



BERMUDA
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FRIENDLY SOCIETIES ACT 1868

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[11 September 1868]

[preamble and words of enactment omitted]

Objects for which friendly societies may be established

1 Societies may be established and registered, and societies already in existence may be enrolled, having for their objects—

- (a) the relief, maintenance, or endowment of the members, their husbands, wives, children, parents, or nominees, in infancy, old age, sickness, infirmity of mind or body, or widowhood;
- (b) the making good any loss sustained by the members by fire, lightning, tempest or shipwreck, or by any contingency whereby they sustain any loss or damage of their live or dead stock, boats, goods, or stock-in-trade, or of the tools or implements of their trade or calling;
- (c) for the frugal investment of the savings of the members for better enabling them to purchase food, clothes or other necessaries or the tools or implements of their trade or calling, or to provide for the education or intellectual or industrial improvement of themselves or their children or kindred:

Provided that—

- (i) the shares in any such investment society shall not be transferable; and
 - (ii) the investment of each member shall accumulate or be employed for the sole benefit of the member investing, or the husband, wife, children or kindred of such member; and
 - (iii) no part thereof shall be appropriated to the relief, maintenance or endowment of any other member or person whomsoever; and
 - (iv) the full amount of the balance due according to the rules of such society to any such member shall be paid to him or her on withdrawing from the society;
- (d) for any other purpose which is certified to be legal by the Attorney-General, and which is allowed by the Registrar-General (hereinafter referred to as "the Registrar") as a purpose to which the powers and protection of this Act ought to be extended.

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Rules of friendly society

2 Every society intended to be established or registered under this Act shall in its rules declare its name or style and all the intents, objects and purposes for which it is intended to be established; and by its rules shall direct all the uses and purposes to which the money subscribed shall be applied and in what proportions and under what circumstances any member or other person shall become entitled thereto; and the rules shall also define the manner in which meetings of the society are to be convened.

Registrar General to be Registrar of Friendly Societies

3 (1) The Registrar shall be the Registrar of friendly societies for the purposes of this Act.

(2) The Registrar shall maintain a register of friendly societies and, subject to this Act, he shall enter therein the name of every society which applies to be registered in accordance with this Act.

(3) [omitted] [spent]

(4) [omitted] [spent]

Approval of rules; powers on registration

4 (1) Every friendly society which is registered under this Act shall be subject to the provisions and entitled to the privileges of this Act.

(2) The rules of every society seeking registration with a view to obtaining such privileges shall, before such society is registered, be submitted for approval of the Registrar; and the Registrar may disallow any rule of any such society which is, in the opinion of the Registrar, repugnant to this Act or would otherwise be improper to be allowed.

(3) Every rule so disallowed shall, from the period of such disallowance, being notified in writing to the society, cease to have any force or validity whatsoever, any previous confirmation in case of such rule or rules having been confirmed under this Act to the contrary notwithstanding; but until any such disallowance has been made and so notified all rules so allowed as aforesaid shall be and remain in full force.

Application for registration

5 (1) With respect to the registration of a friendly society and of the rules thereof—

- (a) an application in writing to register the society and its rules shall be sent to the Registrar in the prescribed form and signed by seven or more members of the society and shall be accompanied by two copies of the rules approved under section 4, similarly signed,

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together with a list of the names of the secretary and of every trustee or other officer intended to be authorized to sue or be sued on behalf of the society;

- (b) the Registrar may call for further information for the purposes of satisfying himself that any application complies with this Act or that the society is entitled to registration under this Act;
- (c) no society shall be registered under a name identical with that under which any existing society has been registered or so nearly resembling such name as to be likely to deceive the members of the public;
- (d) the Registrar shall refuse to register any society unless he is satisfied—
 - (i) that all the objects of the society are lawful; and
 - (ii) that the provisions of this section and of any regulations made under this Act with respect to registration have been complied with;
- (e) where the Registrar refuses to register a society he shall forthwith inform the applicants in writing of the grounds of his refusal;
- (f) an appeal shall lie to the Supreme Court from a refusal of the Registrar to register a society and on such appeal the Supreme Court may make any such order as it thinks proper, including any directions as to the costs of the appeal;
- (g) the Supreme Court may make rules governing such appeals providing for the method of giving evidence, prescribing the time within which such appeals shall be brought, the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal; and
- (h) the Registrar shall be entitled to be heard on any such appeal.

