



Industrial and Provident Societies Act 1967

1967 CHAPTER 48

An Act to facilitate the borrowing of money by registered societies within the meaning of the Industrial and Provident Societies Act 1965; and for connected purposes. [14th July 1967]

Modifications etc. (not altering text)

- C1** Act: power to modify Act conferred by [Credit Unions Act 1979 \(c. 34, SIF 55:3\)](#), [s. 32\(2\)\(c\)](#)
- C2** Act: power to transfer functions conferred (25.2.2001) [2000 c. 8, ss. 338\(1\)\(b\)](#), 339; S.I. 2001/516, [art. 2\(a\)](#), [Sch. Pt. I](#)
- Act: power to amend conferred (8.9.2002) by [2002 c. 20, ss. 2\(2\)](#), 4(2)

PART I

BORROWING BY SOCIETIES REGISTERED IN ENGLAND AND WALES

1 Charges on assets of English and Welsh societies.

- (1) An instrument which is executed after the commencement of this Act by a registered society whose registered office is in England or Wales and which creates or is evidence of a fixed or floating charge on assets of the society shall not be a bill of sale for the purposes of the ^{M1}Bills of Sale Acts 1878 and ^{M2}1882 or be invalidated by those Acts if an application for the recording of the charge is made in accordance with subsection (2) of this section.
- (2) An application for the recording of a charge in pursuance of the foregoing subsection shall be made by delivering by post or otherwise to the central office, within the period of [^{F1}twenty-one days] beginning with the date of execution of the instrument which creates or is evidence of the charge or within any extended period allowed under subsection (5) of this section,—

Status: Point in time view as at 01/09/1996.

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- (a) a copy of the instrument authenticated in the prescribed manner and such additional particulars relating to the charge and so authenticated as may be prescribed; and
 - (b) such fee as may be determined in pursuance of section 70 of the principal Act as applied by this Act.
- (3) It shall be the duty of the chief registrar to secure—
- (a) that an acknowledgment in the prescribed form of every application made for the purposes of this section is issued to the person by whom the application was made; and
 - (b) that the copy of the instrument included in such an application, a note of any prescribed particulars so included and a copy of the acknowledgment of the application issued in pursuance of the foregoing paragraph are placed on a file maintained by the central office in respect of the society by whom the instrument was executed; and
 - (c) that the file is available for inspection during office hours by members of the public on payment of such fee as may be determined as aforesaid;
- and an acknowledgment issued in pursuance of this subsection shall be conclusive evidence that any document specified by the acknowledgment was delivered to the central office on the date so specified.
- (4) Without prejudice to the generality of the power to make regulations conferred by section 71 of the principal Act as applied by this Act, regulations under that section may make provision for the giving of notice to the central office of any release, discharge or other transaction relating to any charge in respect of which an application has been made for the purposes of this section and for the inclusion in the file mentioned in subsection (3) of this section of any such notice appearing to the chief registrar to relate to the charge.
- (5) If in the case of such an instrument as is mentioned in subsection (1) of this section it appears to the [^{F2}Chief Registrar], on the application of the society by whom the instrument was executed or of any other person claiming the benefit of the instrument, that by reason of inadvertence or other sufficient cause—
- (a) an application for the recording of the charge to which the instrument relates was not made within the period of [^{F2}twenty-one days] mentioned in subsection (2) of this section; or
 - (b) any matters were omitted from or were mis-stated in such an application,
- the [^{F2}Chief Registrar may, on such terms as he thinks fit, direct] that the period for making such an application shall be extended or, as the case may be, that the omission or mis-statement shall be rectified.

Textual Amendments

F1 S. 1(2) words substituted (1.9.1996) by S.I. 1996/1738, arts. 1, 7(2)(a)

F2 S. 1(5) words substituted (1.9.1996) by S.I. 1996/1738, arts. 1, 7(2)(b)

Marginal Citations

M1 1878 c. 31.

M2 1882 c. 43.

Status: Point in time view as at 01/09/1996.

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2 Application of Part I.

- (1) This Part of this Act does not extend to Scotland.
- (2) Nothing in this Part of this Act shall apply to a debenture registered under section 14 of the ^{M3} Agricultural Credits Act 1928 (which provides for the registration of debentures of registered societies creating floating charges in favour of banks).

Marginal Citations

M3 1928 c. 43.

