable security other than the one constituted by an *ex facie* absolute conveyance, a receipt in or as nearly as may be in form D in the said Part II endorsed on or annexed to the deed constituting that heritable security shall, on the registration thereof in the General Register of Sasines, effectually discharge that heritable security and disburden the land comprised therein in the like manner and to the like effect as if a discharge containing all usual and necessary clauses had been granted by the society and duly registered as aforesaid.

(3) Where property other than land is held in security by a registered society in Scotland, a receipt in or as nearly as may be in form E in the said Part II shall discharge the security, and vest the property comprised therein in the person or persons entitled thereto at the date of the granting of the receipt without the necessity of any further deed:

Provided that where the original security was intimated to any person that security shall not be discharged nor the property vested as aforesaid until the receipt has been duly intimated to that person.

(4) The fees payable in respect of the registration of receipts mentioned in this section shall in no case exceed five shillings and such receipts shall be exempt from stamp duty.

- (5) In this section –

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- (a) the expression “a receipt”, in relation to any security, means a receipt, signed by two members of the committee and countersigned by the secretary of the society or, if the society is in liquidation, signed by the liquidator or liquidators for the time being, described as such, for all moneys advanced by the society on the security of the property comprised in that security ;
- (b) the expressions “conveyance” and “deed” have the meanings respectively assigned to them by the Conveyancing (Scotland) Act, 1924.

#### RECEIPT ON PAYMENT OF MONEYS SECURED TO A SOCIETY

**35.** On payment of all moneys intended to be secured to a registered society on the security of any property, the debtor or his successor or representatives shall be entitled to a receipt in the appropriate form specified in Schedule 3 to this Act.

#### EXECUTION OF DEEDS IN SCOTLAND

**36.** In Scotland, any deed or writ to which any registered society is a party shall be held to be duly executed on behalf of that society if it is sealed with the common seal of the society subscribed on behalf of the society by two members of the committee and the secretary thereof, whether that subscription is attested by witnesses or not.

#### *Accounts, etc*

#### AUDIT OF ACCOUNTS

**37.-(1)** Every registered society shall once in every year submit its accounts for audit to one or more of the persons for the time being appointed under section 38 of this Act to be approved auditors.

(2) The accounts of a society shall not be submitted for audit to an approved auditor who holds any office in connection with the society other than as auditor of its accounts.

(3) A society’s auditor or auditors shall have access to all the books, deeds, documents and accounts of the society, and shall examine the balance sheet and revenue account of the society, and verify them with the books, deeds, documents, accounts and vouchers relating to them, and shall either –

- (a) sign them as found to be correct, duly vouched, and in accordance with law ; or
- (b) specially report to the society in what respects they are found to be incorrect, unvouched, or not in accordance with law.

(4) A registered society shall not publish any balance sheet which has not been previously audited in accordance with this section, and any copy of a balance sheet published by the society shall incorporate any report made thereon by the auditor or auditors.

#### APPOINTMENT OF APPROVED AUDITORS

**38.-(1)** The Treasury shall appoint persons to be approved auditors for the purposes of this Act and may determine the rates of remuneration to be paid by registered societies for the services of such auditors.

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(2) Subject to subsection (3) of this section no person shall be qualified to be appointed an approved auditor under the foregoing subsection unless he is a member of one or more of the following bodies, namely –

- (a) the Institute of Chartered Accountants in England and Wales ;
- (b) the Institute of Chartered Accountants of Scotland ;
- (c) the Association of Certified and Corporate Accountants ;
- (d) the Institute of Chartered Accountants in Ireland ;
- (e) any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act, 1948 by the Board of Trade.

(3) Nothing in subsection (2) of this section shall affect the qualification for appointment under subsection (1) of this section of a person who was an approved auditor for the purposes of the Act of 1893 on 30th June, 1948.

#### ANNUAL RETURNS

**39.**-(1) Every registered society shall, not later than 31st March in each year, send to the appropriate registrar a return of the income, expenditure, funds and effects of the society as audited, together with –

- (a) a copy of the report of the auditor or auditors on the society's accounts for the period included in the return ; and
  - (b) a copy of each balance sheet made during that period and of any report of the auditor or auditors on that balance sheet.
- (2) The said return shall –
- (a) be signed by the auditor or auditors ;
  - (b) show separately the expenditure in respect of the several objects of the society ; and
  - (c) subject to subsections (3) and (4) of this section, be made up for the period beginning with the date of the society's registration under this Act or of the society's last annual return, whichever is the later, and ending –
    - (i) with the date of the society's last published balance sheet ; or
    - (ii) if the last-mentioned date is earlier than 31st August or later than 31st January last preceding the date of the return, with 31st December last preceding the date of the return.

(3) If the appropriate registrar is of opinion that special circumstances exist he may allow a society to make a return under this section up to a date other than that specified in

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subsection (2)(c)(i) or (ii) of this section, and in that case the return shall be sent to the registrar not later than three months after the date to which it is to be made up.

(4) The last return under this section by a registered society which is being terminated by an instrument of dissolution under section 55(b) of this Act shall be made up to the date of the instrument of dissolution.

(5) Every registered society shall supply free of charge to every member or person interested in the funds of the society who applies for it a copy of the latest return of the society under this section.

#### DISPLAY OF LATEST BALANCE SHEET

**40.** Every registered society shall keep a copy of the latest balance sheet of the society, together with the report thereon of the auditor or auditors, hung up at all times in a conspicuous position at the registered office of the society.

*Officers, receivers, etc*

#### SECURITY BY OFFICERS

**41.-(1)** Every officer of a registered society having receipt or charge of money shall, if the rules of the society so require, before entering upon the execution of his office give security in such sum as the society's committee may direct conditioned for his rendering a just and true account of all moneys received and paid by him on account of the society at such times as its rules appoint or as the society or its committee require him so to do and for the payment by him of all sums due from him to the society.

(2) An officer of a registered society shall give security in accordance with the foregoing subsection either –

- (a) by becoming bound, either with or without a surety as the society's committee may require, in a bond in one of the forms set out in Schedule 4 to this Act or such other form as the society's committee may approve ; or
- (b) by giving the security of a guarantee society.

(3) In the application of this section to Scotland, for the reference in subsection (2)(a) thereof to a surety there shall be substituted a reference to a cautioner.

#### DUTY OF OFFICERS OF SOCIETY TO ACCOUNT

**42.-(1)** Every officer of a registered society having receipt or charge of money, and every servant of such a society in receipt or charge of money who is not engaged under a special agreement to account, shall –

- (a) at such times as he is required so to do by the rules of the society ; or
- (b) on demand ; or
- (c) on notice in writing requiring him so to do given or left at his last or usual place of residence,



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render an account as may be required by the society or its committee to be examined and allowed or disallowed by them, and shall, on demand or on such notice as aforesaid, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society or committee may appoint.