(2) Where an application is made under subsection (1) and the Registrar is satisfied as to the matters mentioned in subsection (1)(d) he shall, on payment of the prescribed fee, register the friendly society and its rules and shall issue a certificate of registration to the applicants.

(3) A certificate of registration issued under subsection (2) shall be conclusive evidence that the provisions of this Act relating to registration have been complied with.

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Alteration of rules

6 No confirmed rule of any society registered under this Act shall be rescinded or altered except at a general meeting of the society convened in accordance with the rules of the society, and such rescission or alteration shall not take effect until approved and allowed by the Registrar and notified in writing to the society.

Minister may make regulations

7 (1) The Minister for the time being responsible for social welfare and related matters may make regulations with respect to—

- (a) the registration of a friendly society under this Act and the documents and information to be furnished by any applicant for such registration;
- (b) the forms to be used for such registration;
- (c) the inspection of documents kept by the Registrar under this Act;
- (d) the fees to be paid on registration and in respect of any service, matter or thing falling to be performed by the Registrar for the purposes of this Act or any regulations made thereunder.

(2) The negative resolution procedure shall apply to regulations made under this section.

Friendly society to appoint trustees

8 Every friendly society registered under this Act shall, at some meeting of its members and by a resolution of a majority of the members then present, nominate and appoint one or more person or persons to be trustee or trustees for the said society, and the like in the case of any vacancy in the said office; and a copy of the resolution so appointing such person or persons to the office of trustee and signed by such trustee or trustees and by the secretary of the said society, shall be sent to the Registrar to be deposited by him with the rules of the said society in his custody:

Provided that where no trustee has been appointed in any society registered under this Act the treasurer thereof or other person who has the custody of the money of such society shall be deemed to be a trustee within the meaning of this Act.

Vesting of property in trustees

9 (1) All real and personal estate whatsoever belonging to any society registered under this Act, except such money as under the rules of such society are to be kept in hand to meet the current expenses, disbursements and liabilities of the society, shall be vested in such

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trustee or trustees for the time being, for the use and benefit of such society and the members thereof, and under the control of such trustee or trustees, their respective executors or administrators according to their respective claims and interests, and upon the death or removal of any such trustee or trustees the real and personal estate shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever:

Provided that in the case of stocks and securities in the public funds of the United Kingdom such stocks and securities shall be transferred into the name or names of such new trustee or trustees.

(2) In all actions or suits or indictments or summary proceedings before courts of summary jurisdiction touching or concerning any such property, the property shall be stated to be the property of the person or persons for the time being holding such office of trustee in his or their proper name or names as trustees of such society without any further description.

Appointment of officers

10 Every society intended to be registered under this Act shall appoint, and its rules shall provide for the appointment of a trustee or trustees, and of a president, treasurer or some other officer or person to whom shall be entrusted the custody of the monies kept in hand to meet the current expenses and liabilities of the society.

Giving of security by trustees and officers

11 Every trustee, officer or person entrusted with the custody of any money of any such society shall give security by bond to the society by name, and in such other manner as the rules of the society may require, in an amount prescribed by the society, for the faithful execution of his trust.

Appointment of substitute

12 Whenever the treasurer or any trustee of any registered society is out of the jurisdiction of the courts of Bermuda, or becomes of unsound mind, or dies, or it is uncertain whether he is alive, or whenever any such treasurer or trustee is absent, or refuses to convey, transfer or deliver any securities, books or papers in his custody or possession, then the society shall have power to appoint another treasurer or trustee to make such conveyance, transfer or disposition.

Investment of funds

13 The funds of every friendly society registered under this Act shall, as far as those funds are not required for immediate use, be put out in real securities or invested in the names of the society or its trustee or trustees in such stocks, funds or securities as may, by virtue of any provision of law for the time being specifying the powers and duties of

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trustees, executors and administrators, be authorized for the investment of money in the hands or under the control of a trustee, executor or administrator, and all interests or dividends arising therefrom shall be brought to account by the proper officer of the society, and applied to such uses as the rules of the society may direct.

