



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 [^{F1}Authority], within the period of [^{F2}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,—

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- (a) a copy of the instrument authenticated [^{F3}in the manner directed by the Authority] and such additional particulars relating to the charge and so authenticated [^{F3}as may be required by the Authority]; and
- [^{F4}(b) such fee as may be required by rules made in accordance with paragraph 17 of Schedule 1 to the Financial Services and Markets Act 2000.]
- (3) It shall be the duty of the [^{F5}Authority] to secure—
- (a) that an acknowledgment [^{F6}bearing the Authority’s seal] 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 [^{F7} . . . 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 [^{F1}Authority] 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 [^{F8}required] as aforesaid;
- [^{F9} . . .
- (4) Without prejudice to the generality of the power [^{F10}to give directions] conferred by [^{F11}section 72] of the principal Act as applied by this Act, [^{F12}the Authority may, under that section] make provision for the giving of notice to the [^{F1}Authority] 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 [^{F5}Authority] 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 [^{F5}Authority], 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 [^{F13}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 [^{F13}[^{F5}Authority] may, on such terms as [^{F14}it] 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** Words in s. 1 substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 240(a)**; S.I. 2001/3538, **art. 2(1)**
- F2** S. 1(2) words substituted (1.9.1996) by S.I. 1996/1738, **arts. 1, 7(2)(a)**
- F3** Words in s. 1(2)(a) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(2)**
- F4** S. 1(2)(b) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 240(c)**; S.I. 2001/3538, **art. 2(1)**
- F5** Words in s. 1 substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 240(b)**; S.I. 2001/3538, **art. 2(1)**
- F6** Words in s. 1(3)(a) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(3)(a)**
- F7** Word in s. 1(3)(b) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(3)(b)**

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- F8** Word in s. 1(3)(c) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 240(d)**; S.I. 2001/3538, **art. 2(1)**
- F9** Words in s. 1(3) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(3)(c)**
- F10** Words in s. 1(4) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(4)(a)**
- F11** Words in s. 1(4) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(4)(b)**
- F12** Words in s. 1(4) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(4)(c)**
- F13** S. 1(5) words substituted (1.9.1996) by S.I. 1996/1738, **arts. 1, 7(2)(b)**
- F14** Word in s. 1(5) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 240(e)**; S.I. 2001/3538, **art. 2(1)**

Marginal Citations

- M1** 1878 c. 31.
M2 1882 c. 43.

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

[^{F15} 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 [^{F16}Authority]; 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 [^{F17}Authority] 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—

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- (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.
- (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

- F15** S. 3 substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), [s. 26\(1\)\(2\)](#)
- F16** Word in [s. 3\(2\)\(b\)](#) substituted (1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 13\(1\)](#), [Sch. 3 Pt. III para. 241\(a\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F17** Word in [s. 3\(2\)\(c\)](#) substituted (1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 13\(1\)](#), [Sch. 3 Pt. III para. 241\(b\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

4 Filing of information relating to charges.

- (1) In respect of every floating charge created by a registered society under ^{F18}the relevant provisions of the Companies Act 1985]as applied by section 3 above there shall be delivered by post or otherwise to the ^{F19}Authority], within the period of ^{F20}21] 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 ^{F21}in the manner directed by the Authority];
 - (b) a note, so authenticated, of such particulars relating to the charge ^{F22}as may be required by the Authority]; and
- ^{F23}(c) such fee as may be required by rules made in accordance with paragraph 17 of Schedule 1 to the Financial Services and Markets Act 2000;]
- 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 ^{F24}Authority], on the application of the society by whom the instrument creating the charge was executed or of any other

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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 [F19 Authority] within the period of [F20 21] 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 [F19 Authority],
the [F25 [F24 Authority] may, on such terms as [F26 it] 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 [F19 Authority] 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 [F19 Authority] to secure—
- (a) that there is issued to that person an acknowledgment [F27 bearing the Authority's seal] 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 [F19 Authority] 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 [F28 required by rules made in accordance with paragraph 17 of Schedule 1 to the Financial Services and Markets Act 2000].