(2) Any duty imposed by the foregoing subsection on an officer or servant of a society shall, after his death, be taken to be imposed on his personal representatives.

(3) In case of any neglect or refusal to comply with the foregoing provisions of this section, the society –

(a) may sue on any bond or security given under section 41 of this Act ; or

(b) may apply to the county court (which may proceed in a summary way) or to a magistrates' court and, notwithstanding anything in section 108 of the County Courts Act, 1959, the order of that county court or magistrates' court shall be final and conclusive.

(4) In its application to Scotland, this section shall have effect as if for subsection (3)(b) thereof there were substituted the following: -

“(b) may apply to the sheriff, and, notwithstanding anything in section 62 of the Summary Jurisdiction (Scotland) Act, 1954, the order of the sheriff shall be final and conclusive.”.

#### DUTIES OF RECEIVER OR MANAGER OF SOCIETY'S PROPERTY

**43.** Every receiver or manager of the property of a registered society who has been appointed under the powers contained in any instrument shall –

(a) within one month from the date of his appointment notify the appropriate registrar of his appointment ; and

(b) within one month (or such longer period as that registrar may allow) after the expiration of the period of six months from that date, and of every subsequent period of six months, deliver to that registrar a return showing his receipts and his payments during that period of six months ; and

(c) within one month after he ceases to act as receiver or manager deliver to that registrar a return showing his receipts and his payments during the final period and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment.

*Registers, books, etc*

#### REGISTER OF MEMBERS AND OFFICERS

**44.-(1)** Every registered society shall keep at its registered office a register and enter therein the following particulars: -

(a) the names and addresses of the members ;

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- (b) a statement of the number of shares held by each member and of the amount paid or agreed to be considered as paid on the shares of each member ;
- (c) a statement of other property in the society, whether in loans, deposits or otherwise, held by each member ;
- (d) the date at which each person was entered in the register as a member, and the date at which any person ceased to be a member;
- (e) the names and addresses of the officers of the society, with the offices held by them respectively, and the dates on which they assumed office.

(2) The said register may be kept either by making entries in bound books or by recording the matters in question in any other manner ; but, where it is not kept by making entries in a bound book but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.

(3) Every registered society shall either –

- (a) keep at its registered office a duplicate register containing the particulars in the register kept under subsection (1) of this section other than those entered under paragraph (b) or (c) of that subsection ; or
- (b) so construct the register kept under the said subsection (1) that it is possible to open to inspection the particulars therein other than the particulars entered under the said paragraph (b) or (c) without exposing those last-mentioned particulars.

(4) The appropriate registrar or a person acting on his behalf may at all reasonable hours inspect any particulars in any register or duplicate register kept under this section.

(5) A registered society's register or duplicate register kept under this section, or any other register or list of members or shares kept by the society, shall be *prima facie* evidence of any of the following particulars entered therein, that is to say –

- (a) the names, addresses and occupations of the members ;
- (b) the number of shares respectively held by the members, the distinguishing numbers of those shares, if they are distinguished by numbers, and the amount paid or agreed to be considered as paid on any of those shares ;
- (c) the date at which the name of any person, company or society was entered in that register or list as a member ;
- (d) the date at which any such person, company or society ceased to be a member.

#### RESTRICTION ON INSPECTION OF BOOKS

**45.-(1)** Save as provided by this Act, no member or other person shall have any right to inspect the books of a registered society.

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(2) In the case of a society to which section 4 of this Act applies, the foregoing subsection shall have effect notwithstanding anything relating to such inspection in any rules of the society made before 12th September, 1893.

#### INSPECTION OF BOOKS BY MEMBERS, ETC

**46.-(1)** Subject to any regulations as to the time and manner of inspection which may be made from time to time by the general meetings of a registered society, any member, and any person having an interest in the funds, of the society shall be allowed to inspect at all reasonable hours –

- (a) his own account; and
- (b) all the particulars contained in the duplicate register kept under section 44(3)(a) of this Act or, if no duplicate register is so kept, all the particulars in the register kept under section 44(1) of this Act other than those entered under paragraph (b) or (c) thereof.

(2) A registered society may by its rules (not being rules made earlier than 12th September, 1893) authorise, in addition to any inspection in pursuance of the foregoing subsection, the inspection of such of the society's books upon such conditions as may be specified in the rules, but no person who is not an officer of the society or specially authorised by a resolution of the society shall be authorised by the rules to inspect the loan or deposit account of any other person without that other person's written consent.

#### INSPECTION OF BOOKS BY ORDER OF REGISTRAR

**47.-(1)** Subject to subsection (2) of this section, the appropriate registrar may, if he thinks fit, on the application of ten members of a registered society each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application, appoint an accountant or actuary to inspect the books of the society and to report thereon.

(2) The members making an application under the foregoing subsection shall deposit with the appropriate registrar as security for the costs of the proposed inspection such sum as he may require; and all expenses of and incidental to the inspection shall be defrayed 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, in such proportions as that registrar may direct.

(3) A person appointed under this section shall have power to make copies of any books of the society, and to take extracts therefrom, at all reasonable hours at the society's registered office or at any other place where those books are kept.

(4) The appropriate registrar shall communicate the results of any inspection under this section to the applicants and to the society.

#### PRODUCTION OF DOCUMENTS AND PROVISION OF INFORMATION FOR CERTAIN PURPOSES

**48.-(1)** The appropriate registrar may at any time, by notice in writing served on a registered society or on any person who is or has been an officer of such a society, require that society or person to produce to that registrar such books, accounts and other documents relating

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to the business of the society, and to furnish to him such other information relating to that business, as that registrar considers necessary for the exercise of any of the powers which he has by virtue of section 16(1)(c)(ii), 16(4) or 56 of this Act; and any such notice may contain a requirement that any information to be furnished in accordance with the notice shall be verified by a statutory declaration.

(2) Any society or other person failing to comply with the requirements of a notice under the foregoing subsection shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both.

(3) The appropriate registrar may, if he considers it just, direct that all or any of the expenses incurred by him in exercising his powers under subsection (1) of this section in relation to any society shall, either wholly or to such extent as he may determine, be defrayed out of the funds of the society or by the officers or former officers thereof or any of them; and any sum which any society or other person is required by such a direction to pay shall be a debt due to the appropriate registrar from that society or person.

#### APPOINTMENT OF INSPECTORS AND CALLING OF SPECIAL MEETINGS

**49.-(1)** Upon the application of one-tenth of the whole number of members of a registered society or, in the case of a society with more than one thousand members, of one hundred of those members, the chief registrar may, with the consent of the Treasury –

- (a) appoint an inspector or inspectors to examine into and report on the affairs of the society; or
- (b) call a special meeting of the society.