Priority of claims on estate of deceased debtor

14 The executors, administrators, assigns or representatives of any person in whose hands or custody were monies, effects or securities of any such society shall, within forty days after demand made by the proper officer of the society, deliver over all such effects, monies or securities and pay all sums of money due to the said society which the deceased person received by virtue of his holding any office or employment in the society before any other debts are paid or satisfied.

Officer may be compelled to deliver assets in his hands

15 If any officer, member, or other person, being or representing himself to be a member of such society, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition obtains possession of any monies, securities, books, papers, or other effects of such society, or having the same in his possession withholds or misapplies the same or wilfully applies any part of the same to purposes other than those expressed or directed in the rules of such society, or any part thereof, any magistrate upon complaint made by any person on behalf of such society may summon the person against whom such complaint is made to appear at a time and place to be named in such summons; and a court of summary jurisdiction shall proceed to hear and determine the said complaint in the manner provided by the Magistrates Act 1948 [*title 8 item 15*]; and if the court determines the said complaint to be proved against such person, it shall adjudge and order him to deliver up all such monies, securities, books, papers or other effects to the society, or to repay the amount of money applied improperly, and to pay, if the court thinks fit, a further sum of money not exceeding two hundred and forty dollars, together with the costs not exceeding two dollars and forty cents, and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty or costs as aforesaid, the court may order the said person to be imprisoned for any term not exceeding three months:

Provided that—

- (a) nothing herein contained shall be construed so as to prevent the Director of Public Prosecutions from proceeding by indictment against the said person; and

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(b) no person shall be proceeded against by indictment if a conviction has been previously obtained for the same offence under this Act.

[Section 15 proviso (a) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

Legal status of friendly society

16 (1) Every society registered under this Act may sue or be sued by its name in any court in Bermuda, and every such society shall by its rules declare what officer or officers shall represent it in all suits brought by or against the society:

Provided that in any suit against such officer the society may sue by its name or style.

(2) In all suits or proceedings on behalf of such society such officer or officers are entitled to sue in the name of the society, and in all suits or proceedings against any such society it shall be sufficient to sue it by its name or style and to serve process and pleadings, and all rules, orders and notices incident to the cause upon any such officer either personally or by leaving the same at his last or most usual place of abode:

Provided that no execution shall issue against such officer personally, or against his own private property, unless under special circumstances the court or a judge expressly sanctions it.

(3) Any member of any such society shall be at liberty to sue any officer of any such society so appointed as aforesaid for any money due to such member, and may recover in such suit any money which may be due to such member, and which the funds of the society are liable for, notwithstanding any community of interests or partnership between the person suing and the person or persons sued.

Summary proceedings as between friendly society and its members or officers

17 (1) A court of summary jurisdiction shall have power to hear and determine all legal and equitable suits arising between any society enrolled under this Act and any of its members or officers in any case where such suit relates only to the books, papers or securities of such society or claimed to belong to it, or in any case where the amount in dispute, if it is a money demand, does not exceed two hundred and forty dollars.

(2) All debts and sums of money recovered under this section shall be recovered and enforced in the manner provided by the Magistrates Act 1948 [*title 8 item 15*], and in all cases the court hearing any suit under this section shall receive and allow such costs as are usually and lawfully allowed in civil suits before a court of summary jurisdiction.

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Payment of moneys due on death of member

18 When on the death of any member of a society registered under this Act a sum of money not exceeding one hundred and twenty dollars becomes payable the money shall be paid by the trustees of such society to the person directed by the rules thereof or nominated by the deceased person in writing signed by the deceased person in the presence of and attested by two credible and disinterested witnesses and deposited with the secretary (such person being the husband, wife, father, mother, child, grandchild, brother or sister, nephew or niece of such member); and in any case where there is no such direction or nomination, or the person so nominated has died before the deceased member, or in any case where the member has revoked such nomination by any writing signed and attested as aforesaid, then such sum shall be paid to the person who appears to the trustees to be entitled under any provision of law to receive the money without taking out letters of administration:

Provided that whenever the trustee or trustees of any such society after the decease of any member thereof have paid and divided any such sum of money to or amongst any person or persons who, at the time of such payment appears to such trustee or trustees to be entitled to the effects of any deceased member who has died intestate without having appointed any nominee as aforesaid, then the payment of any such sum shall be valid and effectual with respect to any demand from any other person or persons as next of kin of such deceased member or as the lawful representative or representatives of such member against the funds of such society or against the trustees thereof; but nevertheless such next of kin or representative shall have his or her lawful remedy for such money so paid as aforesaid against the person or persons who have received the same.

