



ST. HELENA

CHAPTER 113

FRIENDLY SOCIETIES ORDINANCE

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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No Subsidiary Legislation has been made under this Ordinance

¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

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CHAPTER 113

FRIENDLY SOCIETIES ORDINANCE

(Ordinances 1 of 1939 as amended by Legal Notice 3 of 1989 and Ordinances 7 of 2003 and 8 of 2004)

AN ORDINANCE TO REGULATE FRIENDLY SOCIETIES.

Commencement

[1 February 1939]

Short title

1. This Ordinance may be cited as the Friendly Societies Ordinance.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
“**amendment of rule**” includes a new rule, and a resolution rescinding a rule;

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“**committee**” means the committee of management or other directing body of a society;

“**land**” includes any interest in land;

“**meeting**” includes, where the rules of a society so allow, a meeting of delegates appointed by members;

“**officer**” includes any trustee, treasurer, secretary, or member of the committee of management of a society, or person appointed by the society to sue and be sued on its behalf;

“**persons claiming through a member**” includes the nominees of the member where nomination is allowed;

“**prescribed**” means prescribed by regulations made by the Governor in Council;

“**property**” includes all property whether real or personal including books and papers;

“**Savings Bank**”² ...

“**society**” means a society registered under this Ordinance, and includes societies subsisting at the commencement of this Ordinance, to which the provisions of this Ordinance apply.

THE REGISTRAR

The Registrar

3.³ (1) There shall be a Registrar of Friendly Societies (in this Ordinance called “the Registrar”) who shall hold his office during pleasure of the Governor.

(2) The Governor shall appoint a public officer to be the Registrar.

Annual return by Registrar

4. The Registrar shall in every year make a return to the Governor containing, in respect of every society, the following particulars—

- (a) the date of registration and the object of the society;
- (b)⁴ the number of members on the roll of the society and the amount of money invested on real security or deposited in the Bank of St. Helena or in the treasurer’s hands on the preceding thirty-first day of December;
- (c) a statement as to whether or not the society is in receipt of assistance from the Government;
- (d) such other matters as may be prescribed.

REGISTRY OF SOCIETIES

Societies to which this Ordinance applies

5. The following societies shall be societies to which this Ordinance applies—

- (a) societies for the purpose of providing by voluntary subscriptions of the members thereof, with or without the aid of donations, for—
 - (i) the relief or maintenance of the members, their husbands, wives, children, fathers, mothers, brothers or sisters, nephews or nieces, or wards being orphans, during sickness or other infirmity, whether bodily or mental, in old age (which shall mean any age after fifty) or in widowhood, or for the relief or maintenance of the orphan children of members during minority; or

² Definition of “Savings Bank” repealed by Ord. 8 of 2004

³ Section 3 amended by L.N. 3/1989

⁴ Section 4(b) amended by Ord. 8 of 2004

- (ii) insuring money to be paid on the birth of a member's child, or on the death of a member, or for the funeral expenses of the husband, wife, or child of a member, or the widow of a deceased member;
- (b) societies for any purpose which the Governor may authorise as a purpose to which the provisions of this Ordinance, or such of them as are specified in the authority, ought to be extended:
Provided that where any provisions of this Ordinance are so specified those provisions only shall be so extended.

Societies to be registered

6. (1) Every society to which this Ordinance applies shall be registered under this Ordinance:

Provided always, that it shall be deemed to be a sufficient compliance with the provisions of this section if, before any subscriptions or fees are collected from any member, the Registrar, by writing under his hand, permits any person named therein to take the necessary steps for the formation of a society and if such a society is in fact registered within six months of such permission being given as aforesaid.

(2) In the event of any contravention of the provisions of this section, every secretary, trustee, member of the committee, or other officer of an unregistered society shall be liable to a penalty not exceeding £1 for every day during which such society remains unregistered.

Conditions of registration

7. (1) A society shall not be registered under this Ordinance unless it consists of seven persons at least.

(2) For the purpose of registry, there shall be sent to the Registrar an application to register the society, signed by seven members and the secretary, and copies of the rules, together with a list of the names of the secretary, of every member of the committee, and of every trustee or other officer intended to be authorised to sue and be sued on behalf of the society.

(3) The rules of the society so sent shall, according to the class in which the society is to be registered, contain provisions in respect of the several matters mentioned in the First Schedule to this Ordinance.

