



557/1672-5.5.  
Adapted for  
Imperial Act  
25-26, c. 87.

ANNO VICESIMO SEPTIMO ET VICESIMO OCTAVO

# VICTORIÆ REGINÆ.

A.D. 1864.

## No. 12.

*An Act to legalize the formation of Industrial and Provident Societies.*

[Assented to, 9th December, 1864.]

**B**E it Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. Any number of persons, not being less than seven, may establish a society under this Act, for the purpose of carrying on any labor, trade, or handicraft, whether wholesale, or retail, except the business of banking, and of applying the profits for any purposes allowed by the Friendly Societies Acts, or otherwise permitted by law.

Constitution of societies.

2. The rules of every such society shall contain provisions in respect of the several matters mentioned in the Schedule annexed to this Act.

Rules.

3. The Governor in Council may from time to time appoint a registrar for the registration of societies under this Act, and remove him at pleasure, and until such appointment shall be made, the Master of the Supreme Court shall be such registrar.

Appointment of Registrar.

4. Two copies of the rules shall be forwarded to the registrar for the time being, and shall be dealt with by him in the manner provided by the "Friendly Societies Act, 1852," and he shall thereupon give his certificate of registration, and such certificate shall, in all cases, be

Registration of society.

Act of 1852, s. 6

be conclusive evidence that the society has been duly registered, and thereupon the members of such society shall become a body corporate by the name therein described, having a perpetual succession and a common seal, with power to hold land and buildings, with limited liability.

Copy of rules to be delivered to persons on demand.

5. A copy of the rules shall be delivered by the society to every person on demand, on payment of a sum not exceeding One Shilling.

No society to be registered under same name as any existing society.

6. No society shall be registered under a name identical with that by which any other existing society has been registered, or so near resembling such name as to be likely to deceive the members or the public, and the word "limited" shall be the last word in the name of every society registered under this Act.

Members interest limited to £200.

7. No member shall be entitled in any society registered under this Act, to hold or claim any interest exceeding the sum of Two Hundred Pounds.

Publication of name of society.

8. Every society registered under this Act shall paint or affix, and shall keep painted or affixed, its name 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 shall have its name engraven in legible characters on its seal, and shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of such society, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices, receipts and letters of credit of the society.

Penalties on non-publication of name, &c.

9. If any society registered under this Act, does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding Five Pounds, for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed; and if any officer of such society or any person on its behalf, uses any seal purporting to be a seal of the society whereon its name is not so engraven as aforesaid, or issue, or authorize the issue of any notice, advertisement, or other official publication of such society, or signs, or authorizes to be signed on behalf of such society, any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues, or authorizes to be issued, any bill of parcels, invoice, receipt, or letter of credit of the society, wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of Fifty Pounds, and shall further be liable to the holders of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof, unless the same is duly paid by the society.

Every society to have a registered office. Penalty on non-compliance.

10. Every society registered under this Act shall have a registered office to which all communications and notices may be addressed; if any

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any society registered under this Act, carries on business without having such an office it shall incur a penalty not exceeding Five Pounds for every day during which business is so carried on.

11. Notice of the situation of such registered office and of any change therein, shall be given to the registrar and recorded by him; until such notice is given the society shall not be deemed to have complied with the provisions of this Act.

Notice of situation of registered office.

12. The rules in force for the time being of every society registered under this Act, shall bind the society and the members thereof, to the same extent as if each member had subscribed his name and affixed his seal thereto, and there were in such rules contained a covenant on the part of himself, his heirs, executors, and administrators, to conform to such rules subject to the provisions of this Act; and all moneys payable by any member to the society in pursuance of such rules shall be deemed to be a debt due from such member to the society.

~~Signature~~ effect of rules.

13. The laws for the time being in force in the said Province relating to Friendly Societies shall apply to societies registered under this Act, in the following particulars:—

Application of Friendly Societies Acts to this Act.

- I. Reception of rules in evidence :
- II. Settlement of disputes by arbitration or Justices of the Peace :
- III. Jurisdiction of Courts in cases of dispute :
- IV. Power of Justices of the Peace or Local Courts, in cases of fraud.

14. The provisions of the Act to regulate Friendly Societies, whereby a member of any society registered thereunder is allowed to nominate any persons to whom his investment in such society should be paid, shall extend in the case of societies registered under this Act to allow any member thereof to nominate any persons into whose name his share in such society at his decease shall be transferred; and such transfer shall be made notwithstanding such share shall not be transferable in other cases: Provided, nevertheless, that any such society may in lieu of making such transfer elect to pay to any persons so nominated the full value of such share.

