



Industrial and Provident Societies Act 1967

1967 CHAPTER 48

PART II

BORROWING BY SOCIETIES REGISTERED IN SCOTLAND

3 Application to registered societies of Companies (Floating Charges) (Scotland) Act 1961

- (1) Subject to the following provisions of this section, the Companies (Floating Charges) (Scotland) Act 1961 (hereinafter in this Act referred to as " the Act of 1961 ") shall apply to a registered society as it applies to an incorporated company; and accordingly (subject as aforesaid) any reference in that Act (except in section 8(1)(b) thereof) to an incorporated company shall be construed as including a reference to a registered society.
- (2) In its application to a registered society the Act of 1961 shall be construed subject to the modifications set out in the Schedule to this Act.
- (3) Where, in the case of a registered society, there are in existence—
 - (a) a floating charge created by the society under the Act of 1961 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 1(2)(c) and 5(3) of the Act of 1961 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 Act of 1961 and registered under that Act at the same time as it was registered under the said Part II.
- (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 or Wales.

4 Filing of information relating to charges

(1) In respect of every floating charge created by a registered society under the Act of 1961 as applied by section 3 above there shall be delivered by post or otherwise to the registrar, within the period of fourteen 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, 60 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 Court of Session, 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 fourteen 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 Court may, on such terms as it thinks fit, order 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
- (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.

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—

Status: This is the original version (as it was originally enacted).

- (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 the Act of 1961 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.

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