

TASMANIA.

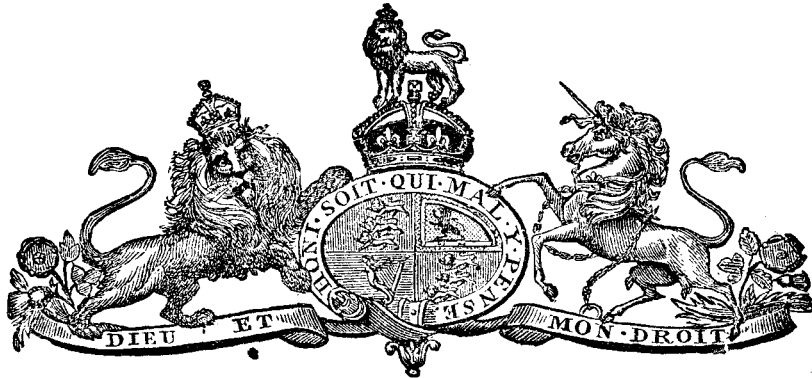
THE CO-OPERATIVE INDUSTRIAL SOCIETIES ACT, 1928.

ANALYSIS.

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1928.

ANNO NONO DECIMO

GEORGII V. REGIS.

No. 49.

AN ACT to provide for the Incorporation and Registration of Co-operative Industrial Societies. [15 January, 1929.]

A.D. 1928.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :-

Preliminary.

1 This Act may be cited as "The Co-operative Industrial Societies Act, 1928," and shall come into operation on a day to be fixed by proclamation. Short title and commencement.

2 In this Act, unless the context otherwise indicates or requires— Interpretation.
"Amendment of a rule" includes a new rule and a resolution rescinding a rule :
"Committee" means the committee of management or other directing body of a society :
"Land" includes any interest in land ;

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- “Meeting” includes (where the rules of a society so allow) a meeting of delegates appointed by members :
- “Minister” means the Treasurer or other Minister in whom the administration of this Act is for the time being vested :
- “Office,” when used with reference to a society, means the registered office for the time being of the society :
- “Officer” means any treasurer, secretary, member of the committee, manager, or servant of a society :
- “Persons claiming through a member” includes the heirs, executors, administrators, and assigns of a member, and also his nominees where a nomination is allowed :
- “Printed” includes typewritten :
- “Registered society” means a society registered under this Act :
- “Registrar” means the Registrar of the Supreme Court, and includes any duly appointed acting or deputy registrar :
- “Rules” means the registered rules for the time being, and includes any registered amendment of rules :
- “Schedule” means schedule to this Act.

Registration of Societies.

Societies which may be registered.

3 Subject as in this Act hereinafter mentioned, any society may be registered under this Act which is formed for the purpose of carrying on any industry, business, or trade specified in or authorised by its rules, including dealings of any description with land.

Capital and liability of members.

4—(1) The capital of a society to be registered under this Act shall be divided into shares, each of a certain fixed amount, and the liability of a member shall be limited to the amount of the shares held by him.

Voting by members.

(2) Every member of a registered society shall, in respect of the shares held by him, have one vote and no more.

No withdrawable shares to be issued.

(3) No withdrawable shares shall be issued by a registered society.

Limitation of interest of members.

(4) No member other than some other registered society shall hold or claim any interest in the shares of a registered society exceeding One thousand Pounds.

Society not to carry on banking.

(5) No society shall be registered under this Act which has as its object, or one of its objects, the carrying on, and no registered society shall carry on, the business of banking.

Conditions of registration.

5—(1) For the purposes of registration an application to register a society, signed by at least five members and the secretary or manager, and two printed copies of the rules, signed as aforesaid, shall be delivered to the Registrar.

(2) No society shall be registered under this Act which does not consist of five members at least.

(3) No society shall be registered under this Act unless its rules comply with the provisions of this Act.

(4) No society shall be registered under a name identical with that under which any other existing society is registered under this Act, or any company is registered under the Companies Act, 1920, or in any

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name likely, in the opinion of the Registrar, to mislead the members or the public as to its identity, and no registered society shall change its name except in the manner in this Act hereinafter provided. A.D. 1928.

(5) The word "co-operative" shall form part of, and the words "society limited" shall be the last words in, the name of any society registered under this Act.

6—(1) Where it is proved to the satisfaction of the Attorney-General that an association formed, or about to be formed, as a limited co-operative society has been, or is about to be, formed for the purposes of recreation or amusement, or for promoting commerce, art, science, religion, charity, or any other useful object, and intends to apply its profits (if any) or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Attorney-General may, by licence, direct that the association be registered as a co-operative society with limited liability without the addition of the word "Limited" to its name, and the association may be registered accordingly. Power to dispense with "Limited" in name of charitable and other societies.

(2) A licence by the Attorney-General under this section may be granted on such conditions and subject to such regulations as the Attorney-General thinks fit, and those conditions and regulations shall be binding on the association, and shall, if the Attorney-General so direct, be inserted in the rules of the society.

(3) For every such licence there shall be such fee as may be prescribed.

(4) The association shall, on registration, enjoy all the privileges of limited co-operative societies, and be subject to all their obligations except those of using the word "Limited" as any part of its name, and of publishing its name and of filing lists of its members and the members of its committee with the Registrar.

(5) A licence under this section may at any time be revoked by the Attorney-General, and upon revocation the Registrar shall enter the word "Limited" at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section.

Provided that, before a licence is so revoked, the Attorney-General shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

7—(1) The Registrar, on being satisfied that the rules of a society are in compliance with the provisions of this Act, and that it has complied with the provisions of this Act as to registration, shall issue to the society a certificate of registration in the form set out in Schedule (1). Certificate of registration.

