

## South Australia



# FRIENDLY SOCIETIES (MISCELLANEOUS) AMENDMENT ACT 1995

No. 86 of 1995

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**ELIZABETHAE II REGINAE**

A.D. 1995

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No. 86 of 1995

An Act to amend the Friendly Societies Act 1919.

[Assented to 7 December 1995]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Friendly Societies (Miscellaneous) Amendment Act 1995*.
- (2) The *Friendly Societies Act 1919* is referred to in this Act as "the principal Act".

**Commencement**

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

**Amendment of s. 3—Interpretation**

3. Section 3 of the principal Act is amended—

- (a) by inserting after the definition of "actuary" the following definition:

"**building society**" means a building society that is a society for the purposes of the *Financial Institutions (South Australia) Code*;

- (b) by inserting after the definition of "child" the following definition:

"**foreign friendly society**" means a body that is registered or incorporated as a friendly society in another State or a Territory of the Commonwealth;;

- (c) by inserting after the definition of "officer" the following definition:

"**review**"—see section 30;.

**Amendment of s. 7—Objects for which funds may be maintained**

4. Section 7 of the principal Act is amended—

- (a) by inserting after subparagraph (f) of subsection (1)V the following subparagraphs:

- (g) chiropractic treatment;

- (h) if members or their relatives are unable to attend an educational facility due to sickness, injury or some other medical condition—tutoring;;
- (b) by striking out from subsection (1)VI(iii)(b) "pharmaceutical chemists registered under the *Pharmacy Act 1935-1952*" and substituting "pharmacists registered under the *Pharmacists Act 1991*";
- (c) by striking out from subsection (1)VI(iii)(c) "*Dentists Act 1931-1936*" and substituting "*Dentists Act 1984*";
- (d) by striking out from subsection (1)VI(iii)(d) "*Physiotherapists Act 1945-1955*" and substituting "*Physiotherapists Act 1991*";
- (e) by striking out from subsection (1)VI(iii)(f) "or opticians registered under the *Opticians Act 1920-1949*" and substituting ", optometrists or optical dispensers registered under the *Optometrists Act 1920*";
- (f) by inserting after subsubparagraph (f) of subsection (1)VI the following subsubparagraphs:
  - (g) chiropractors registered under the *Chiropractors Act 1991* towards the cost of treatment by them of members or their relatives;
  - (h) persons licensed under the *Ambulance Services Act 1992* to provide ambulance services towards the cost of providing such services to members or their relatives;
  - (i) tutors towards the cost of tutoring by them of members or their relatives who are unable to attend an educational facility due to sickness, injury or some other medical condition;;
- (g) by striking out from subsection (1)VII(iii)(b) "*Nurses Registration Act 1920-1954*" and substituting "*Nurses Act 1984*";
- (h) by striking out from subsection (1)VIII "members, their husbands, widowers, wives, widows, children or dependants, or the widowed mothers of deceased members" and substituting "persons";
- (i) by inserting after paragraph VIIIA the following paragraph:

VIIIB for providing persons with recreational or leisure facilities or services;;
- (j) by striking out from subsection (1)XII "*Pharmacy Act 1935-1952*" and substituting "*Pharmacists Act 1991*";
- (k) by striking out paragraph XIII of subsection (1) and substituting the following paragraph:

XIII for establishing a building society or for joining or co-operating with any other society to establish a building society.;
- (l) by striking out from subsection (1) "*Pharmacy Act 1935-1952*" and substituting "*Pharmacists Act 1991*";

(m) by striking out subsections (7) and (8) and substituting the following subsections:

(7) A society or branch must maintain separate funds in relation to the objects set out in subsection (1) so that each fund relates only to the object, or one or more of the objects, referred to in any one of paragraphs I to XIII of that subsection.

(8) However, the Minister may, on application by a society or branch, authorise the maintenance by the society or branch of one fund for the purposes of more than one of those objects with effect from a specified date (which may be a date prior to the date of the authorisation).