Name of society

8. A society shall not be registered under a name identical with that under which any other existing society is registered, or so nearly resembling that name as to be likely, or in any name likely, in the opinion of the Registrar, to deceive the members or the public as to its nature or its identity.

Acknowledgment of registry

9. The Registrar, on being satisfied that a society has complied with the provisions of this Ordinance as to registry, shall issue to that society an acknowledgment of registry in the form contained in the Second Schedule to this Ordinance and this acknowledgment shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registry of the society has been suspended or cancelled.

Appeals from refusal to register

10. (1) From a refusal to register a society, an appeal shall lie by the society to the Supreme Court.

(2) If the refusal to register is over-ruled on appeal, the Registrar shall give an acknowledgment of registry to the society.

Registry of amendment of rules

11. (1) An amendment of a rule made by a society shall not be valid until the amendment has been registered under this Ordinance, for which purpose copies of the amendment, signed by three members and the secretary, shall be sent to the Registrar.

(2) The Registrar shall on being satisfied that any amendment of a rule is not contrary to the provisions of this Ordinance issue to the society an acknowledgment of registry of the amendment, in the form contained in the Second Schedule to this Ordinance, and that acknowledgment shall be conclusive evidence that the amendment is duly registered.

(3) The provisions of this Ordinance as to appeals from a refusal to register a society shall apply to a refusal to register an amendment of a rule.

Subscriptions not recoverable at law

12. The subscription of a person being or having been a member of a society shall not be recoverable by law.

Registered office

13. Every registered society shall have a registered office to which all communications and notices shall be addressed, and shall send to the Registrar notice of the situation of that office, and of every change therein.

Appointment of trustees

14. (1) Every registered society shall have one or more trustees.

(2) The trustees shall be appointed at a meeting of the society and by a resolution of a majority of the members present and entitled to vote thereat.

(3) The society shall send to the Registrar a copy of every resolution appointing a trustee, signed by the trustee so appointed and by the secretary of the society.

(4) The same person shall not be secretary or treasurer of a registered society and a trustee of that society.

Change in list of officers of society

15. Any change in the names shown on the list mentioned in section 7(2) shall be forthwith communicated in writing to the Registrar by the secretary of a society, and any secretary failing to make such communication shall be guilty of an offence under this Ordinance.

Manner of keeping accounts

- 16.** Every society shall—
- (a) cause its accounts to be regularly entered in the prescribed books, separate accounts being kept of all moneys received or paid on account of every particular fund or benefit assured by the society for which a separate table of contributions payable is adopted, distinct from all moneys received and paid on account of any other benefit or fund; and
 - (b) keep a separate account of the expenses of management of the society and of all contributions on account thereof.

Return of members and investments

17. (1)⁵ Once in every year, not later than the thirty-first day of March, every society shall send to the Registrar a return (in this Ordinance called “the annual return”) showing the number of members on its roll, the amount of money deposited in the Bank of St. Helena, the amount of money invested in real security and the amount of money in the treasurer’s hands on the thirty-first day of December.

- (2)** The annual return—
- (a) shall include a statement of the receipts and expenditure and effects of the society as audited; and
 - (b) show separately the expenditure in respect of the several objects of the society.

Audit

18. (1) Every society shall, once at least in every year, submit its accounts for audit to auditors to be appointed by the committee and approved by the Registrar.

(2) The auditors shall have access to all the books and accounts of the society and shall examine the annual return and verify the annual return with the accounts and vouchers relating thereto and shall either sign the annual return as found by them to be correct, duly vouched and in accordance with law or specially report to the society in what respects they find it incorrect, unvouched, or not in accordance with law.

Quinquennial returns

19. (1) Every society shall, except as in this section provided, once at least in every five years either—

- (a) cause its assets and liabilities to be valued by a valuer to be appointed by the society and approved by the Registrar, and send to the Registrar a report on the condition of the society; or
 - (b) send to the Registrar a return of the benefits assured and contributions receivable from all the members of the society, and of all its funds and effects, debts and credits, accompanied by such evidence in support thereof as the Registrar prescribes.
- (2)** If the society sends to the Registrar such report as aforesaid, the report shall—
- (a) be signed by the valuer; and
 - (b) state the address and calling or profession of the valuer; and

⁵ Section 17(1) amended by Ord. 8 of 2004

- (c) contain an abstract to be made by the valuer of the results of his valuation, together with a statement containing such information, with respect to the benefits assured and the contributions receivable by the society, and of its funds and effects, debts and credits, as the Registrar may require.