(2) The certificate of registration shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration has been suspended or cancelled.

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Appeal from
refusal to register.

8—(1) If the Registrar refuses to register a society, or any rules or amendments of rules, the society may appeal from any such refusal to the Supreme Court.

(2) The judges of the Supreme Court may make rules regulating the manner and conduct of appeals from the Registrar under this Act.

*Cancellation and Suspension of Registration.*Cancellation or
suspension of
registration.

9 The Registrar may, with the approval in writing of the Minister, cancel the registration of a society, by writing under his hand or seal—

i. If at any time it is proved to his satisfaction—

(a) That the number of members of the society has been reduced to less than five ; or

(b) That the registration has been obtained by fraud or mistake ; or

(c) That the society has ceased to exist, or exists or is carried on for any illegal purpose ; or

(d) That the society has wilfully, and after notice from the Registrar, violated any of the provisions of this Act : or

ii. If he thinks fit, at the request of the society, to be evidenced in such manner as the Registrar from time to time directs.

(2) The Registrar may, in any case in which he might with the approval of the Minister cancel the registration of a society, suspend such registration, by writing under his hand or seal, for any term of not more than three months, and may, with the approval in writing of the Minister, renew such suspension from time to time for the like period.

(3) Not less than two months' previous notice in writing, specifying briefly the ground of any proposed cancellation or suspension of registration, shall be given by the Registrar to a society before such registration shall be cancelled (except at the request of the society) or suspended, and notice of every cancellation or suspension shall be published by the Registrar in the Gazette and in some newspaper circulating in the locality in which the registered office of the society is situate as soon as practicable after the same takes place.

(4) A society may appeal from the cancellation of its registration, or from any suspension of the same which is renewed after three months, in the same manner as is herein provided with respect to appeals from the refusal of the Registrar to register.

(5) A society whose registration has been suspended or cancelled shall, from the date of the publication in the Gazette of the notice of such suspension or cancellation (but, if suspended, only while such suspension lasts, and in any case subject to the right of appeal hereinbefore given) absolutely cease to enjoy the privileges of a registered society, but shall nevertheless continue to be subject to any liability actually incurred by it, and the same may be enforced against the society as if suspension or cancellation had not taken place.

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Rules and
amendments.

10—(1) The rules of a society registered under this Act shall contain provisions in respect of the several matters mentioned in Schedule (2).

(2) No amendment of a rule of a registered society shall be valid until the same has been registered under this Act, for which purpose two printed copies of the same, signed by at least five members and the secretary or manager, shall be delivered to the Registrar.

(3) The Registrar shall, on being satisfied that such amendment is not contrary to the provisions of this Act, endorse on each of the two copies of the amendment sent to him as aforesaid a certificate of the registration of the same in the form set out in Schedule (3), and such certificate shall be conclusive evidence of such registration.

(4) A copy of the rules of a registered society shall be delivered by the society to any person on demand, on payment of a sum not exceeding One Shilling.

(5) The rules of a registered society may set out the form of any instrument necessary for carrying the purposes of the society into effect.

Duties of Registered Societies.

11—(1) Every registered society shall have a registered office to which all communications and notices may be addressed, and shall send to the Registrar notice of the situation of such office and of every change therein.

Registered office

(2) If a registered society carries on business without complying with Subsection (1) of this section it shall be liable to a penalty of Five Pounds for every day during which it so carries on business.

12 Every registered society shall paint or affix and keep painted or affixed its registered name, together with the words "Registered under the Co-operative Industrial Societies Act, 1928," on the outside of every office or place in which the business of the society is carried on, in a conspicuous position, in letters easily legible, and have its registered name engraven in legible characters on its seal and have its registered name mentioned in legible characters in all notices, advertisements, and other official publications of the society, and in all written correspondence, bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the society, and in all bills of parcels, invoices, receipts, and letters of credit of the society.

Publication of
name.

13—(1) Every registered society shall, at least once in every year, cause a balance-sheet and a profit and loss account to be prepared and submitted for audit to an auditor licensed by the Companies Auditors' Board under the provisions of the Companies Act, 1920, and not holding any other office in connection with the society.

Audit.

(2) The auditor shall have access to all the books, deeds, documents, and accounts of the society, and shall examine the balance-sheet and

11 Geo. V. No. 66.

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profit and loss account, and verify the same with the books, deeds, documents, accounts, and vouchers relating thereto, and shall either sign the same as found by him to be correct, duly vouched, and in accordance with law, or specially report to the society in what respects he finds them incorrect, unvouched, or not in accordance with law.

Annual returns.

14—(1) Every registered society shall, within three months after the expiration of each financial year of the society, deliver to the Registrar a return signed by the auditor comprising the audited balance-sheet and profit and loss account of the society for such financial year, and containing such other particulars (if any) as may be prescribed.

(2) The society shall, together with every such return as aforesaid, deliver to the Registrar—

- i. A copy of the report of the auditor, signed by him, in respect of the financial year to which the return relates :
- ii A special return, signed by the auditor, showing the number of the shares and the amount of such shares held by each person in the society at the date to which the annual return is made up : and
- iii. A list, signed by the auditor, of the names of the members of the committee of the society at such lastmentioned date, together with their addresses and occupations.

Society to keep register of members.

15—(1) Every registered society shall keep in one or more books a register of its members, and enter therein the following particulars:—

- i. The names and addresses, and the occupations, if any, of the members, and a statement of the shares held by each member, and the amount of such shares (distinguishing each share by its number) and of the amount actually paid on the shares of each member :
- ii. The date at which each person was entered on the register as a member : and
- iii. The date at which any person ceased to be a member.

(2) Such register shall be *prima facie* evidence of the particulars entered therein.