**Amendment of s. 10—Societies may make general laws or rules**

5. Section 10 of the principal Act is amended—

(a) by striking out subsections (3), (4) and (4a) and substituting the following subsections:

(3) Subject to this section, if a society makes general laws or rules (whether new laws or rules or laws or rules rescinding, altering or varying existing laws or rules), the society must provide a legal practitioner (within the meaning of the *Legal Practitioners Act 1981*), who must not be an officer of the society, with a copy of those laws or rules for certification of validity.

(4) The legal practitioner must not certify that the general laws or rules so made are valid unless of the opinion—

- (a) that they have been made in accordance with the constitution of the society; and
- (b) that they are not contrary to this Act or the general law of the State (including law of the Commonwealth).

(4a) The society must forward to the Minister two copies (signed by the secretary of the society) of the general laws or rules so made together with the certificate of validity of the legal practitioner.

(4ab) However, the Minister may waive the requirement for the provision of a certificate of validity if the general laws or rules so made are of an insignificant nature.

(4ac) The Minister must, after receiving—

- (a) the copies of the general laws or rules; and
- (b) the certificate of validity (if any); and
- (c) a statement in writing from the committee of management of the society (signed by the secretary of the society) that the laws or rules do not adversely affect the financial soundness of any fund of the society; and
- (d) any other information that the Minister may require,

register those laws or rules.;

- (b) by striking out from subsection (4b) ", and the alteration or variation thereof, as the case may be,";
- (c) by striking out from subsection (6) the third sentence and substituting "The society may then deposit with the Minister two copies of the reprint (signed by the secretary of the society), after which the Minister will be taken to have registered the reprint and subsection (4b) will be taken to apply to the reprint.";
- (d) by striking out from subsection (7) "or, as the case may be, to rescind, alter or vary such laws or rules";
- (e) by striking out from subsection (7) "or to rescind, alter or vary the laws or rules".

**Substitution of s. 11**

6. Section 11 of the principal Act is repealed and the following section is substituted:

**Funds to be deposited in bank until invested**

11. (1) The funds of each society must, until invested, be deposited in a bank (within the meaning of the *Banking Act 1959* of the Commonwealth or a bank constituted under a law of a State or of the Commonwealth).

(2) Such funds may only be withdrawn by cheques signed by two persons authorised to do so by the committee of management of the society.

**Amendment of s. 12—Mode of investment of funds**

7. Section 12 of the principal Act is amended by striking out subsections (4), (5) and (6).

**Amendment of s. 14—Trustees not to accept certain securities**

8. Section 14 of the principal Act is amended by striking out "shall be liable to a penalty of not less than two dollars nor more than twenty dollars" and substituting "is guilty of an offence".

**Amendment of s. 19—Trustees to be personally liable to see that security is given**

9. Section 19 of the principal Act is amended by striking out from subsection (2) "shall be liable to a penalty of not less than four dollars nor more than forty dollars" and substituting "is guilty of an offence".

**Repeal of s. 20**

10. Section 20 of the principal Act is repealed.

**Substitution of s. 22A**

11. Section 22A of the principal Act is repealed and the following section is substituted:

**Deferral of payments**

22A. (1) The Minister may, on application by the society, or at his or her own initiative, if of the opinion that payments of benefits to members of a society would be prejudicial to the financial stability of the society or the interests of members, direct the society to defer the payment of benefits for such period and on such conditions as the Minister thinks fit.

(2) A direction under subsection (1) continues in operation until it expires or is withdrawn by the Minister.

(3) The Minister may—

- (a) on application by the society; or
- (b) at his or her own initiative if the Minister thinks fit,

by further written direction given to the society—

- (c) extend the period for which a direction under subsection (1) is to operate; or
- (d) amend the terms of the direction; or
- (e) withdraw the direction.

(4) If a society fails to comply with a direction under this section, the society and any officer who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

**Substitution of s. 27**

12. Section 27 of the principal Act is repealed and the following section is substituted:

**Separation of funds and accounts**

27. (1) This section applies to each of a society's funds that is required under section 7 to be maintained as a separate fund.

(2) Subject to this Act, a society must keep separate accounts in the society's general ledger in respect of each of the society's funds.

(3) Subject to this Act, money belonging to one fund of a society must not be used in any manner for the advantage or otherwise of any other fund of the society.