F29 (4)

Textual Amendments

- F18** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. **26(4)**
- F19** Words in s. 4 substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 242(a)**; S.I. 2001/3538, **art. 2(1)**
- F20** Word substituted by [Companies \(Floating Charges and Receivers\) \(Scotland\) Act 1972 \(c. 67\)](#), s. **10(iv)**
- F21** Words in s. 4(1)(a) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(5)(a)**
- F22** Words in s. 4(1)(b) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(5)(b)**
- F23** S. 4(1)(c) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 242(b)**; S.I. 2001/3538, **art. 2(1)**
- F24** Words in s. 4(2) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 242(c)(i)**; S.I. 2001/3538, **art. 2(1)**
- F25** S. 4(2) words substituted (1.9.1996) by S.I. 1996/1738, **arts. 1, 7(3)**
- F26** Word in s. 4(2) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 242(c)(ii)**; S.I. 2001/3538, **art. 2(1)**
- F27** Words in s. 4(3)(a) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(6)**
- F28** Words in s. 4(3)(c) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 242(d)**; S.I. 2001/3538, **art. 2(1)**
- F29** S. 4(4) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(7)**

Modifications etc. (not altering text)

- C3** S. 4 excluded (26.12.2003) by [Financial Collateral Arrangements \(No.2\) Regulations 2003 \(S.I. 2003/3226\)](#), regs. 1(2), **4(5)**

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C4 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 [^{F30}to give directions] conferred by [^{F31}section 72] of the principal Act as applied by this Act, [^{F32}the Authority may, under that section] make provision for the giving of notice to the [^{F33}Authority] 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 [^{F33}Authority] in pursuance of the last foregoing section;
 - (b) any security granted by a registered society over any of its assets otherwise than under [^{F34}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

- F30** Words in s. 5(1) substituted (1.12.2001) by [S.I. 2001/3649, arts. 1, 183\(8\)\(a\)](#)
- F31** Words in s. 5(1) substituted (1.12.2001) by [S.I. 2001/3649, arts. 1, 183\(8\)\(b\)](#)
- F32** Words in s. 5(1) substituted (1.12.2001) by [S.I. 2001/3649, arts. 1, 183\(8\)\(c\)](#)
- F33** Words in s. 5(1) substituted (1.12.2001) by [S.I. 2001/2617, arts. 2, 13\(1\), Sch. 3 Pt. III para. 243](#); [S.I. 2001/3538, art. 2\(1\)](#)
- F34** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\), s. 26\(4\)](#)

6 Interpretation and application of Part II.

- ^{F35}(1)
- (2) This Part of this Act extends to Scotland only.

Textual Amendments

- F35** S. 6(1) repealed (1.12.2001) by [S.I. 2001/2617, arts. 2, 13\(1\)\(2\), Sch. 3 Pt. III para. 244, Sch. 4](#); [S.I. 2001/3538, art. 2\(1\)](#)

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PART III

GENERAL

7 Interpretation, etc.—general.

- (1) In this Act “the principal Act” means the ^{M4}Industrial and Provident Societies Act 1965, and [^{F36}“the Authority”], . . . , “registered” and “registered society” have the same meanings as in that Act.
- (2) Sections [^{F37}70A ^{F38}. . . and 72] of the principal Act (which contain supplemental provisions relating to fees [^{F39}^{F38}. . . and documents]) shall apply for the purposes of this Act as they apply for the purposes of that Act.

Textual Amendments

- F36** Words in s. 7(1) inserted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 245(a)**; S.I. 2001/3538, **art. 2(1)**
- F37** Words in s. 7(2) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 245(b) (i)**; S.I. 2001/3538, **art. 2(1)**
- F38** Words in s. 7(2) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 183(9)(b)**
- F39** Words in s. 7(2) substituted (1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. III para. 245(b) (ii)**; S.I. 2001/3538, **art. 2(1)**

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 F40

Textual Amendments
 F40 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 [F41the Schedule] shall be omitted.

Textual Amendments
 F41 Words substituted by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v)(b)

- [F426A In section 7, subsections (3) and (4) and the words “subsection (3) of” in subsection (5) shall be omitted.]

Textual Amendments
 F42 Para. 6A inserted by Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67), s. 10(v)(c)

- 7 F43

Textual Amendments
 F43 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 [F44M6Companies (Floating Charges and Receivers) (Scotland) Act 1972.]

Textual Amendments
 F44 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.

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