Penalty.

(3) If any registered society fails to comply with Subsection (1) of this section it shall be liable to a penalty of Five Pounds for every day during which the default continues ; and every member of the committee, manager, or secretary of the society who knowingly permits or who authorises the default shall be liable to the like penalty.

Supply of copies of annual returns.

16—(1) Every registered society shall supply gratuitously to every member, creditor, or person interested in the funds of the society, on his application, a copy of the last annual return of the society, and shall, within a reasonable time after the audit of the accounts required to be contained in such return has been completed, send by post to every member of the society a copy of such return together with a copy of the report of the auditor.

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(2) Every registered society shall keep a copy of the last balance-sheet for the time being, together with the report of the auditor, always posted up in a conspicuous place at the registered office of the society. A.D. 1928.

Inspection.

17—(1) Any person may inspect the documents kept by the Registrar relating to societies registered under this Act on payment of the prescribed fee for such inspection. Inspection of documents at Registrar's office.

(2) Any person shall be entitled to obtain from the Registrar a copy, certified by him, of the certificate of registration of any society, or of any document or extract from any document filed at his office under the provisions of this Act, on payment of the prescribed fee therefor.

18—(1) Save as provided by this Act, no member or other person shall have any right to inspect the books of a registered society, notwithstanding anything in the rules of the society relating to such inspection. Inspection of books by members.

(2) Any member or person having an interest in the funds of a society (whether as a shareholder or otherwise) shall be allowed to inspect his own account, and the books containing the names of the members, at all reasonable hours at the registered office of the society, or at any place where the same are kept.

(3) A registered society may, by its rules, authorise the inspection of any of its books therein mentioned, in addition to the said books containing the names of members, under such conditions as are thereby imposed, but so that no person, unless he is an officer of the society or is specially authorised by a resolution thereof, shall have the right to inspect the account of any other person without the written consent of such other person.

19—(1) The 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 report to him thereon: Provided, however, that the Registrar may, if he thinks fit, require the applicants to give security for the costs of the proposed inspection before appointing any inspector. Inspection of books by order of Registrar.

(2) The costs of and incidental to any such inspection shall be borne by the applicants or the society as the Registrar shall direct, or by the applicants and the society in such proportions as the Registrar shall direct, and in default of payment the amount thereof may be recovered by and in the name of the Registrar in any court of competent jurisdiction from the party liable to pay the same.

(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 times at the registered office of the society or at any place where the books are kept.

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(4) The Registrar shall communicate the result of any such inspection to the applicants and to the society concerned.

Registrar may
appoint inspector
of affairs or call
meeting of society.

20—(1) Upon the application of one-tenth of the whole number of members of a registered society, or of one hundred members in the case of a society exceeding one thousand members, the Registrar, with the consent of the Minister in every case, may—

- i. Appoint an inspector or inspectors to examine into and report on the affairs of the society : or
- ii. Call a special meeting of the society.

(2) The application under this section shall be supported by evidence to the satisfaction of the Registrar that the applicants have good reason for requiring such inspection to be made or meeting to be called, and that they are not actuated by malicious motives in their application ; and such notice of the application shall be given to the society as the Registrar directs.

(3) The Registrar may, if he thinks fit, require the applicants to give security for the costs of the proposed inspection and report, or of the proposed meeting, before appointing any inspector or calling such meeting.

(4) All expenses of and incidental or preliminary to any such inspection or meeting shall be defrayed by the applicants or the society as the Registrar shall direct, or by the applicants and the society in such proportions as the Registrar shall direct, and in default of payment the amount thereof may be recovered by and in the name of the Registrar in any court of competent jurisdiction from the party liable to pay the same.

(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 administer an oath accordingly.

(6) The 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, in all cases, have power to appoint its own chairman, any rule of the society to the contrary notwithstanding.

Privileges of Registered Societies.

Incorporation of
society.

21 The registration of a registered society shall render it a body corporate by the name described in the certificate of registration, by which name it may sue and be sued, with perpetual succession and a common seal, and with limited liability ; and shall vest in the society all property for the time being vested in any person in trust for the society.

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22 The 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 such rules a covenant on the part of such member, his heirs, executors, administrators, and assigns, to conform thereto subject to the provisions of this Act.

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Rules to bind members.

23—(1) All moneys payable by a member to a registered society shall be a debt due from such member to the society and shall be recoverable as such in any court of competent jurisdiction.

Remedy for debts due from members.

(2) A registered society shall have a lien on the shares of any member for any debt due to the society by such member.

24—(1) A member of a registered society, not being under the age of sixteen years, may, by writing under his hand, delivered at or sent to the registered office of the society, during the lifetime of such member, or made in any book kept thereat, nominate any person or persons to or among whom there shall be transferred or distributed at his decease such shares in the society as shall belong to such member at the time of his decease, or such portion thereof as is specified in such nomination if the nomination does not comprise the whole. If on the death of the nominator the nominal value of the shares comprised in the nomination is more than One hundred Pounds, the nomination shall be valid to the extent of shares to the nominal value of One hundred Pounds but not further or otherwise: Provided that the person to be so nominated shall not be an officer or servant of the society unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator.

Power of nominating persons to whom the shares of members may be transferred on death.

(2) A nomination so made may be revoked or varied by a subsequent nomination signed and delivered or sent or made as aforesaid, or by any similar document in the nature of a revocation or variation under the hand of the nominator, so delivered, sent, or made as aforesaid, but shall not be revocable or variable by the will of the nominator, or by any codicil thereto.

(3) The society shall keep a book wherein the names of all persons so nominated, and all revocations or variations (if any) of such nominations shall be recorded, and the shares comprised in any such nomination to an amount of not more than One hundred Pounds shall be transferable to the nominee, although the rules of the society declare the shares not to be transferable.