Minors may become members

19 If the rules of the society allow minors may become members of registered societies, and in dealing with the same minors shall have authority to act in their own name and behalf, and shall be held legally responsible:

Provided that—

- (a) minors under fifteen years of age shall be admitted into such society only with the consent of their parents or guardians or some Justice of the Peace; and
- (b) no person under the age of eighteen years shall be competent to be appointed a trustee or treasurer of a ny such society.

[Section 19 proviso (b) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

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Officers to account for property of friendly society

20 Every officer of any society who is entrusted with the disposal, management, receipt, disbursement or custody of the monies of the society, shall render an account and pay over all monies remaining in his or their hands as and when the rides of the society require, but every year at the least, and in the month of January in every year the secretary and the treasurer of every such society shall state an account in detail of the monies, receipts and disbursements of the society during the preceding year, which account with the vouchers in support of the same shall at all reasonable times be open to the inspection of all members and of any person or persons appointed by one-third at least of the members to audit the same; and of any Justice of the Peace whom the Governor at the instance of any three members of the society sees fit to appoint to inspect and examine the same; and such account shall show what monies of the society are in hand and in whose hand in particular and what monies are invested and in what investments such money is placed.

Dissolution

21 (1) The members of any society registered under this Act at some meeting thereof to be specially called in that behalf may dissolve or determine the society by consent:

Provided that no such society shall be dissolved or determined without obtaining the votes or consent of five-sixths in value of the then existing members thereof, including the honorary members, if any, to be ascertained in manner hereinafter mentioned, nor without the consent of all persons, if any, then receiving or then entitled to receive any relief, annuity or other benefit from the funds thereof to be testified under their hands individually and respectively unless the claim of every such person be first duly satisfied, or adequate provision be made for satisfying such claim.

(2) For the purpose of ascertaining the votes of such five-sixths in value of the members as aforesaid, every member shall be entitled to one vote and an additional vote for every five years that he may have been a member, but no one member shall have more than four votes in the whole.

(3) The intended appropriation or division of the funds or other property shall be fairly and distinctly stated in the agreement for dissolution prior to such consent being given, or if such intended appropriation or division is not fairly and distinctly stated in such agreement it shall be stated therein that it has been agreed that such appropriation or division has been referred to a court of summary jurisdiction; and the decision or order of the court so to be named as to the appropriation or distribution shall be final and conclusive on the members and other persons interested in the funds of such society.

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(4) The agreement for such dissolution duly signed as aforesaid accompanied with a declaration in writing signed by one of the trustees or by three members and the secretary, taken before a Justice of the Peace, that the provisions of this Act have been complied with shall be forthwith transmitted to the Registrar to be deposited by him with the rules of the society.

(5) Such agreement shall thereupon be an effectual discharge at law and in equity to the trustees, treasurer and other officers of such society and shall operate as a release from all the members of the society to such trustees, treasurer and other officers except in so far as such trustees, treasurer or other officers or persons may be required or bound to obey any such order of the court.

(6) It shall not be lawful in any society to direct a division or appropriation of any part of the stock thereof except for the purpose of carrying into effect the general interest and objects declared in the rules as originally certified unless the claim of every member is first duly satisfied or adequate provision is made for satisfying such claims.

(7) Where any member of such society is dissatisfied with such provision he may apply to a court of summary jurisdiction for relief or other order; and the court shall have power to entertain such application and to make such order or direction in relation thereto as the court may think the justice of the case requires.

(8) In the event of the dissolution and determination of any society or the division or appropriation of the funds thereof except in the way hereinbefore provided, any trustee or other officer or person who aids or abets therein commits an offence against this Act:

Punishment on summary conviction: imprisonment for 3 months.

[Amended by:

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