

LAWS OF TRINIDAD AND TOBAGO

BUILDING SOCIETIES ACT

CHAPTER 33:04

Act

40 of 1890

Amended by

12 of 1958

45 of 1979

47 of 1980

*20 of 1981

*24 of 1981

†18 of 1993

*See Note on Amendment on page 2

†See Note on page 2

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-37	.. 1/2006

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

***Note on Amendment**

This Act has been amended by Act No. 20 of 1981 and Act No. 24 of 1981, but these Acts (i.e., Nos. 20 and 24 of 1981) had not up to the date of the last revision of this Act been brought into operation.

Note on Adaptation

1. Certain fees in this Chapter were increased by the Commission under paragraph 4 of the Second Schedule to the Law Revision Act (Ch. 3:03). Where this occurs, a marginal reference in the form normally indicating an amendment is made to LN 51/1980 (the Legal Notice by which the President's approval was signified).

2. Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by LN 52/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

†Note on Act No. 18 of 1993

See Item 3 of Part I of the Third Schedule to the Financial Institutions Act, 1993 (Act No. 18 of 1993) for exempted societies registered under this Act.

CHAPTER 33:04

BUILDING SOCIETIES ACT

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CHAPTER 33:04

BUILDING SOCIETIES ACT

An Act relating to Building Societies.

1950 Ed.
Ch. 38 No. 1
40 of 1890.

Commencement.

[31ST DECEMBER 1890]

Short title.

1. This Act may be cited as the Building Societies Act.

Interpretation.

2. In this Act—

Ch. 32:50.

“Registrar” means the Registrar under the Friendly Societies Act, who shall, for the purposes of this Act, be the Registrar of Building Societies;

“terminating society” means a society which by its rules is to terminate at a fixed date, or when a result specified in its rules is attained;

“permanent society” means a society which has not by its rules any such fixed date or specified result at which it shall terminate.

Fees of Registrar.

3. The Registrar shall be entitled to claim, and shall be paid by every society under this Act, such sums as the Minister shall fix, for any of the acts which he is required to perform under this Act.

Incorporation of societies.
Schedule.
Form 1.

4. Every society registered under this Act shall, upon receiving a certificate of incorporation in the form set out as Form 1 in the Schedule, become a body corporate by its registered name, having perpetual succession and a common seal, until terminated or dissolved in manner provided herein.

Purposes for which societies may be established.

5. Any number of persons may establish a society under this Act, either terminating or permanent, for the purpose of raising by the subscriptions of members a stock or fund for making advances to members out of the funds of the society, upon security of freehold or leasehold estate, by way of mortgage or any judgment or upon

security of the withdrawal value of the shares held by members of the said society; and any society under this Act may from time to time raise funds by the issue of shares of one or more denominations, either paid up in full or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may repay such funds when no longer required for the purposes of the society.

6. Any society registered under this Act may receive from any member or members thereof any sum or sums of money by way of bonus on any share or shares for the privilege of receiving the same in advance prior to the same being realised, and also any interest for the share or shares so received or any part thereof, without being subject or liable on account thereof to any of the forfeitures or penalties imposed by any law in force in Trinidad and Tobago relating to usury.

Bonus, etc., not to be deemed usurious.

7. The liability of any member of any society under this Act in respect of any share upon which no advance has been made shall be limited to the amount actually paid or in arrear on such share, and in respect of any share upon which an advance has been made shall be limited to the amount payable thereon under any mortgage or other security or under the rules of the society.

Limitation of liability of members.

8. With respect to the borrowing of money by societies under this Act the following provisions shall have effect:

Power to borrow money.

- (a) any society may receive deposits or loans, at interest, within the limits provided in this section, from the members or other persons, or from corporate bodies, or from any terminating building society, to be applied to the purposes of the society;
- (b) in a permanent society the total amount so received on deposit or loan and not repaid by the society shall not at any time exceed two-thirds of the amount for the time being secured to the society by mortgages from its members;

- (c) in a terminating society the total amount so received and not repaid may either be a sum not exceeding such two-thirds as mentioned above, or a sum not exceeding twelve months' subscriptions on the shares for the time being in force;
- (d) every deposit book or acknowledgment or security of any kind given for a deposit or loan by a society shall have printed or written therein or thereon the whole of section 7 and this section.

Matters to be set forth in rules.