(3) If the society sends to the Registrar such return as aforesaid, he shall cause the assets and liabilities of the society to be valued and reported on by some qualified person, and send to the society a copy of the report and an abstract of the results of the valuation.

Priority on death, bankruptcy, etc., of officer

20. (1) In the following cases, namely—

- (a) upon the death or bankruptcy of any officer of a society having in his possession by virtue of his office any money or property belonging to the society; or
- (b) if any execution, attachment or other process is issued against any such officer or against his property,

his executors or administrators, or trustee in bankruptcy, or the person executing the process, respectively, shall, upon demand in writing of the trustees of the society, or of any two of them, or of any person authorised by the society, or by the committee thereof, to make the demand, pay the money and deliver over the property to the trustees of the society in preference to any other debt or claim against the estate of the officer.

(2) In this section, the expression “**bankruptcy**” shall include liquidation of a debtor’s affairs by arrangement.

Membership of minors

21. (1) The rules of a registered society may provide for the admission of a person under twenty-one years of age as a member.

(2) Any such member may, if he is over sixteen years of age by himself, and if he is under that age by his parent or guardian, execute all instruments and give all acquaintances necessary to be executed or given under the rules, but shall not be a member of the committee, or a trustee, manager or treasurer of the society.

Subscriptions to hospitals

22. A society may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the society and their families the benefits of the hospital, infirmary or other institution, according to its rules.

Right to supply of copies of the rules

23. Every society shall deliver to every person on demand, on payment of a sum not exceeding 5 pence, a copy of the rules of the society.

Right to supply of copies of annual return

24. Every society shall supply gratuitously to every member on his application, either—

- (a) a copy of the last annual return of the society; or

- (b) a balance sheet or other document duly audited containing the same particulars as to the receipts and expenditure, funds and effects, of the society as are contained in the annual return.

Inspection of books by members

25. A member having an interest in the funds of a registered society may inspect the books at all reasonable hours at the registered office of the society, or at any place where the books are kept, except that the member shall not, unless he is an officer of the society, or is specially authorised by a resolution of the society to do so, have the right to inspect the loan account of any other member without the written consent of that member.

Investment of funds

26. (1)⁶ The trustees of a society may, with the consent of the committee or of a majority of the members present and entitled to vote in general meeting, invest the funds of the society or any part thereof, to any amount in any of the following ways—

- (a) in the Bank of St. Helena; or
- (b) in the purchase of land, or in the erection or alteration of offices or other buildings thereon; or
- (c) upon any other security expressly directed by the rules of the society, not being personal security; or
- (d) in any investment in which trustees are for the time being by law authorised to invest trust funds; or
- (e) in loans to members from any separate loan fund on their personal security subject to the prescribed regulations.

(2) The rules of a society may provide for the investment of funds of the society by the trustees, and the consent required for any such investment shall be the consent of the committee, or of such majority as aforesaid of the society by whom the funds are invested.

Holding of land

27. A society may, if the rules thereof so provide, hold, purchase, or take on lease in the names of the trustees of the society any land, and may sell, exchange, mortgage, lease or build upon that land, with power to alter and pull down buildings and again rebuild, and a purchaser, assignee, mortgagee or tenant shall not be bound to enquire as to the authority for any sale, exchange, mortgage or lease by the trustees, and the receipt of the trustees shall be a discharge for all sums of money arising from or in connection with the sale, exchange, mortgage or lease.

Vesting of property

28. (1) All property belonging to a society shall vest in the trustees for the time being of the society, for the use and benefit of the society and the members thereof, and of all persons claiming through the members according to the rules of the society.

(2) The trustees shall not be liable to make good any deficiency in the funds of the society, but shall be liable only for sums of money actually received by them respectively on account of the society.

⁶ Section 26(1) amended by Ord. 8 of 2004

Devolution on death

29. Upon the death, resignation, or removal of a trustee of a society, the property vested in that trustee shall, without conveyance or assignment, and whether the property is real or personal, vest, as personal estate subject to the same trusts, in the succeeding trustees of that society either solely or together with any surviving or continuing trustees, and, until the appointment of succeeding trustees, shall so vest in the surviving or continuing trustees only, or in the executors or administrators of the last surviving or continuing trustee.

Description in legal proceedings

30. In all legal proceedings whatsoever concerning any property vested in the trustees of a society, the property may be stated to be the property of the trustees in their proper names as trustees for the society without further description.