(2) An application under this section shall be supported by such evidence for the purpose of showing that the applicants have good reason for requiring the examination or meeting and are not actuated by malicious motives, and such notice of the application shall be given to the society, as the chief registrar shall direct.

(3) The chief registrar may, if he thinks fit, require the applicants to give security for the costs of the proposed examination or meeting before appointing any inspector or calling the meeting.

(4) All expenses of and incidental or preliminary to any such examination or meeting shall be defrayed by the members applying for it, or out of the funds of the society, or by the members or officers, or former members or officers, of the society, in such proportions as the chief registrar shall direct.

(5) An inspector appointed under this section may require the production of all or any of the books, accounts, securities, and documents of the society, and may examine on oath its officers, members, agents and servants in relation to its business, and may for that purpose administer oaths.

(6) The chief registrar may direct at what time and place a special meeting under this section is to be held, and what matters are to be discussed and determined at the meeting; and the meeting shall have all the powers of a meeting called according to the rules of the society, and shall have power to appoint its own chairman notwithstanding any rule of the society to the contrary.

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(7) In the case of a society registered, and doing business exclusively, in Scotland, references in this section to the chief registrar shall be construed as references to the assistant registrar for Scotland.

*Amalgamations, transfers of engagements and conversions*

**AMALGAMATION OF SOCIETIES**

**50.**-(1) Any two or more registered societies may by special resolution of each of those societies become amalgamated together as one society, with or without any dissolution or division of the funds of those societies or any of them; and the property of each of those societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the special resolution.

(2) In this section the expression “special resolution” means a resolution which is –

- (a) passed by not less than two-thirds of such members of the society for the time being entitled under the society’s rules to vote as may have voted in person, or by proxy where the rules allow proxies, at any general meeting of which notice, specifying the intention to propose the resolution, has been duly given according to those rules; and
- (b) confirmed by a majority of such members of the society for the time being entitled as aforesaid as may have voted as aforesaid at a subsequent general meeting of which notice has been duly given held not less than fourteen days nor more than one month from the day of the meeting at which the resolution was passed in accordance with paragraph (a) of this section.

(3) At any such meeting as aforesaid, a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of that fact.

(4) A copy of every special resolution for the purposes of this section signed by the chairman of the meeting at which the resolution was confirmed and countersigned by the secretary of the society shall be sent to the appropriate registrar and registered by him; and until that copy is so registered the special resolution shall not have effect.

(5) It shall be the duty of a registered society to send any special resolution for registration in accordance with the last foregoing subsection within fourteen days from the day on which the resolution is confirmed under subsection (2)(b) of this section, but this subsection shall not invalidate registration of the resolution after that time.

**TRANSFER OF ENGAGEMENTS BETWEEN SOCIETIES**

**51.**-(1) Any registered society may by special resolution transfer its engagements to any other registered society which may undertake to fulfil those engagements; and if that resolution approves the transfer of the whole or any part of the society’s property to that other society, the whole or, as the case may be, that part of the society’s property shall vest in that other society without any conveyance or assignment.

(2) Subsections (2) to (5) of section 50 of this Act shall have effect for the purposes of this section as they have effect for the purposes of that section.

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(3) In its application to Scotland, subsection (1) of this section shall have effect as if for the word “assignment” there were substituted the word “assignation”.

**CONVERSION INTO, AMALGAMATION WITH, OR TRANSFER OF ENGAGEMENTS TO COMPANY**

**52.-(1)** A registered society may by special resolution determine to convert itself into, or to amalgamate with or transfer its engagements to, a company under the Companies Acts.

(2) If a special resolution for converting a registered society into a company contains the particulars required by the Companies Act, 1948 to be contained in the memorandum of association of a company and a copy thereof has been registered by the appropriate registrar, a copy of that resolution under the seal and stamp of the central office or bearing the signature of the assistant registrar for Scotland, as the case may require, shall have the same effect as a memorandum of association duly signed and attested under the said Act of 1948.

(3) Subsections (2) to (5) of section 50 of this Act shall have effect for the purposes of this section as they have effect for the purposes of that section but as if in paragraph (a) of the said subsection (2) for the words “two-thirds” there were substituted the words “three-fourths”.

(4) Subject to subsection (5) of this section, if a registered society is registered as, or amalgamates with, or transfers all its engagements to, a company under the Companies Acts, the registration of that society under this Act shall thereupon become void and, subject to section 59 of this Act, shall be cancelled by the chief registrar or, under the direction of the chief registrar, by the assistant registrar for Scotland.

(5) Registration of a registered society as a company shall not affect any right or claim for the time being subsisting against the society or any penalty for the time being incurred by the society; and –

- (a) for the purpose of enforcing any such right, claim or penalty, the society may be sued and proceeded against in the same manner as if it had not become registered as a company; and
- (b) every such right or claim, or the liability to any such penalty, shall have priority as against the property of the company over all other rights or claims against or liabilities of the company.

**CONVERSION OF COMPANY INTO REGISTERED SOCIETY**

**53.-(1)** A company registered under the Companies Acts may, by a special resolution as defined by section 141 of the Companies Act, 1948, determine to convert itself into a registered society; and for this purpose, in any case where the nominal value of the company’s shares held by any member other than a registered society exceeds one thousand pounds, the resolution may provide for the conversion of the shares representing that excess into a transferable loan stock bearing such rate of interest as may be fixed, and repayable on such conditions only as are determined by the resolution.

(2) Any such resolution as aforesaid shall be accompanied by a copy of the rules of the society therein referred to and shall appoint seven persons, being members of the company, who, together with the secretary, shall sign the rules and who may either –

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- (a) be authorised to accept any alterations made by the appropriate registrar therein without further consulting the company; or
- (b) be required to lay any such alterations before the company in general meeting for acceptance as the resolution may direct.

(3) A copy of the resolution aforesaid shall be sent with a copy of the rules aforesaid to the appropriate registrar who, upon the registration of the society under this Act, shall give to it, in addition to an acknowledgement of registration under section 2(3) of this Act, a certificate similarly sealed or signed that the rules of the society referred to in the resolution have been registered.

(4) A copy of any such resolution as aforesaid under the seal of the company together with the certificate issued as aforesaid by the appropriate registrar shall be sent for registration to the office of the registrar of companies within the meaning of the Companies Act, 1948 and, upon his registering that resolution and certificate, the conversion shall take effect.

(5) The name under which any company is registered under this section as a registered society shall not include the word “company”.

(6) Subject to the next following subsection, upon the conversion of a company into a registered society under this section, the registration of the company under the Companies Acts shall become void and shall be cancelled by the registrar of companies aforesaid.