(4) However, the Minister may, on the written application of a society, authorise by notice in writing—

- (a) the transfer of money from one fund to another fund of the society; or
- (b) the making of a rule by the society in general meeting to provide for the amalgamation of two or more funds of the society.

(5) The Minister may only give an authorisation under subsection (4) in respect of—

- (a) a transfer of money from a fund that assures sickness or death benefits; or
- (b) provision for an amalgamation of funds,

if the Minister is satisfied, after receiving the written report of an actuary, that such a transfer or amalgamation would not prejudice the rights of the members of the relevant funds.

(6) If the general laws or rules of a society provide that a specified proportion, or not more than a specified proportion—

- (a) of the contributions payable under those laws or rules for any benefit or to any fund; or
- (b) of a fund,

may be paid to the management fund, the society may transfer an amount in accordance with those laws or rules to the management fund without further authority than this subsection.

(7) If the Minister is satisfied that any money of a society has been appropriated, used, or transferred from a fund contrary to this section, the Minister may, by notice in writing, direct the society to restore the money to the relevant fund within the time specified in the notice.

(8) If a society contravenes this section, the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

(9) In this section, a reference to a society includes a reference to a branch of a society.

**Amendment of s. 27A—Appropriation and transfer of surplus funds**

13. Section 27A of the principal Act is amended—

- (a) by striking out from subsection (1) "Notwithstanding the provisions of section 27, a" and substituting "A";
- (b) by striking out from subsection (1) "quinquennial valuation" and substituting "review";
- (c) by striking out subsection (4).

**Amendment of s. 28—Audit of accounts**

14. Section 28 of the principal Act is amended—

- (a) by striking out from subsection (1) "half-year" and substituting "year";
- (b) by striking out from subsection (2)(a1) "half-yearly".

**Amendment of s. 29—Returns**

15. Section 29 of the principal Act is amended—

- (a) by striking out from subsection (1) "the first day of September in every year" and substituting "31 October in each year, or such later date as the Minister may allow,";
- (b) by striking out paragraphs (d), (d1) and (d2) of subsection (1);
- (c) by inserting in subsection (1)(e) "by notice in the *Gazette*" after "prescribes";
- (d) by inserting after subsection (2) the following subsection:



(3) A society must, if so required by the Minister by notice in writing, forward to the Minister within specified periods further returns (whether periodic or not) containing the information specified by the Minister.

**Substitution of s. 30**

16. Section 30 of the principal Act is repealed and the following section is substituted:

**Reviews**

**30. (1)** A society must, before 31 December in every second year after the commencement of this section, cause an actuary to carry out, and report in writing the results of, a review of the affairs of the society, including—

- (a) an investigation of the financial position of the society; and
- (b) a valuation of the assets and liabilities of the society.

(2) However, a society must, if the Minister so requires, cause an actuary to carry out, and report in writing the results of, a review of a kind referred to in subsection (1) within a period specified by the Minister (whether or not such a review is due under that subsection).

(3) An actuary must, in carrying out, and reporting the results of, a review of a society's affairs have regard to the following matters:

- (a) the benefits offered by the society;
- (b) the society's assets and investment policies;
- (c) the ratio of the society's assets to its liabilities;
- (d) the adequacy of the society's contribution rates;
- (e) the society's current and likely future revenues taking into account the effects of the society's marketing strategies;
- (f) the current and likely future expenses (including taxes) of the society;
- (g) the extent of the society's free reserves;
- (h) the society's re-insurance arrangements;
- (i) the adequacy and accuracy of data supplied by the society to the actuary;
- (j) whether any members have been exposed to financial risk and a full description of that risk;
- (k) whether, in the opinion of the actuary, there has been a contravention of or failure to comply with this Act or the society's laws or rules;
- (l) any other matter prescribed by regulation.

(4) The actuary must, in reporting the results of the review, indicate the extent to which the actuary, in carrying out the review, relied on information provided and work performed by others.

(5) The society must ensure that a copy of the actuary's report is forwarded to the Minister immediately on the society's receipt of the report and in any event, in the case of a review under subsection (1), before 31 December of the year in which the review was carried out.