Discharge of mortgages by receipt endorsed

31. A receipt under the hands of the trustees of a society, countersigned by the secretary, for all sums of money secured to the society by any mortgage or other assurance, being in the form contained in the Second Schedule to this Ordinance, if endorsed upon or annexed to the mortgage or other assurance, shall vacate the mortgage or assurance and vest the property therein comprised in the person entitled to the equity of redemption of that property, without reconveyance or resurrender.

Security by officers

32. Every officer of a society having receipt or charge of money shall, before taking upon himself the execution of his office, become bound with one sufficient surety at the least in a bond in the form contained in the Second Schedule to this Ordinance, or give the security of a guarantee society, in such sum as the society directs, conditioned for his rendering a just and true account of all sums of money received and paid by him on account of the society at such times as its rules appoint, or as the society or the trustees or committee thereof require him to do, and for the payment by him of all sums due from him to the society.

Accounts of officers

33.⁷ (1) Every officer of a society having receipt or charge of money shall, at such times as by the rules of the society he should render account, or upon demand made or notice in writing given or left at his last or usual place of residence, give in his account as may be required by his society or by the trustees or committee thereof, to be examined and allowed or disallowed by them, and shall on the like demand or notice pay over all sums of money and deliver all property in his hands or custody to such person as the society or the committee or the trustees appoint.

(2) In case of any neglect or refusal to deliver the account, or to pay over the sums of money or to deliver the property in manner aforesaid, the trustees or authorised officers of the society may sue upon the bond or security before mentioned, or may apply to a Magistrate, who may order the delivery of such account or property or the payment over of such sums of

⁷ Section 33 amended by Ord. 7 of 2003

money with costs, and, in default of such delivery or payment the person making such default may be sentenced to imprisonment for any term not exceeding three months; and the order of such Magistrate shall be final and conclusive.

Member may dispose of sums payable on his death by nomination

34. (1) A member of a society not being under the age of sixteen years, may, by writing under his hand delivered at or sent to the registered office of the society, or made in a book kept at that office, nominate a person to whom any sum of money payable by the society on the death of that member, not exceeding £50, shall be paid at his decease.

(2) The person so nominated must not be an officer or servant of the society, unless that officer or servant is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator.

(3) A nomination so made may be revoked and varied by any similar document under the hand of the nominator, delivered, sent or made as aforesaid.

(4) The marriage of a member of a society shall operate as a revocation of any nomination theretofore made by that member under this section:

Provided that this subsection shall not apply to a clinical marriage.

(5) A nomination or a variation or revocation of a nomination by writing under the hand of a member and delivered at or sent to the registered office, or made in a book kept at that office, shall be effectual notwithstanding that the money to which the nomination relates or some part thereof, is payable by the society.

Proceedings on death of a nominator

35. (1) On receiving satisfactory proof of the death of a nominator, the society shall pay to the nominee the amount due to the deceased member, not exceeding the said sum of £50.

(2) The receipt of a nominee over sixteen years of age for any amount so paid shall be valid.

Intestacy and illegitimacy

36. (1) If any member of the society entitled from the funds thereof to a sum not exceeding £50, dies intestate and without having made any nomination thereof then subsisting, the society may, without letters of administration, distribute the sum among such persons as appear to a majority of the trustees, upon such evidence as they may deem satisfactory, to be entitled by law to receive that sum.

(2) If any such member is illegitimate, the trustees may pay the sum of money which that member might have nominated to or among the persons who, in the opinion of a majority of them, would have been entitled thereto if that member had been legitimate, or if there are no such persons, the society shall deal with the money as the Governor may direct.

Validity of payments

37. (1) A payment made by a society, under the foregoing provisions of this Ordinance, with respect to payments on death generally to the person who at the time appears to a majority of the trustees to be entitled thereunder, shall be valid and effectual against any demand made upon the trustees or the society by any other person, but the next of kin or lawful

representative of the deceased member shall have remedy for recovery of the money so paid as aforesaid, against the person who has received that money.

(2) Where the society has paid money to a nominee in ignorance of a marriage subsequent to the nomination, the receipt of the nominee shall be a valid discharge to the society.

Certificates of death

38. (1) A society shall not pay any sum of money upon the death of a member or other person whose death is or ought to be entered in any register of deaths, except upon the production of a certificate of that death under the hand of the registrar of deaths or other person having care of the register of deaths in which that death is or ought to be entered.