(7) The registration of a company as a registered society shall not affect any right or claim for the time being subsisting against the company or any penalty for the time being incurred by the company; and –

- (a) for the purpose of enforcing any such right, penalty or claim the company may be sued and proceeded against in the same manner as if it had not been registered as a society;
- (b) any such right or claim and the liability to any such penalty shall have priority as against the property of the registered society over all other rights or claims against or liabilities of the society.

#### SAVING FOR RIGHTS OF CREDITORS

**54.** An amalgamation or transfer of engagements in pursuance of section 50, 51 or 52 of this Act shall not prejudice any right of a creditor of any registered society which is a party thereto.

#### *Dissolution of society*

#### DISSOLUTION OF REGISTERED SOCIETY

**55.** Subject to section 59 of this Act, a registered society may be dissolved –

- (a) on its being wound up in pursuance of an order or resolution made as is directed in regard to companies by the Companies Act, 1948, the provisions whereof shall apply to that order or resolution as if the society were a company, but subject to the following modifications, that is to say –

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- (i) any reference in those provisions to the registrar within the meaning of that Act shall for the purposes of the society's winding up be construed as a reference to the appropriate registrar within the meaning of this Act ; and
- (ii) if the society is wound up in Scotland, the court having jurisdiction shall be the sheriff court within whose jurisdiction the society's registered office is situated ; or
- (b) in accordance with section 58 of this Act, by an instrument of dissolution to which not less than three-fourths of the members of the society have given their consent testified by their signatures to the instrument.

**POWER OF REGISTRAR TO PETITION FOR WINDING UP**

**56.** In the case of a society to which section 4 of this Act applies which was registered or deemed to be registered under the Act of 1893 before 26th July, 1938, a petition for the winding up of the society may be presented to the court by the appropriate registrar if it appears to that registrar –

- (a) that neither of the conditions specified in section 1(2) of this Act is fulfilled in the case of that society ; and
- (b) that it would be in the interests of persons who have invested or deposited money with the society or of any other person that the society should be wound up.

**LIABILITY OF MEMBERS IN WINDING UP**

**57.** Where a registered society is wound up by virtue of section 55(a) of this Act, the liability of a present or past member of the society to contribute for payment of the debts and liabilities of the society, the expenses of winding up, and the adjustment of the rights of contributories amongst themselves, shall be qualified as follows, that is to say –

- (a) no person who ceased to be a member not less than one year before the beginning of the winding up shall be liable to contribute ;
- (b) no person shall be liable to contribute in respect of any debt or liability contracted after he ceased to be a member ;
- (c) no person who is not a member shall be liable to contribute unless it appears to the court that the contributions of the existing members are insufficient to satisfy the just demands on the society ;
- (d) no contribution shall be required from any person exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a past or present member ;
- (e) in the case of a withdrawable share which has been withdrawn, a person shall be taken to have ceased to be a member in respect of that share as from the date of the notice or application for withdrawal.

**INSTRUMENT OF DISSOLUTION**



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**58.-(1)** The following provisions of this section shall have effect where a society is to be dissolved by an instrument of dissolution under section 55(b) of this Act.

(2) The instrument of dissolution shall set forth –

- (a) the liabilities and assets of the society in detail ;
- (b) the number of the members and the nature of their respective interests in the society ;
- (c) the claims of creditors, if any, and the provision to be made for their payment ; and
- (d) unless stated in the instrument of dissolution to be left to the award of the chief registrar, the intended appropriation or division of the funds and property of the society.

(3) Alterations in the instrument of dissolution may be made by the consent of not less than three-fourths of the members of the society testified by their signatures to the alteration.

(4) The instrument of dissolution shall be sent to the appropriate registrar accompanied by a statutory declaration made by three members and the secretary of the society that all relevant provisions of this Act have been complied with ; and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of a misdemeanour or, in Scotland, an offence.

(5) The instrument of dissolution and any alterations thereto shall be registered in like manner as an amendment of the rules of the society and shall be binding upon all the members of the society, but shall not be so registered until the appropriate registrar has received such a final return from the society as is referred to in section 39(4) of this Act.

(6) The appropriate registrar shall cause notice of the dissolution to be advertised at the expense of the society in the Gazette and in some newspaper circulating in or about the locality in which the society's registered office is situated ; and unless –

- (a) within three months from the date of the Gazette in which that advertisement appears a member or other person interested in or having any claim on the funds of the society commences in the county court, or in Scotland before the sheriff, having jurisdiction in that locality proceedings to set aside the dissolution of the society ; and
- (b) that dissolution is set aside accordingly,

then, subject to subsection (7) of this section, the society shall be legally dissolved from the date of the advertisement and the requisite consents to the instrument of dissolution shall be deemed to have been duly obtained without proof of the signatures thereto.

(7) If the certificate referred to in section 59 of this Act has not been lodged with the appropriate registrar by the date of the advertisement referred to in subsection (6) of this section, the society shall be legally dissolved only from the date when that certificate is so lodged.

(8) Notice of any proceedings to set aside the dissolution of a society shall be sent to the appropriate registrar by the person taking those proceedings not later than seven days after

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they are commenced or not later than the expiration of the period of three months referred to in subsection (6) of this section, whichever is the earlier ; and notice of any order setting the dissolution aside shall be sent by the society to the appropriate registrar within seven days after the making of the order.

(9) In the application of this section to a society which for the time being consists solely of two registered societies, the reference in subsection (4) thereof to three members shall be construed as a reference to both members.

*Special restriction on dissolution, etc*

RESTRICTION ON DISSOLUTION OR CANCELLATION OF REGISTRATION OF SOCIETY

**59.** Where a registered society is to be dissolved in accordance with section 55 of this Act, or where a registered society's engagements are transferred under section 51 or 52 of this Act, the society shall not be dissolved, and the registration of the society shall not be cancelled, until there has been lodged with the appropriate registrar a certificate signed by the liquidator or by the secretary or some other officer of the society approved by that registrar that all property vested in the society has been duly conveyed or transferred by the society to the persons entitled.

*Disputes, offences and legal proceedings*

DECISION OF DISPUTES

**60.-(1)** Subject to subsections (2), (4) and (5) of this section, every dispute between a registered society or an officer thereof and –

- (a) a member of the society ; or
- (b) any person aggrieved who has ceased to be a member of the society not more than six months previously ; or
- (c) any person claiming through a member of the society or any such person aggrieved ; or
- (d) any person claiming under the rules of the society,

shall, if the society's rules give directions as to the manner in which such disputes are to be decided, be decided in that manner.

(2) Unless the rules of the society expressly forbid it, the parties to a dispute in a registered society may by consent refer the dispute to the chief registrar or to the assistant registrar for Scotland who shall either by himself or by some other registrar hear and determine the dispute.

(3) A decision made under subsection (1) or (2) of this section on any dispute shall be binding and conclusive on all parties without appeal; and –

- (a) the decision shall not be removable into any court of law or restrainable by injunction ; and

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(b) application for the enforcement of the decision may be made to the county court.

