



FRIENDLY SOCIETIES (SOUTH AUSTRALIA) ACT 1997

No. 36 of 1997

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A.D. 1997

No. 36 of 1997

An Act to make provision for a uniform legislative scheme for friendly societies; to repeal the Friendly Societies Act 1919; to make consequential amendments to the Financial Institutions (Application of Laws) Act 1992 and the South Australian Office of Financial Supervision Act 1992; and for other purposes.

[Assented to 26 June 1997]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Friendly Societies (South Australia) Act 1997*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. (1) In this Act—

"AFIC (South Australia) Code" and "AFIC (South Australia) Regulations" have the same meanings as in the *Financial Institutions (Application of Laws) Act 1992*;

"friendly societies legislation of South Australia" means—

- (a) this Act and the regulations under this Act; and
- (b) the *Friendly Societies (South Australia) Code*; and
- (c) the *Friendly Societies (South Australia) Regulations*; and
- (d) the *AFIC (South Australia) Code*, the *AFIC (South Australia) Regulations*, the *Financial Institutions (South Australia) Code* and the *Financial Institutions (South Australia) Regulations* as applying to the Code and regulations referred to in paragraphs (b) and (c);

"Friendly Societies (Victoria) Act" means the *Friendly Societies (Victoria) Act 1996* of Victoria;

"Friendly Societies (South Australia) Code" means the provisions applying because of section 5;

"Friendly Societies (South Australia) Regulations" means the provisions applying because of section 6;

"Ministerial Council" means the Ministerial Council established under the financial institutions agreement within the meaning of the *Financial Institutions (South Australia) Code*.

(2) Words and expressions used in the *Friendly Societies (South Australia) Code* and in this Act have the same respective meanings in this Act as they have in the Code.

(3) Subsection (2) does not apply to the extent that the context or subject matter otherwise indicates or requires.

References to Victorian Acts

4. In this Act, a reference to a Victorian Act includes a reference to—

- (a) that Victorian Act as amended and in force for the time being; and
- (b) an Act passed in substitution for that Act.

PART 2
FRIENDLY SOCIETIES (SOUTH AUSTRALIA) CODE AND
FRIENDLY SOCIETIES (SOUTH AUSTRALIA) REGULATIONS

Application in South Australia of Friendly Societies Code

5. The *Friendly Societies Code* set out in Schedule 1 of the *Friendly Societies (Victoria) Act* as in force for the time being—

- (a) applies as a law of South Australia; and
- (b) as so applying, may be referred to as the *Friendly Societies (South Australia) Code*.

Application of regulations

6. (1) The regulations in force for the time being under Part 4 of the *Friendly Societies (Victoria) Act*—

- (a) apply as regulations in force for the purposes of the *Friendly Societies (South Australia) Code*; and
- (b) as so applying, may be referred to as the *Friendly Societies (South Australia) Regulations*.

(2) Schedule A of the *Friendly Societies (South Australia) Code* applies in relation to any such regulation.

(3) To the extent to which a provision of any such regulation of a savings or transitional nature takes effect from a day earlier than the day of the regulation's notification in the Government Gazette of Victoria, the provision does not operate in this State to the disadvantage of a person (other than the State or a State authority) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

Interpretation of some expressions in Code and Regulations

7. (1) In the *Friendly Societies (South Australia) Code* and the *Friendly Societies (South Australia) Regulations*—

"Code" means the *Friendly Societies (South Australia) Code*;

"continuing society" means a society to which the previous law applied immediately before the commencement of section 16 of this Act;

"Corporations Law" and "Corporations Regulations" have the meaning provided for by Part 3 of the *Corporations (South Australia) Act 1990*;

"Legislature of this State" means the Legislature of South Australia;

"pharmacy law of this State" means the *Pharmacists Act 1991*;

"previous law" means the *Friendly Societies Act 1919* as in force immediately before the commencement of section 16;

"Supreme Court" means the Supreme Court of South Australia;

"this State" means South Australia.

(2) The *Corporations (South Australia) Act 1990* and the applicable provisions of South Australia within the meaning of that Act, are prescribed for the purposes of section 19(4) of the *Friendly Societies (South Australia) Code*.