(6) The Minister may, by notice in writing, exempt (conditionally or unconditionally) a society from compliance with this section.

(7) If a society contravenes this section, the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

(8) In this section, a reference to a society includes a reference to a branch of a society.

**Amendment of s. 30A—Minister's power to require submission of proposals**

17. Section 30A of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) If on the review and report, the Minister is of the opinion that the financial position of the society or a branch should be improved, the Minister may, by notice in writing, call on the society or branch to submit proposals for improving its financial position.;

(b) by striking out from subsection (3) "shall be liable to a penalty not exceeding twenty dollars" and substituting "is guilty of an offence".

**Amendment of s. 33—Certain documents to be exhibited**

18. Section 33 of the principal Act is amended by striking out "quinquennial valuation" and substituting "review".

**Substitution of s. 34**

19. Section 34 of the principal Act is repealed and the following section is substituted:

**Branches to be included in returns**

34. A society that has branches must include in any return or report required by this Act returns and reports in respect of each branch of the society.

**Amendment of s. 35—Branches to supply information to principal secretary**

20. Section 35 of the principal Act is amended by striking out "valuation of the assets and liabilities" and substituting "review".

**Amendment of s. 35A—Minister may require withdrawal of certain advertisements**

21. Section 35A of the principal Act is amended by striking out subsections (5) to (8) and substituting the following subsection:

(5) A person must comply with a requirement imposed by notice under subsection (1).

**Amendment of s. 37—Application by society of certain surplus assets**

22. Section 37 of the principal Act is amended by striking out "quinquennial valuation" and substituting "review".

**Amendment of s. 38—Returns to be prepared and published**

23. Section 38 of the principal Act is amended—

(a) by striking out from paragraph (a) "valuations" and substituting "reports on reviews";

(b) by striking out from paragraph (c) "valuation" and substituting "report on a review".

**Substitution of ss. 39 and 40**

24. Sections 39 and 40 of the principal Act are repealed and the following section is substituted:

**Production and inspection of accounts, etc. of society**

39. (1) A society must, at the request of the Minister or of any person authorised by the Minister, produce to the Minister or authorised person all books in the society's possession or power.

Maximum penalty: \$20 000.

(2) The Minister or authorised person may inspect and take extracts from or copies of those books.

(3) In this section—

"books" includes documents of any kind and any accounts or other records, however compiled, recorded or stored;

"society" includes a branch of a society.

**Amendment of s. 44A—Amalgamation**

25. Section 44A of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) Any two or more societies may, by resolution of both or all of the societies, amalgamate together as one society.;

(b) by striking out subsection (4) and substituting the following subsection:

(4) A society may amalgamate with a foreign friendly society as if the foreign friendly society were a society.

**Insertion of ss. 44AB and 44AC**

26. The following sections are inserted after section 44A of the principal Act:

**Minister may direct transfer of engagements**

**44AB.** (1) The Minister may, by notice in writing given to a society, direct it to transfer the whole of its engagements, or the engagements of a specified fund or funds of the society, to another society (which may be a foreign friendly society) if the committee of management of the other society has, by resolution, consented to the proposed transfer.

(2) The Minister must give a copy of the direction to the other society.

(3) The Minister must not direct a society to transfer its undertakings under this section unless the Minister is of the opinion that—

- (a) the society has been notified by the Minister of a contravention by it of this Act or the society's laws or rules and has failed to remedy the contravention within the time allowed by the Minister; or
- (b) the affairs of the society are being conducted in an improper or financially unsound way; or
- (c) that the transfer of engagements would be in the best interests of the members of the society.

(4) A society may, within seven days after receiving a direction under this section, make a submission to the Minister in relation to the direction.

(5) After considering the submission, the Minister must—

- (a) confirm the order for a transfer of engagements; or
- (b) revoke the order.

(6) An order of the Minister under this section—

- (a) takes effect seven days after being served on the society unless the society makes a submission under subsection (4); or
- (b) if the society makes such a submission and the order is confirmed by the Minister—takes effect when the Minister serves on the society written notice of confirmation of the order.