PART II

BORROWING BY SOCIETIES REGISTERED IN SCOTLAND

[^{F3}3] Application to registered societies of provisions relating to floating charges.

- (1) Subject to the following provisions of this section, the following provisions of the Companies Act 1985 relating to floating charges, namely Chapter I of Part XVIII together with sections 517(2) and 617(3) (which provisions are in this Part referred to as “the relevant provisions”) shall apply to a registered society as they apply to an incorporated company.
- (2) Accordingly (subject as aforesaid) the relevant provisions shall, so far as applicable, apply as if—
 - (a) references to a company or an incorporated company were references to a registered society;
 - (b) references to the registrar and the registrar of companies were references to the registrar under this Act; and
 - (c) references, however expressed, to registration of a floating charge, or registration in accordance with Chapter II of Part XII of the Act of 1985, or delivery to or receipt by the registrar of particulars for registration, were references to the delivery to the registrar of any document required by section 4(1) of this Act to be so delivered.
- (3) Where, in the case of a registered society, there are in existence—
 - (a) a floating charge created by the society under the relevant provisions as applied by this section, and
 - (b) an agricultural charge created by the society under Part II of the Agricultural Credits (Scotland) Act 1929,and any assets of the society are subject to both charges, sections 463(1)(c) and 464(4)(b) of the Act of 1985 shall have effect for the purpose of determining the ranking with one another of those charges as if the agricultural charge were a floating charge created under the relevant provisions and registered under that Act at the same time as it was registered under Part II of the Act of 1929.
- (4) In this section, and in the following provisions of this Part of this Act, “registered society” does not include a registered society whose registered office is situated in England and Wales.

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- (5) In their application to a registered society, the relevant provisions shall have effect with the following modifications—
- (a) in sections 462(2) and 517(2), the references to the Court of Session shall be read as references to any sheriff court;
 - (b) section 462(5) shall be subject only to such provisions of the Act of 1985 as apply (by virtue of section 55 of the principal Act) to registered societies; and
 - (c) in section 466, subsections (4) and (5) and the words “subsection (4) of” in subsection (6) shall be omitted.]

Textual Amendments

- F3** S. 3 substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. [26\(1\)\(2\)](#)

4 Filing of information relating to charges.

- (1) In respect of every floating charge created by a registered society under [F4the relevant provisions of the Companies Act 1985]as applied by section 3 above there shall be delivered by post or otherwise to the registrar, within the period of [F521] days beginning with the day of execution of the instrument creating the charge (or within any extended period allowed under subsection (2) of this section),—
- (a) a copy of the instrument, authenticated in the prescribed manner;
 - (b) a note, so authenticated, of such particulars relating to the charge as may be prescribed; and
 - (c) such fee as may be determined in pursuance of section 70 of the principal Act as applied by this Act;
- and if in the case of any such charge the said copy, note and fee are not delivered as aforesaid within the period limited by this subsection the charge shall be void against any person other than the society concerned.
- (2) If in the case of any such charge it appears to the [F6Chief Registrar], on the application of the society by whom the instrument creating the charge was executed or of any other person claiming the benefit of the instrument, that by reason of inadvertence or other sufficient cause—
- (a) a duly authenticated copy of the instrument was not delivered to the registrar within the period of [F521] days mentioned in subsection (1) of this section; or
 - (b) any matters were omitted from, or were mis-stated in, the note required under that subsection to be delivered to the registrar,
- the [F6Chief Registrar may, on such terms as he thinks fit, direct] that the said period shall be extended or, as the case may be, that the omission or mis-statement shall be rectified.
- (3) Where any person delivers to the registrar any document such as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section, together with the fee mentioned in paragraph (c) of that subsection, it shall be the duty of the registrar to secure—
- (a) that there is issued to that person an acknowledgment in the prescribed form stating the date on which, and the time at which, the delivery was effected;
 - (b) that the document delivered and a copy of the acknowledgment are placed on a file maintained by the registrar in respect of the society concerned; and

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- (c) that the file is available for inspection during office hours by members of the public on payment of such fee as may be determined in pursuance of section 70 of the principal Act as applied by this Act.
- (4) Any acknowledgment issued in pursuance of paragraph (a) of the last foregoing subsection shall be conclusive evidence that any document specified by the acknowledgment was delivered to the registrar on the date, and at the time, so specified.