(4) The marriage of a member of a society shall operate as a revocation of any nomination made by him before such marriage: Provided that, in the event of an officer of a society having transferred any shares of a member to a nominee in ignorance of a marriage contracted 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 such shares.

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Proceedings on
the death of a
nominator.

Where nominee
under sixteen
years of age.

6 Geo. V. No. 66.

Transfers of
shares to persons
apparently
entitled valid.

Membership of
minors.

Bills of exchange
and promissory
notes.

Restriction on use
of word "co-op-
erative."

11 Geo. V. No. 66.

25—(1) On receiving satisfactory proof of the death of a nominator, the committee of the society shall, subject to the limitation in amount hereinbefore provided, transfer the shares comprised in the nomination in manner directed by the nomination: Provided, however, that in any case in which the shares comprised in the nomination would, if transferred as directed by the nominator, raise the share capital of any nominee to a sum exceeding One thousand Pounds, the said committee shall pay him the market value of such excess.

(2) Where a nominee who is nominated under the provisions of this Act is under sixteen years of age, the society may transfer the shares comprised in the nomination to either parent, or to a guardian of the nominee, or to any other person of full age who will undertake to hold the same on trust for the nominee, and whom the society thinks a fit and proper person for the purpose, and the receipt of such parent, guardian, or other person shall be a sufficient discharge to the society for the shares so transferred.

(3) The committee shall, before making a transfer of any such shares to any person other than the duly constituted legal personal representative of the deceased member, require production of a receipt for any duty payable on such shares under the Deceased Persons Estates' Duties Act, 1915, or a certificate signed by the proper officer stating that no such duty is payable.

26 All transfers of shares made by the committee of a registered society under the provisions of this Act, with respect to transfers to nominees of deceased members, to any person who at the time appears to the committee to be entitled thereunder, shall be valid and effectual against any demand made upon the committee or society by any other person.

27 A person under the age of twenty-one but above the age of sixteen years may be a member of a registered society unless provision is made in the rules thereof to the contrary, and may, subject to such rules, enjoy all the rights of a member, except as by this Act provided, and may execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee, trustee, manager, secretary, or treasurer of the society.

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

29 (1) No company shall be hereafter registered under the Companies Act, 1920, under any name which has the word "Co-operative" as part thereof.

(2) No person other than a registered society shall hereafter carry on any industry, business, or trade under any name of which the word

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“Co-operative” forms part, unless such person was at the commencement of this Act carrying on such industry, business, or trade under a name of which such word formed part.

(3) Any person who acts in contravention of this section, or who authorises or knowingly causes, permits, or participates in such contravention, shall be liable to a penalty of One hundred Pounds, and when such contravention is a continuous contravention, to a further penalty of Five Pounds for every day during which such contravention continues.

(4) Nothing in Subsection (2) of this section shall apply to any society registered under the Friendly Societies Act, 1888.

51 Vict. No. 16.

30—(1) Contracts on behalf of a registered society may be made, varied, or discharged as follows :—

Contracts, how made, named, or discharged.

- i. Any contract, which, if made between private persons would by law be required to be in writing and under seal, may be made on behalf of the society in writing under the common seal of the society, and may in the same manner be varied or discharged :
- ii. Any contract, which, if made between private persons would by law be required to be in writing and signed by the persons to be charged therewith, may be made on behalf of the society in writing signed by any person acting under the express or implied authority of the society, and may in the same manner be varied or discharged : and
- iii. Any contract, which, if made between private persons would at law be valid though made by parol only, and not reduced into writing, may be made by parol on behalf of the society by any person acting under the express or implied authority of the society, and may in the same manner be varied or discharged.

(2) A signature, purporting to be made by a person holding any office in the society, attached to a writing whereby any contract purports to be made, varied, or discharged by or on behalf of the society, shall *prima facie* be taken to be the signature of a person holding, at the time when the signature was made, the office so stated.

(3) All contracts made according to the provisions contained in this section shall, so far as concerns the form and execution thereof, be effectual in law and binding on the society and all other parties thereto, their heirs, executors, or administrators, as the case may be.

31—(1) A registered society may, if and so far as its rules authorise it so to do, enter into a contract in writing with a member of the society requiring him to do either or both of the following—

Contracts for exclusive dealing by members with society.

- i. To sell to the society, or to dispose of through the society, either by way of a pool or otherwise, the whole of any specified products (whether primary products or otherwise) to be produced by such member in Tasmania during any period, not exceeding five years :

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- ii. To obtain during any such period as aforesaid any specific supplies or services through or from the society, to the exclusion of any other person—

and any such contract may be enforced by or against the person entering into the same in his capacity of a member of the society, notwithstanding that such person has since ceased to be a member thereof.

(2) No such contract as is referred to in Subsection (1) of this section shall be held to be invalid merely on the ground that it is an unreasonable restraint of trade.

Rules may provide for exclusive dealings with society.

32 The rules of a registered society may provide that each member shall, for a period to be mentioned therein, not exceeding five years after he becomes such member, do either or both of the following :—

- i. Sell to the society, or dispose of through the society, either by way of a pool or otherwise, the whole of any products specified in the rules (whether primary products or otherwise) to be produced by such member in Tasmania :
- ii. Obtain any supplies or services of the nature specified in the rules through or from the society to the exclusion of any other person—

and no such provision shall be held to be invalid merely on the ground that it is an unreasonable restraint of trade :

Provided that the operation of any such provision as aforesaid shall, without prejudice to any rights then accrued thereunder, cease to have any further effect as between a member and the society upon such member ceasing to be a member of the society.

Applications for shares in societies.