(2) This section shall not apply to deaths at sea, nor to any death certified by a coroner to be the subject of a pending inquest.

Decision of disputes

39. (1) Every dispute between—

(a) a member or person claiming through a member or under the rules of a society, and the society or an officer thereof; or

(b) any person aggrieved who has ceased to be a member of a society, or any person claiming through such person aggrieved, and the society or an officer thereof,

shall be decided in manner directed by the rules of the society, and the decision so given shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction; and application for enforcement thereof may be made to the Magistrate.

(2) Where the rules contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, the member or person aggrieved may apply to the Magistrate who may hear and determine the matter in dispute.

Power to change name

40. (1) A society may, by special resolution, with the approval in writing of the Registrar, change its name, and shall not change its name in any other manner.

(2) Any such change of name shall not affect any right or obligation of the society, or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the society, or any other officer who may sue or be sued on behalf of the society, notwithstanding its new name.

Inspection of books

41.⁸ (1) The Registrar may, if he think fit, inspect the books of a society and report to the Governor thereon.

(2) In case any member of the society applies to the Registrar to inspect the books of such society, the Registrar may, in his absolute discretion, make it a condition of granting the application that such member deposit such sum as will be, in the opinion of the Registrar, sufficient to cover the costs and charges of such inspection.

⁸ Section 41 amended by Ord. 7 of 2003

(3) The Registrar may, after the inspection is over, and in his absolute discretion, either return such sum to the member or cause to be repaid to the society the costs to which it has been put in and over such inspection out of such sum; the balance, if any, being returned to the member so depositing as aforesaid.

(4) The Registrar shall have power to make copies of any books of the society, and to take extracts therefrom, at all reasonable hours, at the registered office of the society or at any place where the books are kept.

(5) Any person, whether connected with the society or not, who hinders, obstructs or molests the Registrar when inspecting the books of such society shall be liable to a penalty not exceeding £10, or to imprisonment for any term not exceeding one month, or to both.

Cancelling and suspension of registry

42. (1) The Registrar may—

- (a) if he thinks fit, at the request of a society, to be evidenced in such manner as he may direct; or
- (b) with the approval of the Chief Justice on proof to his satisfaction that an acknowledgment of registry has been obtained by fraud or mistake, or that a society exists for an illegal purpose or has wilfully and after notice from the Registrar violated any of the provisions of this Ordinance or has ceased to exist; by writing under his hand, cancel the registry of a society.

(2) The Registrar, in any case in which he might with the approval of the Chief Justice cancel the registry of a society may, by writing under his hand, suspend the registry for any term not exceeding three months, and may, with the approval of the Chief Justice renew the suspension for the like period.

(3) Unless the Registrar has given to a society not less than two months' previous notice in writing, specifying briefly the ground of any proposed cancelling or suspension, the registry of the society shall not be cancelled, except at its request, or suspended.

(4) Where the registry of a society has been cancelled or suspended, notice thereof shall forthwith be published in the *Gazette*.

(5) Where the registry of a society has been suspended or cancelled, the society shall from the time of the suspension or cancelling, but if suspended, only while the suspension lasts and subject also to the right of appeal given by this section, absolutely cease to enjoy as such the privileges of a society, but without prejudice to any liability actually incurred by the society, and any such liability may be enforced against the society as if the suspension or cancelling had not taken place.

(6) A society may appeal from the cancelling of its registry, or from any suspension thereof which is renewed after six months, to the Supreme Court.

Dissolution of societies

43. (1) It shall not be lawful for any society by any rule at any General Meeting or otherwise, to dissolve or determine such society so long as the interests or purposes declared by such society, or any of them, remain to be carried into effect, without obtaining the votes of consent of five-sixths in value of the then existing members of such society residing in St. Helena, to be ascertained in manner hereinafter mentioned, and also the consent of such persons in St. Helena then receiving or entitled to receive relief from such society, to be testified under their hands individually and respectively. For the purpose of ascertaining the votes of such five-sixths in value, every member shall be entitled to one vote, and an additional vote for every five years that he may have been a member:

Provided that—

- (a) no member shall have more than five votes in the whole; and
- (b) in all cases of dissolution the intended appropriation or division of the funds or other property of the society shall be fairly and distinctly stated in the proposed plan of dissolution prior to such consent being given.

(2) It shall not be lawful for a society by any rule to direct the division or distribution of such stock or fund, or any part thereof, to or amongst the several members of such society; and all such rules for the dissolution or determination of any such society, without such consent as aforesaid, or for the distribution or division of the stock or funds of such society, contrary to the rules which shall have been confirmed as aforesaid, shall be void and of none effect.