PART 3
CONFERRAL OF FUNCTIONS AND POWERS

Conferral of functions and powers on Commission

8. The Australian Financial Institutions Commission (established by the *Australian Financial Institutions Commission Act 1992* of Queensland) has the functions and powers conferred or expressed to be conferred on it by or under the friendly societies legislation of South Australia.

Conferral of functions and powers on Tribunal

9. The Australian Financial Institutions Appeals Tribunal (established by the *Australian Financial Institutions Commission Act 1992* of Queensland) has the functions and powers conferred or expressed to be conferred on it by or under the friendly societies legislation of South Australia.

PART 4
LEVIES, FEES AND OTHER AMOUNTS

Supervision fund

10. This section imposes the fees prescribed by the *Friendly Societies (South Australia) Regulations* or by the *AFIC (South Australia) Regulations* in respect of matters referred to in the friendly societies legislation of South Australia.

Levies

11. (1) This section imposes—

- (a) the levy payable under sections 119 and 120 of the *AFIC (South Australia) Code* by a society; and
- (b) the supervision levy payable under section 51 of the *Friendly Societies (South Australia) Code* by a society.

(2) An expression has in subsection (1) the meaning it would have if this section were in the *AFIC (South Australia) Code* or the *Friendly Societies (South Australia) Code*, as the case requires.

Fees, fines and penalties

12. All fees, fines and penalties and other money that, under or by virtue of the friendly societies legislation of South Australia, are authorised or directed to be imposed on a person and are not, under that legislation, fees, levies or other amounts payable to a specified person must be paid to South Australia.

PART 5
GENERAL

State supervisory authority

13. The South Australian Office of Financial Supervision is the State supervisory authority for the purposes of the friendly societies legislation of South Australia.

Crown is bound

14. (1) This Act binds the Crown in right of the State and, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

(2) Nothing in this section permits the Crown in any of its capacities to be prosecuted for an offence.

General regulation making power

15. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may impose fines, not exceeding \$5 000, for offences against the regulations.

Special savings and transitional regulations for South Australia

16. (1) The Governor may make regulations of a savings or transitional nature consequent on the enactment of this Act or of an Act of Victoria amending the *Friendly Societies Code* set out in Schedule 1 of the *Friendly Societies (Victoria) Act*.

(2) If such a regulation so provides, it has effect despite any provision of this Act, including the *Friendly Societies (South Australia) Code*.

(3) A provision of a regulation made under this section may, if the regulation so provides, take effect from the day of assent to the Act concerned or from a later day.

(4) To the extent to which a provision takes effect from a day earlier than the day of the regulation's publication in the *Gazette*, the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

SCHEDULE*Repeal and Consequential Amendments***Repeal**

1. The *Friendly Societies Act 1919* is repealed.

Consequential Amendments—Financial Institutions (Application of Laws) Act 1992

2. The *Financial Institutions (Application of Laws) Act 1992* is amended—

- (a) by inserting after the definition of "Financial Institutions Code" in section 7(1) the following definition:

"Friendly Societies Code" means the Friendly Societies (South Australia) Code;;

- (b) by inserting after the definition of "Corporations Law" in section 10(1) the following definition:

"Friendly Societies Code" means the Friendly Societies (South Australia) Code;.

Consequential Amendments—South Australian Office of Financial Supervision Act 1992

3. The *South Australian Office of Financial Supervision Act 1992* is amended—

- (a) by inserting after the definition of "employee" in section 3 the following definitions:

"financial institutions legislation" has the same meaning as in the *Financial Institutions (Application of Laws) Act 1992* (see s. 8 of the *Australian Financial Institutions Commission (South Australia) Code*);

"friendly societies legislation of South Australia" has the same meaning as in the *Friendly Societies (South Australia) Act 1997*;

"friendly society" means—

- (a) a body registered under the *Friendly Societies (South Australia) Code*; or

- (b) a body registered as an association under Part 12 of the *Friendly Societies (South Australia) Code*;;

- (b) by repealing section 4 and substituting the following section:

Interpretation—words, etc., used in Codes

4. Unless the contrary intention appears, words and expressions used in—

- (a) the *Financial Institutions (South Australia) Code*;