33—(1) Every application for shares in a registered society shall be in writing signed by the applicant.

(2) Where the application for the shares is in respect of a society the rules of which contain any such provision as is referred to in Section Thirty-two of this Act, there shall be embodied in or appended to such application in conspicuous lettering a statement of the existence of such provision and a copy of the rule by which such provision is made.

(3) Any allotment of shares in a registered society made in respect of any application which does not comply with Subsection (2) of this section, shall be voidable at the instance of the applicant at any time within six months after the date of such allotment, and shall be so voidable notwithstanding that the society is in course of being wound up.

(4) The form of application for shares in any registered society shall be submitted to the Attorney-General for his approval before the registration of any such society.

Co-operative Industrial Societies.

34 The rules of a registered society may, if the society so determine, contain a provision in the words or to the effect following :—
 “If a member ceases to be qualified for membership he shall, if required by the committee in writing so to do, transfer the shares held by him in the society to some person or persons qualified for membership and nominated in such writing upon payment by such person or persons to such member of the market value of such shares or the amount paid up thereon, whichever shall be the greater, and, if such member shall neglect or refuse to so transfer such shares for the space of twenty-one days after being lawfully required by the committee so to do, the committee may effect such transfer in such manner as it thinks fit, and may remove the name of the member so neglecting or refusing as aforesaid from the register of members of the society and substitute the name of the transferee or transferees therefor, but in any such case as last aforesaid it shall be incumbent on the society to obtain from the transferee or transferees of the shares the market value or amount as the case may be aforesaid, and to pay the same to the person whose shares have been so transferred as aforesaid.”

A.D. 1928.

Rules may provide that members shall transfer shares on ceasing to be qualified.

Property and Funds of Society—Dividends.

35 A registered society may, if its rules do not direct otherwise, hold, purchase, or take on lease in its own name any land, and may sell, exchange, mortgage, lease, or build upon the same (with power to alter and pull down buildings and again rebuild), and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire as to the authority for any such sale, exchange, mortgage, or lease by the society, and the receipt of the society shall be a discharge for all moneys arising from or in connection with such sale, exchange, mortgage, or lease.

Holding of land.

36—(1) The rules of a registered society may authorise advances of money to members on such security as is prescribed thereby, but no society shall lend money or make advances upon the security or pledge of any of its own shares.

Advances to members.

(2) If authorised by its rules so to do, a registered society may, for any of the purposes of the society, borrow money or receive the same on deposit, either from its members or otherwise.

Loans and deposits.

37 A registered society may invest any part of its capital in or upon any security authorised by its rules, and also, if the rules do not direct otherwise—

Investments by societies.

- i. In or upon any security in which trustees are for the time being authorised by law to invest trust moneys : and
- ii. In the shares or debentures of any other registered society, or of any company registered under the Companies Act, 1920, or incorporated by Act or by charter : Provided that no such investment shall be made in the shares of any society or company other than one with limited liability.

11 Geo.V. No. 66.

Co-operative Industrial Societies.

A. D. 1928.

Appointment of proxies by societies members of other bodies corporate.

38—(1) A registered society which has invested any part of its capital in the shares of any other body corporate, may appoint as proxy any one of its members, although such member is not personally a shareholder of such other body corporate.

(2) The proxy shall, during the continuance of his appointment, be taken in virtue thereof as holding the number of shares held by the society by which he is appointed for all purposes except the transfer of any such shares, or the giving receipts for any dividends thereon.

Power to body corporate to hold shares in a society.

39 Any other body corporate may, if its articles of association, regulations, or constitution permit, hold shares by its corporate name in a registered society.

Dividends.

40—(1) The rate of dividend to be paid by a registered society on its shares shall not, in respect of any financial year of the society, exceed by more than Three Pounds per centum the rate payable, at the time of the declaration of such dividend, by the Associated Banks of Australia on deposits fixed for a period of two years, and such dividend shall be calculated on the amount paid up on such shares.

(2) No dividend shall be paid otherwise than out of profits.

(3) The net profits of a registered society in any financial year of the society, after deducting therefrom the dividend, if any, payable in respect of that year, shall be disposed of in the manner determined by the rules of the society.

Mortgages, Charges, &c.

Application to societies of certain provisions of the Companies Act, 1920.

11 Geo.V. No. 66.

41 Section One hundred and one (except Subsections (1) and (2) thereof) and Sections One hundred and two to One hundred and fifteen, inclusive, of the Companies Act, 1920, shall apply to and in respect of a registered society in the same manner and to the same extent as if the society were a company within the meaning of the lastmentioned Act.

Execution of receipt for moneys secured by mortgage, &c.

42 A receipt in full, under the seal of a registered society, for all moneys secured to the society by any mortgage or assurance of property, and being in the form set out in Schedule (4) or in any other form specified by the rules of the society, if endorsed on or annexed to such mortgage or assurance, shall vacate the same and vest the property therein comprised in the person entitled to the equity of redemption thereof without any formal reconveyance or surrender: Provided, however, that, if such mortgage or other assurance has been registered under any Act for the registration or record of deeds or titles, no such receipt shall be sufficient to vacate the same, or vest the property comprised therein in manner aforesaid, unless such receipt be also registered or recorded by the officer appointed for the keeping of the register or record under such Act.

*Co-operative Industrial Societies.**Officers in Receipt or Charge of Money.*

A.D. 1928.

43—(1) Every officer of a registered society having receipt or charge of money, if the rules of the society so require, shall, before taking upon himself the execution of his office, become bound, either with or without a surety as the committee requires, in a bond in such form as the committee approves, or give the security of a guarantee society, in such sum as the committee directs, 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 the committee requires him to do, and for the payment by him of all sums due from him to the society.