Power to member to nominate persons into whose names his share shall be transferred at his death.

15. Any society registered under this Act may be wound up, either by the Court or voluntarily, in the same manner and under the same circumstances under and in which any company may be wound up under any Acts or Act for the time being in force for winding up companies, and all the provisions of such Acts or Act with respect to winding up shall apply to such society, with this exception, that the Court having jurisdiction in the winding up shall be the Local Court of the district in which the office of the society is situated.

As to winding up societies.

*Compare new Co. Act 1892, s 20, 189*  
*30. 193. 209*  
*210*

16. In case of the dissolution of any such society, such society shall,

Dissolution of society not to prevent winding up of its affairs.

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shall nevertheless be considered as subsisting and be in all respects subject to the provisions of this Act so long and so far as any matters relating to the same remain unsettled, to the intent that such society may do all things necessary to the winding up of the concerns thereof, and that it may be sued and sue under the provisions of this Act in respect of all matters relating to such society.

Provisions of Companies Acts to apply in certain cases.

17. The provisions of any Act for regulating Joint Stock Companies as to bills of exchange, and the admissibility of the register of shares in evidence shall apply to all societies registered under this Act.

Liability of present and past members of society.

18. In the event of a society registered under this Act being wound up, every present and past member of such society shall be liable to contribute to the assets of the society to an amount sufficient for payment of the debts and liabilities of the society and the costs, charges, and expenses of the winding up and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves with the qualifications following, (that is to say)—

*Handwritten notes:*  
Society, 1/4  
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- i. No past member shall be liable to contribute to the assets of the society if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding up:
- ii. No past member shall be liable to contribute in respect of any debt or liability of the society contracted after the time at which he ceased to be a member:
- iii. No past member shall be liable to contribute to the assets of the society, unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them, in order to satisfy all just demands upon such society:
- iv. No contribution shall be required from any member exceeding the amount (if any) unpaid on the shares in respect of which he is liable as a past or present member.

Society may be constituted under Companies Acts.

19. Any society registered under this Act may be constituted a company under the Companies Acts, by conforming to the provisions set forth in such Acts, and thereupon shall cease to retain its registration under this Act.

Members may inspect books.

20. Every person or member having an interest in the funds of any society registered under this Act, may inspect the books, and the names of the members, at all reasonable hours, at the office of the society.

*Handwritten:* S. 19

Annual returns to be prepared as registrar may direct.

21. A general statement of the funds and effects of any Society registered under this Act shall be transmitted to the registrar once in every year, and shall exhibit fully the assets and liabilities of the society,

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society, and shall be prepared and made out within such period and in such form, and shall comprise such particulars as the registrar shall from time to time require; and the registrar shall have authority to require such evidence as he may think expedient of all matters required to be done, and of all documents required to be transmitted to him under this Act; and any member of, or any depositor in, any such society shall be entitled to receive, on application to the treasurer or secretary of that society a copy of such statement, without making any payment for the same; and if any society shall make default in transmitting such return as aforesaid, the officer making such default shall be liable to a penalty not exceeding **Twenty Shillings.** S. 20  
Penalty on default.

22. All penalties imposed by this Act, or by the rules of any society registered under this Act, may be recovered in a summary way before two Justices of the Peace, as directed by Ordinance No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of Sessions, with respect to summary convictions and orders." Recovery of penalties.

23. This Act may be cited as "The Industrial and Provident Societies Act, 1864." Short title.

In the name and on behalf of the Queen I hereby assent to this Act.

D. DALY, Governor.

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**SCHEDULE OF MATTERS TO BE PROVIDED FOR IN  
THE RULES.**

1. Object and name, and place of office of the Society, which must in all cases be registered as one of limited liability.
2. Terms of admission of members.
3. Mode of holding meetings, and right of voting, and of making or altering rules.
4. Determination whether the shares shall be transferable; and in case it shall be determined that the shares shall be transferable, provision for the form of transfer and registration of shares, and for the consent of the Committee of Management and confirmation by the General Meeting of the Society; and in case shares shall not be transferable, provision for paying to Members balance due to them on withdrawing from the Society.
5. Provision for the audit of accounts.
6. Determination whether any part of the capital may be invested in or on the security of another Society, or in the Savings Bank; provided that no such investment be made in any other Society not registered under this Act, or the Companies Act, as a society or company with limited liability.
7. Determination whether and how members may withdraw from the Society, and provisions for the claims of executors, administrators, or assigns of members.
8. Mode of application of profits.
9. Appointment of Managers and other officers, and their respective powers and remuneration.