- (b) the *Friendly Societies (South Australia) Code*,

have the same respective meanings in this Act.;

- (c) by inserting in section 6(a) "and the friendly societies legislation of South Australia" after "legislation";

- (d) by inserting in section 6(b) ", the friendly societies legislation of South Australia" after "legislation";

- (e) by inserting in section 7(2) "and the friendly societies legislation of South Australia" after "legislation";

- (f) by inserting in section 8 ", the friendly societies legislation of South Australia" after "legislation";

- (g) by inserting in section 15 "or friendly society" after "institution";
- (h) by inserting in section 21 (f) "or friendly society" after "institution";
- (i) by inserting in the definition of "Register" in section 33(1) "or friendly societies" after "institutions";
- (j) by inserting in the definition of "relevant particulars" in section 33(1) "or friendly society" after "institution", first occurring;
- (k) by inserting in paragraph (c) of the definition of "relevant particulars" in section 33(1) "or friendly society" after "institution";
- (l) by inserting in paragraph (d) of the definition of "relevant particulars" in section 33(1) "or friendly society" after "institution";
- (m) by inserting in paragraph (e) of the definition of "relevant particulars" in section 33(1) "or friendly society" after "institution";
- (n) by inserting in paragraph (f) of the definition of "relevant particulars" in section 33(1) "or friendly society" after "institution";
- (o) by inserting after paragraph (g) of the definition of "relevant particulars" in section 33(1) the following paragraph:
 - (ga) if the financial interest consists of membership of a friendly society—details of the membership and particulars of any interest in a benefit fund of the friendly society; and;;
- (p) by inserting after subsection (4) of section 33 the following subsection:
 - (4a) A person holds a financial interest in a friendly society if the person or an associate of the person—
 - (a) owns securities of a friendly society; or
 - (b) has money on deposit with a friendly society; or
 - (c) has a liability to a friendly society because of a loan or financial accommodation granted by the friendly society; or
 - (d) has an interest in a benefit fund of the friendly society; or
 - (e) is a member of a friendly society.;
- (q) by inserting in section 33(5) "and friendly societies" after "institutions";
- (r) by inserting after paragraph (c) of section 33(7) the following paragraphs:
 - (d) the relevant particulars of financial interests held by the officer in friendly societies on the relevant date; and
 - (e) if the officer held no financial interest in a friendly society on the relevant date—a statement to that effect.;
- (s) by inserting in section 33(8) "or friendly society" after "institution";

- (t) by striking out paragraphs (a) and (b) of section 33(9) and substituting the following paragraphs:
- (a) —
 - (i) the relevant particulars of financial interests held by the officer in financial institutions on the relevant half-yearly reporting date; or
 - (ii) if the officer held no financial interest in a financial institution on the relevant half-yearly reporting date—a statement to that effect; and
 - (b) —
 - (i) the relevant particulars of financial interests held by the officer in friendly societies on the relevant half-yearly reporting date; or
 - (ii) if the officer held no financial interest in a friendly society on the relevant half-yearly reporting date—a statement to that effect.;
- (u) by striking out from section 34(4) "or the financial institutions legislation" and substituting ", the financial institutions legislation or the friendly societies legislation of South Australia";
- (v) by striking out from section 34(4)(b) "or a financial institution" and substituting ", a financial institution or a friendly society";
- (w) by striking out from section 34(5) "or the financial institutions legislation" and substituting ", the financial institutions legislation or the friendly societies legislation of South Australia";
- (x) by striking out from section 34(5)(b) "or a financial institution" and substituting ", a financial institution or a friendly society";
- (y) by inserting in section 39(1) "or the friendly societies legislation of South Australia" after "legislation";
- (z) by striking out subsection (2) of section 39 and substituting the following subsection:
- (2) The powers under—
 - (a) section 95 (Supervision levy) of the *Financial Institutions (South Australia) Code*; and
 - (b) section 51 (Supervision levy) of the *Friendly Societies (South Australia) Code*,
may not be delegated.;
- (aa) by inserting in section 40 "or the friendly societies legislation of the other State" after "legislation";
- (ab) by inserting in section 42(1) "and the friendly societies legislation of South Australia" after "State".

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

E. J. NEAL Governor