Security by officers.

(2) Every officer of a registered society having receipt or charge of money on behalf of the society, or his executors or administrators, shall—

Accounts of officers.

- i. At such times as by the rules of the society he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the society or by the committee thereof, to be examined and allowed or disallowed by the society or committee : and
- ii. On the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society or the committee appoints.

(3) In case of any neglect or refusal to deliver such account or to pay over such moneys or to deliver such property in manner aforesaid, the society may sue upon any such bond or security as is hereinbefore mentioned, in any court of competent jurisdiction, and every officer so neglecting or refusing as aforesaid shall be guilty of an offence against this Act.

Disputes.

44—(1) Every dispute between—

- i. A member of a registered society : or
- ii. Any person aggrieved, who has not, for more than six months, ceased to be a member of a society : or
- iii. Any person claiming through such member or person aggrieved as aforesaid, or claiming under the rules of a society—

Decision of disputes in manner provided by the rules.

and the society shall be decided in manner directed by the rules of the society, if they contain any such direction, and the decision so made shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction ; and such decision may be enforced by a judge of the Supreme Court sitting in chambers, on application to him by summons by the party seeking to enforce the same, and the judge may order the costs of the application to be paid by the respondent.

(2) The parties to a dispute in a society may by consent (unless the rules of such society expressly forbid it), refer such dispute to the Registrar, who shall, with the consent of the Minister, hear and

Power unless the rules forbid to refer disputes to the Registrar.

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Powers of Registrar as to evidence, &c.

determine such dispute, and such determination shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the society.

(3) The Registrar, when any dispute is referred to him, may administer oaths and may 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 any person refusing to attend or to produce any documents or to give evidence before the Registrar shall be guilty of an offence against this Act.

When rules refer disputes to justices.

(4) When the rules of a society direct that disputes shall be referred to justices, the dispute shall be determined by any two justices :

Provided that, in every case of a dispute cognizable under the rules of a society by justices, it shall be lawful for the parties thereto by consent to refer such dispute to a police magistrate, who may hear and determine the matter in dispute.

10 Geo.V. No. 55.

Decision of disputes in default of provision in or determination under the rules.

(5) A police magistrate or justices, on any reference of a dispute to him or them, shall have all the powers conferred on justices by the Justices' Procedure Act, 1919.

(6) When the rules contain no direction as to disputes or no direction applicable to any particular dispute, or when no decision is made on a dispute within forty days after application to the society for a reference under its rules, the member or person aggrieved may apply either to a police magistrate or to any two justices, who may hear and determine the matter in dispute.

Power to award costs.

(7) The Registrar, police magistrate, justices, or other person to whom any dispute is referred shall have power to order by which of the parties to the dispute the costs of the hearing and determination, or any portion of such costs, shall be borne, and any such order shall be deemed to be part of the determination and be enforceable accordingly.

Enforcement of determination.

(8) A determination by a police magistrate or justices shall have the same effect and be enforceable in the same manner as a decision under the rules of a society.

Questions of law may be referred to Supreme Court.

56 Vict. No. 8.

(9) Notwithstanding anything in the Arbitration Act, 1892, or in any other Act, any police magistrate or justices or the Registrar shall not be compellable to state a special case on any question of law arising in the course of the reference, but may, at the request of either party, state a case for the opinion of the Supreme Court on any question of law, and also may grant to either party such discovery as to documents and otherwise or such inspection of documents as might be granted by the Supreme Court, such discovery to be made on behalf of the society by such officer of the same as such magistrate or justices or the Registrar may determine.

Application of expression "dispute."

(10) For the purposes of this section, the expression "dispute" shall not apply to any dispute as to the validity, interpretation, or effect of any contract contained in any document other than the rules of the society, or, in the case of a person who has ceased to be a member of the society, any dispute other than a dispute on a question between him and the society which arose whilst he was a member, or arises out of his previous relation to the society as a member thereof.

*Co-operative Industrial Societies.**Change of Name—Amalgamation—Conversion.*

A.D. 1928.

45—(1) For the purposes of this Act, a special resolution shall mean a resolution which is—

Meaning of special resolution.

- i. Passed by a majority of not less than three-fourths of such members of a registered society for the time being entitled under the rules to vote as 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 the rules: and
- ii. Confirmed by a majority of such members for the time being entitled under the rules to vote as have voted in person, or by proxy where the rules allow proxies, 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 such resolution was first passed.

(2) At any meeting mentioned in this section, a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact.

46—(1) A registered society may, by special resolution with the approval in writing of the Registrar, change its name.

Power to change name.

(2) Notice of every such change of name shall be forthwith published by the society in the Gazette, and the society shall cause a copy of such notice when so published to be filed at the office of the Registrar.

(3) No such change 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 change of name.

47 Any two or more registered societies may, by special resolution of both or all such societies, become amalgamated together as one society, with or without any dissolution or division of the funds of such societies or either of them, and the property of such societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the special resolution amalgamating the societies.

Amalgamation of societies.

48—(1) A registered society consisting of not less than seven members may, by special resolution, determine to convert itself into a company under the Companies Act, 1920.

Conversion of society into company.

(2) If a special resolution for converting a registered society into a company contains the particulars by the Companies Act, 1920, required to be contained in the memorandum of association of a company, and a copy thereof has been registered at the office of the Registrar, a copy of such resolution under the seal of the Registrar shall have the same effect as a memorandum of association duly signed and attested under the said Act.

11 Geo.V. No. 66.

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(3) If a registered society is registered as a company, the registration of such society under this Act shall thereupon become void, and the same shall be cancelled by the Registrar, but the registration of a society as a company shall not affect any right or claim for the time being subsisting against such society or any penalty for the time being incurred by such society, and, 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 every such right or claim, or the liability to such penalty, shall have priority as against the property of such company over all other rights or claims against or liabilities of such company.