**Consequences of amalgamations and transfers of engagements**

**44AC.** (1) On an amalgamation under section 44A or a transfer of the whole of the engagements of a society under section 44AB—

- (a) the members of the divesting society become members of the acquiring society; and
- (b) the property of the divesting society becomes the property of the acquiring society; and
- (c) the rights and liabilities (whether certain or contingent) of the divesting society become rights and liabilities of the acquiring society.

(2) On a transfer of engagements of a specified fund under section 44AB—

- (a) the members of the divesting society's fund become members of the acquiring society; and
- (b) the fund becomes the property of the acquiring society; and
- (c) the rights and liabilities (whether certain or contingent) of the divesting society in relation to the fund become rights and liabilities of the acquiring society.

(3) The Registrar-General must—

- (a) on the application of a society in which an estate or interest in land has vested by virtue of this section; and
- (b) on production of such duplicate instruments of title and other documents as the Registrar-General may require,

register the vesting of that estate or interest in land in the society.

(4) A reference in a will or other instrument to a divesting society is, after the amalgamation or transfer of engagements (as the case may be), to be construed (subject to any provision in the will or other instrument to the contrary) as a reference to the acquiring society.

(5) If property vests by virtue of this section in a society, the vesting of the property, and any instrument evidencing or giving effect to that vesting, are exempt from stamp duty.

(6) In this section—

"acquiring society" means—

- (a) a society formed from an amalgamation under section 44A; or
- (b) a society to which engagements of another society have been transferred under section 44AB;

"divesting society" means—

- (a) each of the societies joining in an amalgamation under section 44A; or
- (b) a society the engagements of which have been transferred under section 44AB;

"society" includes a foreign friendly society.

**Insertion of s. 45AA**

27. The following section is inserted after section 45 of the principal Act:

**Application of Corporations Law in relation to dissolution of societies**

**45AA.** (1) Subject to the succeeding sections of this Act, Parts 5.4 to 5.8 of the *Corporations Law* apply, with such modifications, additions or exclusions as may be necessary for the purpose, or as may be prescribed, as if a society were a company and as if those Parts were incorporated into this Act.

(2) In applying Parts 5.4 to 5.8 of the *Corporations Law* to the dissolution of a society, a reference in those provisions—

- (a) to a special resolution—is a reference to a decision by members made in accordance with section 45A(1)II;
- (b) to the Commission or the Minister—is a reference to the Minister;
- (c) to the court or the Court—is a reference to the Supreme Court;
- (d) to a voluntary winding up—includes a reference to a dissolution of a society by order of the Minister.

(3) Subsection (2) applies in relation to a dissolution of a society by order of the Minister in the same way as it would if the society were being wound up voluntarily except that the liquidator is to be appointed by the Minister.

**Amendment of s. 45A—Dissolution of societies**

**28.** Section 45A of the principal Act is amended—

(a) by striking out paragraph III of subsection (1) and substituting the following paragraph:

III. by order of the Minister under section 45F.;

(b) by striking out from subsection (2)(d) "award" and substituting "order";

(c) by striking out subsection (6).

**Substitution of s. 45B**

**29.** Section 45B of the principal Act is repealed and the following section is substituted:

**Notice of dissolution**

**45B.** (1) A society must cause a notice of dissolution to be published in the *Gazette* and in a daily newspaper circulating generally throughout the State within 21 days after the instrument of dissolution has been sent to the Minister.

(2) Unless a member, or other person interested in or having any claim on the funds, of the society commences proceedings to set aside the dissolution of the society within three months from the date of the publication of the notice and the dissolution is set aside, the society will be taken to have been dissolved from the date of the publication of the notice.

**Repeal of s. 45D**

**30.** Section 45D of the principal Act is repealed.

**Amendment of s. 45E—Power to appeal to District Court**

**31.** Section 45E of the principal Act is amended—

(a) by striking out "local court of full jurisdiction nearest to the usual or principal place of business of the society" and substituting "District Court";

(b) by striking out the second sentence.