Offences

44. It shall be an offence under this Ordinance if—

- (a) a society or an officer or member thereof fails to give any notice, send any return or document, do or allow to be done any thing, which the society, officer, or person is by this Ordinance required to give, send, do or allow to be done; or
- (b) a society or an officer or member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Ordinance by the Registrar or by any other person authorised under this Ordinance, or does anything forbidden by this Ordinance; or
- (c) a society or an officer or member thereof makes a return or wilfully furnishes information in any respect false or insufficient; or
- (d) where a dispute is referred under this Ordinance to the Magistrate, a person refuses to attend or to produce any documents or give evidence before the Magistrate; or
- (e) a society, whether registered or unregistered, pays money on the death of a child under ten years of age otherwise than is provided by this Ordinance; or
- (f) a parent or personal representative of a parent claiming money on the death of a child produces a certificate of the death other than is in this Ordinance provided to the society from which the money is claimed, or produces a false certificate, or one fraudulently obtained, or in any way attempts to defeat the provisions of this Ordinance with respect to payments upon the death of children.

Bankrupt, etc. not to be officer of a society

45. (1) No person who is an undischarged bankrupt or has compounded with his creditors or has made an arrangement or composition with his creditors, shall be appointed, or if appointed shall act as the president, secretary, treasurer or trustee, of a registered society.

(2) Any person acting in contravention of the provisions of this section shall be liable to a penalty not exceeding £20.

Medical officer or druggist not to hold other office

46. No person holding any other office therein shall be, or act as, the medical officer or druggist of any society, and any person contravening the provisions of this section shall be liable to a penalty not exceeding £20.

Offences by societies to be also offences by officers, etc

47. Where a society is guilty of an offence under this Ordinance, every member of the committee, unless that member is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall be liable to the same penalty as if he had committed the offence.

Continuing offences

48. Every default under this Ordinance constituting an offence, if continued, shall constitute a new offence in every week during which the default continues.

Punishment of fraud, false declarations, and misappropriations

49. (1) If any person, with intent to mislead or defraud, gives to any other person a copy of any rules, laws, regulations or other documents, other than rules of a society, on the pretence that they are the existing rules of that society, or that there are no other rules of the society, or gives to any person a copy of any rules on the pretence that those rules are the rules of a registered society when the society is not registered, the person so offending shall be guilty of an offence under this Ordinance.

(2)⁹ If any person obtains possession by false representation or imposition of any property of a society or withholds or misapplies any such property in his possession or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorised by this Ordinance, he shall, on such complaint as in this section mentioned, be liable to a penalty not exceeding £20 and costs, and to be ordered to deliver up all such property or to repay all sums of money applied improperly, and in default of such delivery or repayment or of the payment of such penalty and costs as aforesaid, to be imprisoned for any term not exceeding three months:

Provided that where on such a complaint against a person of withholding or misapplying property, or applying it for unauthorised purposes, it is not proved that that person acted with any fraudulent intent, he shall not be liable to conviction but may be ordered to deliver up all such property, or may be ordered to repay any sum of money applied improperly with costs, and in default of such delivery or repayment or of the payment of such costs as aforesaid to be imprisoned for any term not exceeding three months.

(3) Complaint under this section may be made—

- (a)** in the case of a society, by the society or any member authorised by the society, or the trustees or committee of the society; or
- (b)** in any case, by the Registrar or by any person authorised in writing by the Registrar.

(4) Nothing in this Ordinance shall prevent any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under the provisions of this Ordinance.

Penalty for falsification

50. If any person wilfully makes, orders or allows to be made, any entry, erasure in or omission from a balance sheet of a society, or a return or document required to be sent,

⁹ Section 49(2) amended by Ord. 7 of 2003

produced or delivered for the purposes of this Ordinance, with intent to falsify the same, or to evade any of the provisions of this Ordinance, he shall be liable to a penalty not exceeding £50.

Penalty for ordinary offences

51. A society, and an officer or member of a society or other person guilty of an offence under this Ordinance for which a penalty is not expressly provided, shall be liable to a penalty not exceeding £20.

Special offences in the case of friendly societies

52.¹⁰ If an officer or person aids or abets in the amalgamation or transfer of engagements or in the dissolution of a friendly society otherwise than as in this Ordinance provided, he shall be liable to the penalty imposed by this Ordinance for offences thereunder, or to be imprisoned for any term not exceeding three months.