Conversion of
company into
society.

11 Geo.V. No. 66.

49—(1) Any company within the meaning of the Companies Act, 1920, may, by a special resolution, determine to convert itself into a registered society, and, for this purpose, in any case in which the nominal value of its shares held by any member other than a registered society exceeds One thousand Pounds, may, by such resolution, provide for the conversion of the excess of such share capital over One thousand Pounds into transferable loan stock, bearing such rate of interest as may thereby be fixed, and repayable on such conditions only as are in such resolution determined: Provided, however, that the holding of any such stock as aforesaid shall not confer on the holder thereof any right to vote at a meeting of the society, or in respect of any matter concerning the business or affairs of the society.

(2) A resolution for the conversion of a company into a registered society shall be accompanied by a copy of the rules of the society therein referred to, and shall appoint five members of the company who, together with the secretary or manager, shall sign the rules, and who may either be authorised to accept any alterations made by the Registrar therein without further consulting the company, or may be required to lay all such alterations before the company in general meeting for acceptance, as the resolution may direct. The alterations (if any) made by the Registrar in the rules shall be such as shall be necessary to bring them into compliance with the provisions of this Act respecting the rules of a society seeking registration thereunder.

(3) A copy of the special resolution under the seal of the company, together with the rules as approved by the Registrar, shall be deposited with the Registrar, who shall thereupon register the society and its rules, and shall give to it a certificate under his hand or seal that the society referred to in the resolution and the rules thereof have been registered, but in the registered name of the company as a society the word "company" shall not be used.

11 Geo.V. No. 66.

(4) Upon the registration of a society under Subsection (3) of this section, the conversion of the company into such society shall take effect, and the registration of the company under the Companies Act, 1920, shall become void, and shall be cancelled by the Registrar; but the registration of a company as a registered society shall not affect any right or claim subsisting by or against, or any penalty incurred by, the company previously to such registration, and for the purpose of

Co-operative Industrial Societies.

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

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50 A copy of every special resolution of a registered society for any of the purposes mentioned in this Act, signed by the chairman of the meeting at which the resolution was confirmed, and countersigned by the secretary or manager of the society, shall be sent to the Registrar and registered by him, and, until the said copy is so registered and filed, the special resolution shall not take effect.

Registration of special resolutions.

51 An amalgamation of two or more societies in pursuance of this Act shall not prejudice any right of a creditor of any society party thereto.

Saving as to rights of creditors.

Winding-up of Societies.

52—(1) A registered society may be wound up and dissolved in the same manner and under the same circumstances as any company within the meaning of the Companies Act, 1920, may be wound up and dissolved under that Act.

Winding-up of societies.

11 Geo.V. No.66.

(2) Subject to this Act, where a registered society is wound up, all the provisions of the Companies Act, 1920, relating to the winding-up and dissolution of companies, so far as the same are applicable, and with such alterations, modifications, and substitutions as are necessary, shall apply with respect to the winding-up and dissolution of the society.

Offences, Penalties, and Legal Proceedings.

53 It shall be an offence against this Act if a registered society, or an officer or member thereof, or any other person—

Offences by societies.

- i. Fails to give or file any notice, send or file any return or document, or do or allow to be done anything which the society, officer, or member or person is by this Act required to give, send, file, do, or allow to be done: or
- ii. Wilfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the Registrar, or by any other person authorised under this Act, or does anything forbidden by this Act: or
- iii. Makes or sends or files a return under this Act, or wilfully furnishes information, with respect to the affairs of a registered society, which is false in any particular.

54 Every offence by a registered society under this Act shall be deemed to have been also committed by every officer of the same bound by the rules thereof to fulfil the duty whereof such offence is a breach, or, if there is no such officer, then by every member of the

Offences by societies to be also offences by officers, &c.

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committee of the same, unless such member is proved to have been ignorant of, or to have attempted to prevent the commission of, such offence.

Punishment of fraud or misappropriation.

55 If any person obtains possession by false representation or imposition of any property of a registered society, or having the same in his possession withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorised by this Act, he shall on the complaint of the society, or of any member authorised by the society, or the committee thereof, or of the Registrar, be liable to a penalty of not more than Twenty Pounds, and to be ordered to deliver up all such property or to repay all moneys applied improperly, and in default of such delivery or repayment, or of the payment of such penalty, to be imprisoned for a term of not more than three months.

Penalty for falsification.

56 If any person wilfully makes, orders, or allows to be made any entry or erasure in, or omission from, any balance-sheet or book of a registered society, or any return or document required to be sent, filed, produced, or delivered for the purposes of this Act, with intent to falsify the same or to evade any of the provisions of this Act, he shall be liable to a penalty of not more than Fifty Pounds.

Penalty for not using name of society. &c.

57 If any officer of a registered society, or any person on its behalf, uses any seal purporting to be a seal of the society, whereon its name is not engraved as provided in this Act, or issues or authorises the issue of any notice, advertisement, or other official publication of the society, or signs or authorises to be signed on behalf of the society any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or issues or authorises to be issued any bills of parcels, invoice, receipt, or letters of credit of the society, wherein its registered name is not mentioned as provided in this Act, he shall be liable to a penalty of not more than Fifty Pounds.

Delivery of untrue rules.

58 It shall be an offence against this Act for any person, with intent to mislead or defraud, to give to any other person a copy of any rules, other than the rules for the time being registered under this Act, on the pretence that the same are existing rules of a registered society, or that there are no other rules of such society, or to give to any person a copy of any rules on the pretence that such rules are the rules of a registered society, when the society is not registered.