Textual Amendments

- F4** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. [26\(4\)](#)
- F5** Word substituted by [Companies \(Floating Charges and Receivers\) \(Scotland\) Act 1972 \(c. 67\)](#), s. [10\(iv\)](#)
- F6** S. 4(2) words substituted (1.9.1996) by S.I. 1996/1738, arts. 1, 7(3)

Modifications etc. (not altering text)

- C3** S. 4(1)(2)(a) continue in force as amended by [Companies \(Floating Charges and Receivers\) \(Scotland\) Act 1972 \(c. 67\)](#), s. [10\(iv\)](#) by virtue of [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. [26\(3\)](#)

5 Supplemental provisions.

- (1) Without prejudice to the generality of the power to make regulations conferred by section 71 of the principal Act as applied by this Act, regulations under that section may make provision for the giving of notice to the registrar of—
- (a) any release, discharge or other transaction relating to any charge created by an instrument a copy of which has been delivered to the registrar in pursuance of the last foregoing section;
- (b) any security granted by a registered society over any of its assets otherwise than under ^{F7}the relevant provisions of the Companies Act 1985]as applied by this Part of this Act;
- and for the inclusion in the file mentioned in subsection (3)(b) of that section of any such notice.
- (2) The Court of Session may by Act of Sederunt make rules prescribing the nature of the documents with which, in relation to any such charge as is mentioned in paragraph (a) of the foregoing subsection, the creditor may require to be furnished for identifying the assets affected by the charge and establishing the title of the society thereto.

Textual Amendments

- F7** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. [26\(4\)](#)

6 Interpretation and application of Part II.

- (1) In this Part of this Act “the registrar” means the Assistant Registrar of Friendly Societies for Scotland.

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- (2) This Part of this Act extends to Scotland only.

PART III

GENERAL

7 Interpretation, etc.—general.

- (1) In this Act “the principal Act” means the ^{M4}Industrial and Provident Societies Act 1965, and “prescribed”, “registered” and “registered society” have the same meanings as in that Act.
- (2) Sections 70 to 73 of the principal Act (which contain supplemental provisions relating to fees, regulations, documents, registrars and the central office) shall apply for the purposes of this Act as they apply for the purposes of that Act.

Marginal Citations

M4 1965 c. 12.

8 Citation, commencement and extent.

- (1) This Act may be cited as the Industrial and Provident Societies Act 1967 and this Act and the principal Act may be cited together as the ^{M5}Industrial and Provident Societies Acts 1965 and 1967.
- (2) This Act shall come into operation on the expiration of the period of two months beginning with the date on which it is passed.
- (3) This Act does not extend to Northern Ireland.

Marginal Citations

M5 1965 c. 12.

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SCHEDULE

Section 3.

MODIFICATIONS TO COMPANIES (FLOATING CHARGES) (SCOTLAND) ACT 1961 IN ITS APPLICATION TO REGISTERED SOCIETIES BY VIRTUE OF PART II OF THIS ACT

- 1 In section 1(2), the reference to section 106A of the Act of 1948 shall be omitted.
- 2 In section 2, the reference to the Court of Session shall be construed as a reference to any sheriff court.
- 3 In section 3, the reference to the Act of 1948 shall be construed as a reference to such provisions of that Act as apply (by virtue of section 55 of the principal Act) to registered societies.
- 4 In section 4, the reference to section 399(5) of the Act of 1948 shall be omitted; and the reference to the Court of Session shall be construed as a reference to any sheriff court.
- 5 F8

Textual Amendments

F8 Sch. paras. 5, 7 repealed by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v) paras. (a)(d) respectively

- 6 Section 6 and [F9 the Schedule] shall be omitted.

Textual Amendments

F9 Words substituted by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v)(b)

- [F10 6A In section 7, subsections (3) and (4) and the words “subsection (3) of” in subsection (5) shall be omitted.]

Textual Amendments

F10 Para. 6A inserted by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v)(c)

- 7 F11

Textual Amendments

F11 Sch. paras. 5, 7 repealed by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v) paras. (a)(d) respectively

- 8 In this Schedule, “Act of 1948” has the same meaning as in the [F12M6 Companies (Floating Charges and Receivers) (Scotland) Act 1972.]

Textual Amendments

F12 Words substituted by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v)(e)

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Marginal Citations

M6 1972 c. 67.

Status:

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Changes to legislation:

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