(4) Subject to subsection (5) of this section, any dispute directed by the rules of a registered society to be referred to justices shall be determined by a magistrates' court.

(5) Where, whether by virtue of subsection (4) of this section or otherwise, a dispute is cognisable under the rules of a registered society by a magistrates' court, the parties to the dispute may by agreement refer the dispute to the county court, who may hear and determine it.

(6) Where the rules of a registered society contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, any person such as is mentioned in subsection (1)(a) to (d) of this section who is a party to the dispute may apply either to the county court or to a magistrates' court, who may hear and determine the matter in dispute.

(7) In the application of the foregoing provisions of this section to Scotland –

(a) in subsection (3), paragraph (a) shall be omitted and in paragraph (b) for the words “county court” there shall be substituted the word “sheriff” ;

(b) subsections (4) to (6) shall not apply, but in Scotland –

(i) any dispute directed by the rules of a registered society to be referred to justices, a justice of the peace court, or a court of summary jurisdiction, shall be determined by the sheriff ;

(ii) where the rules of a registered society contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, any person such as is mentioned in subsection (1)(a) to (d) of this section who is a party to the dispute may apply to the sheriff, who may hear and determine the matter in dispute.

(8) For the purposes of the hearing or determination of a dispute under this section –

(a) without prejudice to any powers exercisable in England or Wales by virtue of the Arbitration Act, 1950, a registrar may administer oaths and require the attendance of all parties concerned and of witnesses and the production of all books and documents relating to the matter in question, and shall have power to order the expenses of determining the dispute to be paid either out of the funds of the society or by such parties to the dispute as he shall think fit ; and any person refusing to attend, or to produce any documents, or to give evidence, before the registrar shall be liable on summary conviction to a fine not exceeding five pounds ;

(b) in England and Wales, a magistrates' court may grant to either party such discovery as to documents and otherwise, or such inspection of documents, being, in the case of discovery to be made on behalf of the society, discovery by such officer of the society as the court may determine, as might have been granted by virtue of section 12 of the said Act of 1950 by a registrar to whom the dispute had been referred ;

(c) in Scotland, a registrar may grant such warrant for the recovery of documents and examinations of havers as might be granted by the sheriff.

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(9) Section 21 of the Arbitration Act, 1950 shall not apply to any dispute referred under subsections (2) to (7) of this section and, notwithstanding anything in any other Act, the court or registrar to whom any dispute is so referred shall not be compelled to state a case on any question of law arising in the dispute but may at the request of either party state such a case for the opinion of the High Court or, as the case may be, the Court of Session.

#### GENERAL OFFENCES BY SOCIETIES, ETC

**61.** If any registered society, or any officer or member thereof, or any other person

- (a) fails to give any notice, send any return or other document, do anything or allow anything to be done which that society, officer, member or other person is by this Act required to give, send, do or allow to be done, as the case may be ; or
- (b) wilfully neglects or refuses to do any act, or to furnish any information, required for the purposes of this Act by the chief registrar or any assistant registrar or by any other person authorised under this Act, or does anything forbidden by this Act ; or
- (c) makes a return required by this Act, or wilfully furnishes information so required, which is in any respect false or insufficient,

that society, officer, member or other person, as the case may be, shall be liable on summary conviction to a fine not exceeding five pounds.

#### OFFENCES BY SOCIETIES TO BE ALSO OFFENCES BY OFFICERS, ETC

**62.** Every offence committed by a registered society under this Act shall be deemed to have been also committed by every officer of that society bound by the society's rules to fulfil the duty of which that offence is a breach or, if there is no such officer, by every member of the society's committee who is not proved to have been ignorant of, or to have attempted to prevent, the commission of that offence.

#### CONTINUING OFFENCES

**63.** Every act or default under this Act constituting an offence shall constitute a new offence in every week during which it continues.

#### PUNISHMENT OF FRAUD OR MISAPPROPRIATION

**64.-(1)** Subject to subsection (2) of this section, any person who obtains possession by false representation or imposition of any property of a registered society, or having any such property in his possession withholds or misapplies it or wilfully applies any part of it to purposes which are not authorised by the rules of the society or which are not in accordance with this Act, shall be liable on summary conviction to a fine not exceeding twenty pounds with costs or expenses and to be ordered to deliver up that property or to repay all moneys improperly applied and, in default of such delivery or repayment or of the payment of any such fine, to be imprisoned for a term not exceeding three months ; but nothing in this subsection shall prevent any such person from being proceeded against by way of indictment for any offence if he has not previously been convicted in respect of the same matters under this subsection.

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1965*

(2) If on proceedings under the foregoing subsection it is not proved that the person charged acted with any fraudulent intent, he may be ordered to deliver up any property belonging to the society or to repay any money improperly applied, with costs or expenses, but shall not be liable to conviction under that subsection.

#### PENALTY FOR FALSIFICATION

**65.** If any person, with intent to falsify it or to evade any of the provisions of this Act, wilfully makes, or orders or allows to be made, any entry or erasure in, or omission from, any balance sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced or delivered for the purposes of this Act, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

#### INSTITUTION OF PROCEEDINGS

**66.-(1)** Proceedings for the recovery of a fine which under this Act is recoverable on the summary conviction of the offender may be instituted by, and in England and Wales only by, the following persons, that is to say –

- (a) in the case of proceedings by virtue of section 64(1) of this Act –
  - (i) the registered society concerned ; or
  - (ii) any member of that society authorised by the society or its committee or by the central office ; or
  - (iii) the chief registrar or, with the authority of the chief registrar, an assistant registrar ;
- (b) in the case of proceedings by virtue of section 13(3) of this Act, the registered society concerned ;
- (c) in any other case, the chief registrar, any assistant registrar or any person aggrieved.

(2) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act, any proceedings such as are mentioned in subsection (1) of this section which are instituted by a registrar or procurator-fiscal may be brought at any time within one year of the first discovery of the offence by the appropriate registrar, but not in any case more than three years after the commission of the offence.

#### RECOVERY OF COSTS, ETC

**67.-(1)** Any costs or expenses ordered or directed by the chief registrar or any other registrar to be paid by any person under this Act shall be recoverable summarily as a civil debt.

(2) In the application of the foregoing subsection to Scotland, the word “summarily” shall be omitted.

#### SERVICE OF PROCESS

*Jersey Order in Council 7/1966 Industrial and Provident Societies (Channel Islands) Order, 1965*

**68.** Where proceedings are taken against a registered society for the recovery of any fine under this Act, the summons or other process shall be sufficiently served by leaving a true copy thereof at the registered office of the society or, if that office is closed, by posting that copy on the outer door of that office.