Recovery of penalties

53. (1) All penalties imposed by this Ordinance or by any regulations thereunder, or by the rules of a society, shall be recoverable on summary conviction before the Magistrate.

(2) Any such penalty shall be recoverable at the suit of the Registrar or of any person authorised in writing by the Registrar or of any person aggrieved.

Limitation

54. In every case where no time is specially limited for making a complaint for an offence under this Ordinance, such complaint shall be made within three years from the time when the matter of such complaint arose, and not after.

Legal proceedings

55. (1) The trustees of a society, or any other officers authorised by the rules thereof, may bring or defend, or cause to be brought or defended, any action or other legal proceeding in any court whatsoever, touching or concerning any property, right or claim of the society, and may sue and be sued in their proper names, without other prescription than the title of their office.

(2) In legal proceedings brought under this Ordinance by a member, or person claiming through a member, a society may also be sued in the name, as defendant, of any officer or person who receives contributions or issues policies on behalf of the society within the jurisdiction of the Court in which the legal proceeding is brought, with the addition of the words “on behalf of the society” (naming the same).

(3) A legal proceeding shall not abate or be discontinued by the death, resignation, or removal from office of any officer or by any act of any such officer after the commencement of the proceedings.

(4) The summons, writ, process or other proceeding to be issued to or against the officer or other person sued on behalf of a registered society, shall be sufficiently served by personally serving that officer or other person, or by leaving a true copy thereof at the registered office of the society or at any place of business of the society within the jurisdiction

¹⁰ Section 52 amended by Ord. 7 of 2003

of the Court in which the proceeding is brought, or, if that office or place of business is closed, by posting the copy on the outer door of that office or place of business.

(5) In all cases where the said summons, writ, process or other proceeding is not served by means of such personal service or by leaving a true copy thereof at the registered office of the society as aforesaid, a copy thereof shall be sent in a registered letter addressed to the committee at the registered office of the society, and posted at least six days before any further step is taken in the proceeding.

(6) Where proceedings are taken against a society for the recovery of any penalty under this Ordinance, the summons or other process shall be sufficiently served by leaving a true copy thereof at the registered office of the society, or at any place of business of the society, within the jurisdiction of the Court in which the proceeding is brought, or, if that office or place of business is closed, by posting the copy on the outer door of that office or place of business.

(7) Where the person against whom the proceedings are to be taken is himself a trustee of a society, the proceedings may be brought by the other trustees or trustee of the society.

Fees

56. A scale of fees to be paid for matters to be transacted or for the inspection of documents under this Ordinance may be prescribed by the Governor in Council and all such fees shall be paid by means of stamps.

Fees payable to Registrar of Births and Deaths

57. (1) For the purposes of this Ordinance, a certificate of the birth or death of any member of or person insured or to be insured with a society shall, on application being made as in this Ordinance provided, be given under his hand by the Registrar of Births and Deaths, for a sum not exceeding one shilling, in place of all fees or payments otherwise payable in respect thereof.

(2) Whenever application is made at one time to any such Registrar for more certificates than one of the same birth or death for the purposes of and in the manner prescribed by this Ordinance, the sum charged for every such certificate other than the first shall not exceed three pence.

Forms

58. (1) The forms to be used for registry shall be those contained in Part I of the Second Schedule to this Ordinance or such other forms as are prescribed.

(2) Every annual or other return, abstract of valuation and other document required for the purposes of this Ordinance shall be made in such form and shall contain such particulars as the Registrar prescribes.

(3) A receipt under this Ordinance endorsed upon or for the repayment of a mortgage or other assurance shall be in the form set forth in Part II of the same Schedule, or in any form specified in the rules of the society or any schedule thereto.

(4) Applications for certificates of births and deaths under this Ordinance shall be in such form and under such regulations as may be approved of by the Governor in Council.

Regulations for carrying out Ordinance

59. (1) The Governor in Council may make regulations respecting registry and procedure under this Ordinance, and the duties and functions of the Registrar, and the inspection of documents kept by the Registrar under this Ordinance and generally for carrying the Ordinance into effect.

(2) All such regulations shall be published in the *Gazette*.