**Substitution of ss. 45F and 45G**

32. Sections 45F and 45G of the principal Act are repealed and the following section is substituted:

**Dissolution by order of Minister**

**45F.** (1) The Minister may—

- (a) order that a society be dissolved and its affairs wound up; and
- (b) appoint a person to be liquidator of the society,

if of the opinion that—

- (c) the society has contravened the Act, its laws or rules and, after being given written notice of the contravention by the Minister, has failed to remedy the contravention within the time allowed by the Minister; or
- (d) the affairs of the society are being conducted in an improper or financially unsound way; or
- (e) the society has failed to comply with a direction to transfer its engagements that has taken effect under section 44AB; or
- (f) it would be in the best interests of the members of the society.

(2) A dissolution by an order under this section takes effect on publication of the order in the *Gazette*.

(3) It is to be presumed, in the absence of proof to the contrary, that all conditions and preliminary steps precedent to the publication of an order under this section have been complied with.

(4) A liquidator appointed by an order under this section is entitled to receive fees, allowances and expenses fixed by the Minister.

**Amendment of s. 47—Jurisdiction of District Court in certain cases**

33. Section 47 of the principal Act is amended—

- (a) by striking out from subsection (1)(c) "a local court" and substituting "the District Court";
- (b) by striking out from subsection (1) "local court of full jurisdiction nearest to the usual or principal place of business of the society or branch" and substituting "District Court";
- (c) by striking out subsections (2) and (3) and substituting the following subsections:

(2) The District Court must, on the application of a person interested in the matter, hear the application and make such orders and directions in relation to the application as the Court thinks fit.

(3) The decision of the District Court on any such application is final.

**Repeal of ss. 48 and 49**

34. Sections 48 and 49 of the principal Act are repealed.

**Amendment of s. 50—Expelled members may be reinstated or compensated**

35. Section 50 of the principal Act is amended—

- (a) by striking out from subsection (1) "any local court" and substituting "the District Court";
- (b) by striking out from subsection (1) "local court" (twice occurring) and substituting, in each case, "the Court";
- (c) by striking out from subsection (2) "a local court" and substituting "the District Court".

**Substitution of ss. 51 to 54**

36. Sections 51 to 54 of the principal Act are repealed and the following sections are substituted:

**Duties of officers, etc.**

51. (1) An officer of a society must not, in the exercise of his or her powers or the discharge of the duties of his or her office, commit an act with intent to deceive or defraud the society, members or creditors of the society or creditors of any other person or for any fraudulent purpose.

Maximum penalty: \$20 000 or imprisonment for 4 years.

(2) An officer or employee of a society, or former officer or employee of a society, must not make improper use of information acquired by virtue of his or her position in the society so as to gain, directly or indirectly, a pecuniary benefit or material advantage for himself or herself or any other person, or so as to cause a detriment to the society.

Maximum penalty: \$20 000 or imprisonment for 4 years.

(3) An officer or employee of a society must not make improper use of his or her position as such an officer or employee so as to gain, directly or indirectly, any pecuniary benefit or material advantage for himself or herself or any other person, or so as to cause a detriment to the society.

Maximum penalty: \$20 000 or imprisonment for 4 years.

(4) An officer of a society must at all times act with reasonable care and diligence in the exercise of his or her powers and the discharge of the duties of his or her office.

Maximum penalty: \$20 000.



(5) A person who contravenes a provision of this section is liable to the society for any profit made by him or her and for any damage suffered by the society as a result of that contravention.

**General offences and penalties**

52. (1) If a person contravenes or fails to comply with a provision of this Act—

- (a) the person is guilty of an offence; and
- (b) if the person is a society—any officer of the society who is in default is also guilty of an offence.

(2) If a person is guilty of an offence for which no penalty is specifically provided, the person is liable to a fine not exceeding \$5 000.

(3) If a person is convicted of an offence against this Act and after that conviction the act or omission of the person that constituted the offence continues, the person is guilty of a further offence and liable to an additional penalty for each day on which the act or omission continues of an amount not exceeding one-tenth of the maximum penalty for the offence of which the person was convicted.

(4) For the purposes of subsection (3), an obligation to do something is to be regarded as continuing until the act is done despite the fact that any period within which, or time before which, the act is required to be done has expired or passed.