*Miscellaneous and general*

REMUNERATION OF COUNTY COURT REGISTRARS

**69.** Registrars of county courts shall be remunerated for any duties to be performed by them under this Act in such manner as the Treasury may with the consent of the Lord Chancellor from time to time direct.

FEES

**70.-(1)** The Treasury may determine a scale of fees to be paid for matters to be transacted or for the inspection of documents under this Act.

(2) All fees received by any registrar under or by virtue of this Act shall be paid into the Exchequer.

REGULATIONS

**71.-(1)** The Treasury may make regulations respecting registration and procedure under this Act, the forms to be used for such registration, and the duties and other functions of, and the inspection of documents kept by, the appropriate registrar under this Act, and generally for carrying this Act into effect.

(2) Any such regulations may impose reasonable fines on persons who contravene or fail to comply with any of those regulations ; and any such fine shall be recoverable on the summary conviction of the offender.

(3) Any regulations made under this section shall be made by statutory instrument and shall be laid before Parliament after they are made.

FORM, DEPOSIT AND EVIDENCE OF DOCUMENTS

**72.-(1)** Subject to any regulations under section 71 of this Act, every return and other document required for the purposes of this Act shall be made in such form and shall contain such particulars, and shall be deposited and registered or recorded, with or without observations thereon, in such manner, as the chief registrar may direct.

(2) Every document bearing the seal or stamp of the central office, including in particular any document purporting to be a copy or extract of a registered society's rules or of any other instrument or document whatsoever, shall be received in evidence without further proof ; and every document purporting to be signed by the chief registrar or any assistant registrar or by any inspector or approved auditor under this Act shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

REGISTRARS, CENTRAL OFFICE, ETC

**73.-(1)** In this Act –

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- (a) the expressions “chief registrar” and “assistant registrar” mean respectively the chief registrar of friendly societies appointed under the Friendly Societies Act, 1896 and an assistant registrar of friendly societies so appointed ;
- (b) the expression “central office” means the central office established under the said Act of 1896 ;
- (c) the expression “appropriate registrar” in relation to any society registered, to be registered or deemed to be registered, under this Act means –
  - (i) if the society’s registered office is for the time being, or, as the case may be, is to be, in England, Wales or the Channel Islands, the central office ;
  - (ii) if the society’s registered office is for the time being, or, as the case may be, is to be, in Scotland, the assistant registrar for Scotland ;

and, except where the context otherwise requires, any reference in this Act to a registrar shall be construed as including the chief and any assistant registrar.

(2) Sections 3, 4(2) and (3), and 6 of the said Act of 1896 (which relate to the duties of the chief and assistant registrars under that Act) shall apply for the purposes of this Act as they apply for the purposes of that Act.

#### INTERPRETATION—GENERAL

**74.** In this Act, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say –

“Act of 1893”, means the Industrial and Provident Societies Act, 1893 ;

“amendment”, in relation to the rules of a registered society, includes a new rule, and a resolution rescinding a rule, of the society ;

“committee”, in relation to a society, means the committee of management or other directing body of the society ;

“Companies Acts” includes the Companies Act, 1948, any earlier enactment for the like purposes which has been repealed, and any law for the like purposes which is or has been in force in Northern Ireland or any of the Channel Islands ;

“Gazette”, in relation to a registered society, means such one or more of the following as may be appropriate in the circumstances of the case, that is to say –

- (a) the London Gazette if the society’s registered office is situated, or its rules are recorded, in England, Wales or the Channel Islands ;
- (b) the Edinburgh Gazette if the society’s registered office is situated, or its rules are recorded, in Scotland ;
- (c) the Belfast Gazette if the society’s rules are recorded in Northern Ireland ;

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“heritable security” has the same meaning as in the Conveyancing (Scotland) Act, 1924 except that it includes a security constituted by *ex facie* absolute disposition or assignation ;

“land” includes hereditaments and chattels real, and in Scotland, heritable subjects of whatever description ;

“meeting”, in relation to a society, includes, where the rules of that society so allow, a meeting of delegates appointed by members ;

“officer”, in relation to a registered society, includes any treasurer, secretary, member of the committee, manager or servant of the society other than a servant appointed by the society’s committee, but does not include an approved auditor to whom the society’s accounts are submitted for audit ;

“persons claiming through a member”, in relation to a registered society, includes the heirs, executors or administrators and assignees of a member and, where nomination is allowed, his nominee ;

“prescribed” means prescribed by regulations under section 71 of this Act ;

“property” includes all real, personal or heritable and movable estate, including books and papers ;

“registered” in relation to the name or an office of a society means for the time being registered under this Act ;

“registered rules”, in relation to a registered society, means the rules of the society registered or deemed to be registered under this Act as for the time being in force after any amendment thereof so registered ;

“registered society” means, subject to section 76 of this Act, a society registered or deemed to be registered under this Act.

#### CHANNEL ISLANDS

**75.-(1)** Subject to any express provision of this Act with respect to the Channel Islands, this Act in its application to those Islands shall have effect subject to such adaptations and modifications as Her Majesty may by Order in Council specify.<sup>2</sup>

(2) Any Order in Council under the foregoing subsection may be varied or revoked by a subsequent Order in Council so made.

#### NORTHERN IRELAND SOCIETIES

**76.-(1)** Where, in the case of any society for the time being registered under the law for the time being in force in Northern Ireland for purposes corresponding to those of this Act, copies of that society’s rules so registered have been sent to the central office or to the assistant registrar for Scotland to be recorded by that office or registrar and have been so recorded, then, for the purposes of the operation of this Act in the area for which that office or registrar is the appropriate registrar, references to a registered society in such, but such only, of the provisions

<sup>2</sup>

See page 47.



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of this Act as are specified in subsection (2) of this section shall, subject to subsection (3) of this section include a reference to that society, and for the purposes of those provisions that society, those rules and any amendment of those rules registered and recorded as aforesaid shall in that area be deemed to be a society, rules or an amendment duly registered under this Act by the appropriate registrar for that area.

(2) The provisions of this Act, referred to in the foregoing subsection are sections 2(2), 3, 5(4), (6) and (7), 6(1)(a), 7(1)(b), (2), (3) and (6), 10(1)(a), 13(3), 14, 15, 16(1)(a)(i), 19(2), 22, 26 to 30, 31(b), 32 to 36, 41, 42, 44(5), 45(1), 50, 51, 52(5), 54, 60 to 62, 64 to 66 and 72.

(3) Nothing in this section shall confer any power or impose any obligation or liability with respect to the taking or refraining from taking of, or a failure to take, any action outside Great Britain and the Channel Islands ; and in the application of section 45(1) of this Act by virtue of this section the reference therein to this Act shall be construed as a reference to the law for the time being in force in Northern Ireland for purposes corresponding to those of this Act.