List of officers to be evidence of appointment

60. The list mentioned in section 7(2) and any change therein communicated by the secretary of a society under section 15 shall be signed by the secretary, and when received by the Registrar shall be entered in the register, each entry being initialled by the Registrar, and a copy of any such entry, purporting to be certified under the hand of the Registrar, shall, without any further proof of the signature of the Registrar, be *prima facie* evidence in all courts of justice that any person named therein has been duly appointed to the office or for the purposes therein set forth.

Evidence of documents

61. Every document purporting to be signed by the Registrar or any inspector or public auditor or valuer under this Ordinance shall, in the absence of any evidence of the contrary, be received in evidence without proof of the signature.

Application to existing societies

62. Subject to the provisions of section 6 hereof this Ordinance shall apply to societies subsisting at the commencement of this Ordinance, and the rules of those societies shall, so far as they are not contrary to any express provision of this Ordinance continue in force until altered.

FIRST SCHEDULE

(Section 7(3))

MATTERS TO BE PROVIDED FOR BY THE RULES OF SOCIETIES REGISTERED UNDER THIS ORDINANCE

- 1.** The name and place of office of the society.
- 2.**
 - (a)* The whole of the objects for which the society is to be established;
 - (b)* The purposes for which the funds thereof shall be applicable;
 - (c)* The terms of admission of members;
 - (d)* The conditions under which any member may become entitled to any benefit assured thereby;
 - (e)* The fines and forfeitures to be imposed on any member; and
 - (f)* The consequences of non-payment of any subscription or fine.
- 3.** The mode of holding meetings and right of voting, and the manner of making, altering, or rescinding rules.

This e-version of the text is not authoritative for use in court.

4. The appointment and removal of a committee of management (by whatever name), of a treasurer and other officers, and of trustees.

5. The investment of the funds, the keeping of the accounts, and the audit of the same once a year at least.

6. Annual return to the Registrar of the receipts, funds, effects and expenditure and numbers of members of the society.

7. The inspection of the books of the society by every person having an interest in the funds of the society.

8. The manner in which disputes shall be settled.

9. The keeping separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping separate account of the expenses of management, and of all contributions on account thereof.

10. The right of one-fifth of the total number of members to apply to the Registrar for an investigation of the affairs of the society.

SECOND SCHEDULE

FORMS

PART I

ACKNOWLEDGMENT OF REGISTRY OF SOCIETY

(Section 9)

The Society is registered as a [*friendly society, benevolent society, working-men's club, or specially authorised society*] under the Friendly Societies Ordinance, this day of

Signature of Registrar.

ACKNOWLEDGMENT OF REGISTRY OF AMENDMENT OF RULES

(Section 11)

The foregoing amendment of the rules of the Society is registered under the Friendly Societies Ordinance, this day of

Signature of Registrar.

PART II

FORM OF RECEIPT FOR REPAYMENT OF MORTGAGE OR FURTHER CHARGE

(Section 31)

The trustees of the Society hereby acknowledge to have received all moneys intended to be secured by estate (particulars.)

Signed (Signature of Trustees.)
Trustees.

Countersigned (Signature of Secretary.)
Secretary.

FORM OF BOND

(Section 32)

Know all men by these presents that we, *A.B.* of, one of the officers of the Society having its registered office at, in St. Helena, and *C.D.* of (as surety on behalf of the said *A.B.*) are jointly and severally held and firmly bound to *E.F.* of, *G.H.* of, and *I.K.* of, the trustees of the said society, in the sum of, to be paid to the said *E.F.*, *G.H.*, and *I.K.*, as such trustees or their successors, trustees for the time being, or their certain attorney; for which payment well and truly to be made we jointly and severally bind ourselves, and each of us by himself our and each of our heirs, executors, and administrators, firmly by these presents.

Dated the day of, in the year of our Lord

Whereas the above bounden *A.B.* has been duly appointed to the office of of the Society having its registered office situate as aforesaid, and he, together with the above bounden *C.D.* as his surety, have entered into the above written bond, subject to the condition hereafter contained: Now therefore the condition of the above written bond is such that if the said *A.B.* do render a just and true account of all moneys received and paid by him on account of the society at such times as the rules thereof appoint, and do pay over all the moneys remaining in his hands, and assign and transfer and deliver all property (including books and papers) belonging to the said society in his hands or custody to such person or persons as the said society, or the trustees or committee of management thereof, shall appoint, according to the rules of the said society, together with the proper and legal receipts or vouchers for such payments then the above-written bond shall be void, otherwise shall remain in full force.

Signed and delivered in the presence of..... (two witnesses.)