**Officers in default**

53. If a provision of this Act provides that an officer of a society who is in default is guilty of an offence, the reference to the officer who is in default is, in relation to a contravention or failure to comply with the provision, a reference to an officer of the society who is in any way, by act or omission, directly or indirectly, knowingly concerned in the contravention or failure.

**Delegation by Minister**

54. (1) The Minister may delegate any of the Minister's functions or powers under this Act.

(2) A delegation under this section—

- (a) must be in writing; and
- (b) may be conditional or unconditional; and
- (c) is revocable at will; and
- (d) does not prevent the delegator from acting in any matter.

**Substitution of ss. 56 to 59**

37. Sections 56 to 59 of the principal Act are repealed and the following section is substituted:

**Regulations**

56. (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—
- (a) prescribe the time and manner in which an act or thing required by this Act is to be done;
  - (b) prescribe the form and contents of any notice, account, return, statement, report or other document required by this Act to be prepared, served, rendered, declared or verified;
  - (c) prescribe the mode and time of preparing, publishing, serving, executing, rendering, declaring or verifying any such notices and documents;
  - (d) exempt (conditionally or unconditionally) classes of persons or activities from the application of this Act or specified provisions of this Act;
  - (e) make any provision in relation to the administration of a society by an administrator appointed under this Act, or the winding up of a society;
  - (f) fix fees to be paid in respect of any matter under this Act and provide for the recovery, refund, waiver or reduction of such fees;
  - (g) impose, and provide for the payment and recovery of, a levy in respect of each society of an amount to be determined by the Minister in respect of the society, and provide for the levy to be paid into a separate account to be used for the purposes of supervision of societies by the Minister;
  - (h) impose a penalty (not exceeding a fine of \$2 500) for contravention of, or non-compliance with, a regulation.
- (3) Regulations under this Act—
- (a) may be of general application or limited application;
  - (b) may make different provision according to the matters or circumstances to which they are expressed to apply;
  - (c) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister.

**Substitution of sched. 2**

**38.** Schedule 2 of the principal Act is repealed and the following schedule is substituted:

**SCHEDULE 2**

*Societies*

The Albert District, No. 83, Independent Order of Rechabites, Salford Unity;  
Friendly Societies Medical Association;  
The Independent Order of Odd Fellows;  
Lifeplan - Manchester Unity;  
The Mount Gambier United Friendly Societies' Dispensary, Incorporated;  
Savings and Loans Friendly Society;  
The South Australian United Ancient Order of Druids Friendly Society.

**Insertion of sched. 7**

39. The following schedule is inserted after schedule 6 of the principal Act:

**SCHEDULE 7**  
*Other Ministerial Powers Relating to Societies*

**Intervention in society's affairs**

1. (1) The Minister may, if of the opinion that—

- (a) a society has contravened this Act, its laws or rules and, after being given written notice of the contravention by the Minister, has failed to remedy the contravention within the time allowed by the Minister; or
- (b) the affairs of a society are being conducted in an improper or financially unsound way; or
- (c) it would be in the best interests of the members of a society,

by notice in writing given to the society, place it under direction.

(2) The Minister may, by further notice in writing given to the society, revoke the notice.

(3) The Minister may—

- (a) order an audit of the affairs of the society by an auditor chosen by the Minister at the expense of the society; or
- (b) direct the society to change any practices that in the Minister's opinion are undesirable or unsound; or
- (c) direct the society to cease or limit the borrowing, raising or lending of funds or the exercise of other powers; or
- (d) remove a member, or all the members, of the committee of management of the society from office and appoint another member or members; or
- (e) remove an auditor of the society from office and appoint another auditor; or
- (f) give any other directions as to the way in which the affairs of the society are to be conducted or not conducted.

(4) If the society—

- (a) fails, without reasonable excuse, to comply with a direction given or requirement made under this clause to the extent that the society is capable of doing so; or
- (b) without reasonable excuse, obstructs, hinders or resists the exercise of the Minister's powers under this clause,

the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

(5) A member of the committee of management or auditor appointed under this clause holds office for such term as the Minister directs.