(4) In relation to any society for the time being registered as mentioned in subsection (1) of this section, Article 22 of the Government of Ireland (Companies, Societies, &c.) Order, 1922 shall have effect as if the words from “a society registered in Northern Ireland” to “United Kingdom, and” and the words “both in their application to the United Kingdom exclusive of Northern Ireland and” were omitted.

#### REPEALS AND SAVINGS

**77.-(1)** The enactments specified in Schedule 5 to this Act are hereby repealed to the extent respectively specified in the third column of that Schedule.

(2) Without prejudice to section 4 of this Act, any regulations, application or notice made or given and any other thing whatsoever done under or in pursuance of any of the enactments repealed by this Act shall be deemed for the purposes of this Act to have been made, given or done, as the case may be, under or in pursuance of the corresponding provision of this Act ; and anything begun under any of the said enactments may be continued under this Act as if begun under this Act.

(3) So much of any document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the context permits, be construed as referring to this Act or the corresponding enactment therein.

(4) Nothing in section 4 of this Act or in this section shall be taken as affecting the general application of section 38 of the Interpretation Act, 1889 with regard to the effect of repeals.

#### SHORT TITLE, EXTENT AND COMMENCEMENT

**78.-(1)** This Act may be cited as the Industrial and Provident Societies Act, 1965.

(2) This Act extends to the Channel Islands but does not extend to Northern Ireland.

(3) This Act shall come into operation on such day as Her Majesty may by Order in Council appoint.

*SCHEDULES*

*SCHEDULE 1*

**SECTION 1**

**MATTERS TO BE PROVIDED FOR IN SOCIETY'S RULES**

1. The name of the society, which shall comply with the requirements of section 5 of this Act.
2. The objects of the society.
3. The place which is to be the registered office of the society to which all communications and notices to the society may be addressed.
4. The terms of admission of the members, including any society or company investing funds in the society under the provisions of this Act.
5. The mode of holding meetings, the scale and right of voting, and the mode of making, altering or rescinding rules.
6. The appointment and removal of a committee, by whatever name, and of managers or other officers and their respective powers and remuneration.
7. Determination in accordance with section 6 of this Act of the maximum amount of the interest in the shares of the society which may be held by any member otherwise than by virtue of section 6(1)(a) , (b) or (c) of this Act.
8. Determination whether the society may contract loans or receive moneys on deposit subject to the provisions of this Act from members or others; and, if so, under what conditions, under what security, and to what limits of amount.
9. Determination whether the shares or any of them shall be transferable, and provision for the form of transfer and registration of the shares, and for the consent of the committee thereto; determination whether the shares or any of them shall be withdrawable, and provision for the mode of withdrawal and for payment of the balance due thereon on withdrawing from the society.
10. Provision for the audit of accounts by one or more approved auditors.
11. Determination whether and, if so, how members may withdraw from the society, and provision for the claims of the representatives of deceased members, or the trustees of the property of bankrupt members or, in Scotland, members whose estate has been sequestrated, and for the payment of nominees.
12. The mode of application of profits of the society.
13. Provision for the custody and use of the society's seal.

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14. Determination whether and, if so, by what authority, and in what manner, any part of the society's funds may be invested.

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1965*

**SCHEDULE 2**

**SECTION 7**

**FORM OF STATEMENT BY SOCIETY CARRYING ON BANKING**

1. Capital of the society: -
  - (a) nominal amount of each share ;
  - (b) number of shares issued ;
  - (c) amount paid up on shares.
2. Liabilities of the society on 1st January or 1st July last previous: -
  - (a) on judgments ;
  - (b) on specialty ;
  - (c) on notes or bills ;
  - (d) on simple contract ;
  - (e) on estimated liabilities.
3. Assets of the society on the same date: -
  - (a) government securities (stating them) ;
  - (b) bills of exchange and promissory notes ;
  - (c) cash at the bankers ;
  - (d) other securities.

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**SCHEDULE 3**

**SECTIONS 33, 34, 35**

**FORM OF RECEIPT ON MORTGAGE, HERITABLE SECURITY, ETC**

**PART I**

*Forms applicable in England and Wales.*

**FORM A**

The \_\_\_\_\_ Limited hereby acknowledges to have received all moneys intended to be secured by the [within (or above) written] [annexed] deed [and by a further charge dated, etc., *or otherwise as required* ].

Dated this \_\_\_\_\_ day of \_\_\_\_\_

} *Members of the Committee.*

*Secretary.*

**FORM B.**

The \_\_\_\_\_ Limited hereby acknowledges that it has this \_\_\_\_\_ day of \_\_\_\_\_ received the sum of \_\_\_\_\_ pounds representing all moneys intended to be secured by the [within (or above) written] [annexed] deed [and by a further charge dated, etc. *or otherwise as required* ], the payment having been made by C.D. \_\_\_\_\_ of and E.F. \_\_\_\_\_ of \_\_\_\_\_

..... } *Members of the Committee.*

.....*Secretary*

NOTE. If the persons paying are not entitled to the equity of redemption but are paying the money out of a fund applicable to the discharge of the mortgage or other assurance, insert a statement to that effect.

A statement may also be inserted as to whether the receipt is or is not to operate as a transfer of the benefit of the mortgage or other assurance.

**PART II**

*Forms Applicable in Scotland*

**FORM C**

The \_\_\_\_\_ Limited acknowledges that (i) the fore-going disposition granted by A (with consent) in favour of \_\_\_\_\_

*Jersey Order in Council 7/1966 Industrial and Provident Societies (Channel Islands) Order, 1965*

the said society dated                      and recorded in the Division of the General Register of Sasines for                      on                      was granted in security only of a loan of pounds made by the said society to the said                      ,                      and (2) the said society have received repayment of all moneys secured by the said disposition.

Signed at                      on the                      day of

..... } *Members of the Committee.*

*Secretary.*

FORM D.

The                      Limited acknowledges to have received repayment of all moneys secured by the foregoing bond and disposition in security [bond and assignation in security] [bond and such other deed of heritable security as may have been agreed] granted by A in the said society's favour dated                      and recorded in the Division of the General Register of Sasines for                      on                     

Signed at                      this                      day of

..... } *Members of the Committee.*

*Secretary.*

FORM E

The                      Limited hereby acknowledges to have received repayment of all moneys secured by the foregoing [describe deed ] by A in the said society's favour.

Signed at                      on the                      day of

..... } *Members of the Committee.*

*Secretary.*

**SCHEDULE 4**

**SECTION 41**

**FORMS OF BOND FOR OFFICERS OF SOCIETY.**

**PART I**

*Forms applicable in England, Wales and the Channel Islands.*

**FORM A**

Know all men by these presents, that we, *A.B.*, of  
one of the officers the \_\_\_\_\_ Limited, hereinafter  
referred to as “ the Society,” whose registered office is at  
in the county of \_\_\_\_\_ and *C.D.*, of  
(as surety on behalf of the said *A.B.*), are jointly and severally held  
and firmly bound to the said society in the sum of  
, to be paid to the said society, or its certain attorney, for which  
payment well and truly to be made we jointly and severally bind  
ourselves, and each of us by himself, our and each of our heirs,  
executors, and administrators, firmly by these presents. Sealed with  
our seals. Dated the \_\_\_\_\_ day of \_\_\_\_\_.