Penalties for ordinary offences.

59 Every registered society, officer or member of a society, or other person guilty of an offence against this Act, for which no penalty is expressly provided herein, shall be liable to a penalty of not more than Twenty Pounds.

Procedure in respect of offences.
10 Geo.V. No. 55.

60 All proceedings in respect of offences against this Act shall be taken, heard, and determined, and all penalties enforced and recovered, in accordance with the Justices' Procedure Act, 1919.

Co-operative Industrial Societies.

61 A document may be served on a registered society by leaving it at, or sending it by registered letter to, the registered office of the society, and such service shall, for the purposes of this Act or otherwise, be deemed to be service on the society.

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Service of documents.

Supplemental.

62—(1) A document purporting to be a copy of the rules of a registered society, certified under the seal or signature of the Registrar as a true copy of the rules of the society in force at the date of such certificate, shall be receivable in evidence as proof of such rules.

Evidence of certain matters.

(2) A copy of, or extract from, any instrument or document relating to a registered society which has been deposited, filed, or registered in the office of the Registrar, shall be receivable in evidence without further proof, if certified under the hand or seal of the Registrar as a true copy or extract of such instrument or document.

(3) The books containing the minutes of a meeting of any registered society, if purporting to be signed by the chairman or presiding officer of the meeting at which the proceedings were had, or by the chairman or presiding officer of the next succeeding meeting, shall be evidence of such proceedings and that the meeting of which such minutes are a record was duly and regularly convened, held, and constituted.

63 It shall be the duty of the Registrar to report to the Attorney-General or Solicitor-General every contravention on the part of any person or any registered society of the provisions of this Act requiring any return, statement, balance-sheet, report, or any document whatsoever to be filed, lodged, or deposited at the office of the Registrar, and of which contravention the Registrar has cognizance.

Registrar to report certain contraventions of Act to law officer.

64—(1) There shall be paid to the Registrar in respect of the several matters mentioned in Schedule (5) the several fees therein specified, or such smaller fees as may be prescribed by regulations.

Fees.

(2) All fees received by the Registrar under this Act shall be paid into and form part of the Consolidated Revenue.

65—(1) The Governor may make regulations for or in respect of—

Regulations.

- i. Registration and procedure under this Act :
- ii. The duties and functions of the Registrar under this Act :
- iii. The making, contents, and registration of returns and other documents required for the purposes of this Act :
- iv. Forms to be used under this Act—

and generally in respect of all matters or things which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out the provisions of this Act.

(2) Such regulations may prescribe penalties for contraventions thereof, not exceeding Twenty Pounds in respect of any such contravention.

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SCHEDULES.

(1)

Section 7.

CERTIFICATE OF REGISTRATION OF SOCIETY.

The Co-operative Industrial Societies Act, 1928, Society Limited is registered under the
 Given under my hand this _____ day of _____, 19____
 Registrar Supreme Court.

(2)

Section 10 (1).

MATTERS TO BE PROVIDED FOR BY THE RULES OF SOCIETIES REGISTERED UNDER THIS ACT.

1. Object, name, and registered office of the society.
 2. Qualification (if any) of members.
 3. Terms of admission of the members, including any society or company investing funds in the shares of the society under the provisions of this Act.
 4. The holding of annual and other meetings, the mode of voting thereat, and of making, altering, or rescinding rules.
 5. The appointment and removal of a committee of management, by whatever name, of managers, secretaries, or other officers, and their respective powers and remuneration.
 6. The amount of share capital and the division thereof into shares of a fixed amount.
 7. Determination of the amount of interest, not exceeding One thousand Pounds, in the shares of the society which any member, other than another registered society, may hold.
 8. Determination whether the society may advance money to, or borrow money or receive deposits from, members or others; and, if so, under what conditions, on what security, and to what limits of amount.
 9. Determination whether the shares or any of them shall be transferable, and the conditions (if any) upon which they may be transferred, and provision for the form of transfer and registration thereof.
 10. Provision for the audit of accounts and for the appointment of an auditor.
 11. Mode of application, subject to this Act, of profits.
 12. Provisions for the custody and use of the seal of the society.
 13. Determination whether, and by what authority, and, subject to this Act, in what manner any part of the capital may be invested.
-

(3)

Section 10 (3).

CERTIFICATE OF REGISTRATION OF AMENDMENT OF RULES.

The foregoing amendment of the rules of the Co-operative Industrial Societies Act, 1928, Society Limited is registered under the
 Given under my hand this _____ day of _____, 19____
 Registrar Supreme Court.

Co-operative Industrial Societies.

(4)

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FORM OF RECEIPT TO BE INDORSED ON OR ANNEXED TO MORTGAGE OR ASSURANCE OF PROPERTY. Section 42.

The _____ Society Limited hereby acknowledges to have received all moneys secured by the within (or above) written deed.

In witness whereof the seal of the Society is hereto affixed this _____ day of _____, 19____, by order of the committee of management (or other directing body) in the presence of—

[*Seal to be affixed as required by the Rules of the Society.*]

(5)

Section 64.

TABLE OF FEES TO BE PAID TO THE REGISTRAR.

| | £ | s. | d. |
|---|---|----|----|
| For registration of a society | 2 | 2 | 0 |
| For registration of any amendment of the rules of a society | 0 | 10 | 0 |
| For every certificate of registration or other certificate | 0 | 2 | 6 |
| For every certified copy of or extract from any document—for each folio of 72 words | 0 | 1 | 0 |
| For inspecting the documents relating to any registered society—for each inspection | 0 | 1 | 0 |
| For filing every annual return | 0 | 2 | 6 |
| For every day or part of a day during which the Registrar is engaged in hearing and determining a dispute | 2 | 2 | 0 |