**Suspension of operations**

2. (1) The Minister may, if of the opinion that it would be in the best interests of the members (or potential members) of a society, by notice in writing, direct the society not to do any one or more of the following:

- (a) borrow money;
- (b) accept new members;
- (c) without the consent of the Minister—accept a contribution, pay or surrender a benefit or otherwise dispose of or deal with the assets of the society.

(2) If a society contravenes a direction in force under subclause (1), the society and any officer of the society who is in default are each guilty of an offence.

Maximum penalty: \$20 000.

**Appointment of administrator**

3. (1) The Minister may, if of the opinion that—

- (a) a society has contravened this Act or its laws or rules and, after being given written notice of the contravention by the Minister, has failed to remedy the contravention within the time allowed by the Minister; or
- (b) the affairs of a society are being conducted in an improper or financially unsound way; or
- (c) it is in the interest of members that a society's affairs be conducted by an administrator,

appoint an administrator to conduct the affairs of the society.

(2) On the appointment of an administrator of a society—

- (a) the members of the committee of management of the society cease to hold office; and
- (b) the administrator may terminate any or all contracts of employment with, or for providing administrative or secretarial services to, the society; and
- (c) the administrator may terminate the appointment of a person or firm as the auditor of the society.

(3) Subclause (2) does not authorise an administrator to ignore any law or industrial award relating to the giving of notice or the making of termination payments.

(4) The administrator of a society has the powers and functions of the committee of management of the society, including the committee's powers of delegation.

(5) A member of the committee of management of a society must not be appointed while the administrator is in office except in the circumstances mentioned in subclause (9).

(6) An administrator holds office until the administrator's appointment is revoked by the Minister.

(7) Immediately on the revocation of an administrator's appointment, the administrator must prepare and submit a report to the Minister showing how the administration was carried out, and for that purpose an administrator has access to the society's records and documents.

(8) On providing the report and accounting fully in relation to the administration of the society to the satisfaction of the Minister, the administrator is, in the absence of fraud or dishonesty, released from any further liability to account in respect of the administration.

(9) Before revoking an administrator's appointment, the Minister must—

- (a) appoint another administrator; or
- (b) appoint a liquidator; or
- (c) appoint a committee of management of the society.

(10) Members of a committee of management appointed under subclause (9)—

- (a) take office on the revocation of the administrator's appointment; and
- (b) hold office until the society's next annual general meeting.

(11) The expenses of conducting a society's affairs by an administrator are payable from the society's funds.

(12) The expenses of conducting a society's affairs include—

- (a) if the administrator is not an employee of the Minister—remuneration of the administrator at a rate approved by the Minister; or
- (b) if the administrator is an employee of the Minister—the amount that the Minister certifies should be paid to it as repayment of the administrator's remuneration.

(13) An amount certified under subclause 12(b) is a debt due to the Minister and may be sued for and recovered in a court of competent jurisdiction.

(14) An administrator has, in relation to the expenses specified in subclause (11), the same priority on the winding-up of a society as the liquidator of the society has.

(15) If a society incurs loss because of any fraud, dishonesty, negligence or wilful failure to comply with the society's rules by an administrator, the administrator is liable for the loss.

(16) An administrator is not liable for any loss that is not a loss to which subclause (15) applies but must account for the loss in a report given under this clause.

(17) If the Minister has appointed an administrator of a society under this clause, the society may not, during the appointment of that administrator, appoint some other administrator.

#### **Appeals from decisions of administrator or liquidator**

4. (1) A person aggrieved by an act, omission or decision of—

- (a) an administrator of a society; or
- (b) a liquidator or provisional liquidator of a society,

may appeal to the Supreme Court in respect of that act, omission or decision.

(2) The Court may, on an appeal pursuant to subclause (1), confirm, reverse or modify the act or decision, or remedy the omission, as the case may be, and make such orders and give such directions as it thinks fit.

**Validation of funds of societies**

**40.** Funds raised and maintained by a society or branch before the commencement of this Act are to be regarded as having been lawfully raised and maintained if raised and maintained for an object of a kind referred to in section 7 of the *Friendly Societies Act 1919* as amended by section 4 of this Act.

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

**ROMA MITCHELL** Governor