Whereas the above-bounden *A.B.* has been duly appointed to the  
office of \_\_\_\_\_ of the \_\_\_\_\_ Society, and he, together  
with the above-bounden *C.D.* as his surety, have entered into the  
above-written bond, subject to the condition hereinafter contained :  
Now therefore the condition of the above-written bond is such, that if  
the said *A.B.* do render a just and true account of all moneys received  
and paid by him on account of the society, at such times as the rules  
thereof appoint, and do pay over all the moneys remaining in his  
hands, and assign and transfer or deliver all property (including  
books and papers) belonging to the society in his hands or custody to  
such person or persons as the society or the committee thereof  
appoint, according to the rules of the society, together with the proper  
and legal receipts or vouchers for such payments, then the above-  
written bond shall be void, but otherwise shall remain in full force.

Sealed and delivered in the presence of

**FORM B.**

Know all men by these presents that I  
of \_\_\_\_\_, in the county of \_\_\_\_\_, am firmly bound  
to \_\_\_\_\_ Limited, hereinafter referred to as “ the  
Society,” whose registered office is at \_\_\_\_\_, in the county  
of \_\_\_\_\_ in the sum of \_\_\_\_\_ pounds sterling to be  
paid to the said society or its assigns, for which payment to be  
truly made to the said society or its certain attorney or assigns I  
bind myself, my heirs, executors, and administrators, by these

presents sealed with my seal.

[And know further that I [we]  
as surety [sureties] for the above-named principal obligor and  
such obligor are jointly and severally bound to the society in the  
sum aforesaid to be paid to the society or its assigns, for which  
payment to be truly made to the society or its certain attorney or  
assigns we firmly bind ourselves and each of us and each of our  
heirs, executors, and administrators, by these presents sealed  
with our seals.]

Dated \_\_\_\_\_ the day of \_\_\_\_\_

The condition of the above-contained bond is that if the said faithfully execute the office of \_\_\_\_\_ to the society during such time as he continues to hold the same in virtue either of his present appointment, or of any renewal thereof if such office is of a renewable character [without wasting, embezzling, losing, misspending, misapplying, or unlawfully making away with any of the moneys, goods, chattels, wares, merchandise or effects whatsoever of the said society at any time committed to his charge, custody, or keeping by reason or means of his said office], and render a true and full account of all moneys received or paid by him on its behalf as and when he is required by the committee of the society for the time being, and pay over all the moneys remaining in his hands from time to time, and assign, transfer, and deliver up all securities, books, papers, property, and effects whatsoever of or belonging to the society in his charge, custody, or keeping, to such person or persons as the said committee may appoint, according to the rules or regulations of the society for the time being, together with the proper or legal receipts or vouchers for such payments ; and in all other respects well and faithfully perform and fulfil the said office of \_\_\_\_\_ to the society according to the rules thereof, then the above-contained bond shall be void and of no effect ; but otherwise shall remain in full force.

Sealed and delivered by the above-named

[The words between brackets against which we have set out initials being first struck out\*] in the presence of us  
and

\* If no words are struck out in the bond or condition, strike out these words and let the witnesses set their initials in the margin.

*PART II*

*Form applicable in Scotland*

FORM C



*Jersey Order in Council 7/1966 Industrial and Provident Societies (Channel Islands) Order,  
1965*

I, *A.B.* , of \_\_\_\_\_ , hereby bind and oblige myself to the extent of £ \_\_\_\_\_ as cautioner for *C.D.* , a person employed by the \_\_\_\_\_ society, that he, the said *C.D.* , shall on demand faithfully and truly account for all moneys received and paid to him for behoof of the said society, and also assign and transfer or deliver all property (including books and papers) belonging to the said society in his hands or custody, and that to such person or persons as the said society or the committee thereof appoint, according to the rules of the said society.

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ .

*Signature of cautioner*

*E.F., witness.*

*G.H., witness.*

*Jersey Order in Council 7/1966 Industrial and Provident Societies (Channel Islands) Order,  
1965*

**SCHEDULE 5**

**SECTION 77**

**REPEALS**

Chapter	Short title	Extent of Repeal
56 & 57 Vict. c. 39.	The Industrial and Provident Societies Act, 1893.	The whole Act.
57 & 58 Vict. c. 8.	The Industrial and Provident Societies Act, 1894.	The whole Act.
58 & 59 Vict. c. 30.	The Industrial and Provident Societies (Amendment) Act, 1895.	The whole Act.
3 & 4 Geo. 5. c. 31.	The Industrial and Provident Societies (Amendment) Act, 1913.	The whole Act.
15 & 16 Geo. 5. c. 20.	The Law of Property Act, 1925.	In section 115(9), the words “industrial or provident”.
18 & 19 Geo. 5. c. 4.	The Industrial and Provident Societies (Amendment) Act, 1928.	The whole Act.
3 & 4 Geo. 6. c. 19.	The Societies (Miscellaneous Provisions) Act, 1940.	In section 8(1), the words from “or any” to “1928”.  In section 10(1), in the definition of “society”, the words from “any society registered” to “1928”.

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11 & 12 Geo. 6. c. 39	The Industrial Assurance and Friendly Societies Act, 1948	Section 18(3)(d) .  In section 19(5), the words from “or in any of the” to the end of paragraph(c) .  In section 20(1), the words from “and of” to “1893” and paragraph (c) .  In section 20(2), the words from “or under” to “1893”.  In section 21, the words from “and of” to “1893”.
14 Geo. 6. c. 34.	The Housing (Scotland) Act, 1950.	Section 79(2), from “and, notwithstand- ing” onwards.
15 & 16 Geo. 6. & 1 Eliz. 2. c. 17.	The Industrial and Provident Societies Act, 1952.	The whole Act.
2 & 3 Eliz. 2. c. 43.	The Industrial and Provident Societies (Amendment) Act, 1954.	The whole Act.
5 & 6 Eliz. 2. c. 56.	The Housing Act, 1957.	Section 119(4).
6 & 7 Eliz. 2. c. 45.	The Prevention of Fraud (Investments) Act, 1958.	Section 10.
7 & 8 Eliz. 2. c. 72.	The Mental Health Act, 1959.	So much of Schedule 5 as relates to the Industrial and Provident Societies Act, 1893.
9 & 10 Eliz. 2. c. 28.	The Industrial and Provident Societies Act, 1961.	The whole Act.