9. The rules of every society established under this Act shall set forth—

- (a) the name of the society, and the chief office or place of meeting for the business of the society;
- (b) the manner in which the stock or funds are to be raised;
- (c) the terms upon which unadvanced subscription shares are to be issued; and the manner in which the contributions are to be paid to the society, and withdrawn by the members, with tables, where applicable in the opinion of the Registrar, showing the amount due by the society for principal and interest separately;
- (d) the terms upon which paid-up shares, if any, are to be issued and withdrawn, with tables, where applicable in the opinion of the Registrar, showing the amount due by the society for principal and interest separately;
- (e) whether preferential shares are to be issued, and, if so, within what limits;
- (f) the manner in which advances are to be made and repaid; the deductions, if any, for premiums, and the conditions upon which a borrower can redeem the amount due from him before the expiration of the period for which the advance was made, with tables, where applicable in the opinion of the Registrar, showing the amount due from the borrower after each stipulated payment;

- (g) the manner in which losses are to be ascertained and provided for;
- (h) the manner in which membership is to cease;
- (i) whether the society intends to borrow money, and, if so, within what limits not exceeding those prescribed by this Act;
- (j) the purposes to which the funds of the society are to be applied, and the manner in which they are to be invested;
- (k) the manner of altering and rescinding the rules, and of making additional rules;
- (l) the manner of appointing, remunerating and removing the board of directors or committee of management, auditors and other officers;
- (m) the manner of calling general and special meetings of the members;
- (n) provision for an annual or more frequent audit of the accounts, and inspection by the auditors of the mortgages and other securities belonging to the society;
- (o) whether disputes between the society and any of its members, or any person claiming by or through any member, or under the rules, shall be settled by reference to the High Court, or to the Registrar, or to arbitration;
- (p) provision for the device, custody and use of the seal of the society, which shall in all cases bear the registered name thereof;
- (q) provision for the custody of securities and documents belonging to the society;
- (r) the powers and duties of the board of directors or committee of management and other officers;
- (s) the fines and forfeitures to be imposed on members;
- (t) the manner in which the society, whether terminating or permanent, shall be terminated or dissolved.

Registration
of rules.
[45 of 1979].

10. The persons intending to establish a society under this Act shall transmit to the Registrar two copies of the rules agreed upon by them for the government of the society, signed by three of such persons and by the intended secretary or other officer; and the Registrar, if he finds that the rules contain all the provisions set forth in section 9, and that they are in conformity with this Act, shall return one copy of the rules to the secretary or other officer of the society, with a certificate of incorporation, and shall retain and register the other copy. No society shall be registered under this Act in a name identical with that in which a subsisting society is already registered, or so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and consents to such registration. The society shall supply to any person requiring the same a complete printed copy of the rules, with a copy of the certificate of incorporation appended thereto, and shall be entitled to charge for every such printed copy of rules a sum not exceeding five dollars.

Alteration of
rules.

11. Any society established under this Act may alter or rescind any rule or make an additional rule, in the manner its rules direct; and every society under this Act altering or rescinding any rule, or making an additional rule, shall forward two copies of every resolution for rescission of rules, and of every alteration of or addition to its rules, signed by three members and the secretary, and a statutory declaration by an officer of the society that the provisions of this section have been complied with, to the Registrar, who, if he finds that such alteration, addition, or rescission is in conformity with this Act, shall return one of the copies to the secretary or other officer of the society with a certificate of registration in the form set out as Form 2 in the Schedule, and retain and register the other copy.

Schedule.
Form 2.

Change of
chief office.

12. Any society registered under this Act may change its chief office in the manner its rules direct, or if there be no such directions, then at a general meeting specially called for the purpose, in the manner set forth in the rules of the society; and no alteration of rule shall be necessary upon such change, nor shall the provisions of section 11 apply to such change. Notice of every such change

shall be given by the secretary of the society to the Registrar within seven days after such change, and shall be registered by him, and he shall give a certificate of such registration in the form set out as Form 3 in the Schedule.

Schedule.
Form 3.

13. Any society under this Act, in a schedule to its rules, may describe the forms of conveyance, mortgage, transfer, agreement, bond, security for deposit or loan, or other instrument necessary for carrying its purposes into execution.

Rules may
provide forms of
conveyance, etc.

14. Any certificate of incorporation or of registration, or other document relating to a society under this Act, purporting to be signed by the Registrar, shall, in the absence of any evidence to the contrary, be received by all Courts of law and equity and elsewhere, without proof of the signature; and a printed copy of the rules of a society, certified by the secretary or other officer of the society to be a true copy of its registered rules, shall, in the absence of any evidence to the contrary, be received as proof of the rules.

Evidence of
registration and
rules.

15. The rules of a society under this Act shall be binding on the several members and officers of the society, and on all persons claiming on account of a member, or under the rules, all of whom shall be deemed to have full notice thereof.

Rules binding
on members and
others.

16. A society under this Act may change its name by resolution of three-fourths of the members present at a meeting called for the purpose, provided that the new name is not identical with that of any society previously registered and still subsisting, or so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and consents to such registration. Notice of the change of name shall be sent to the Registrar and registered by him, and he shall give a certificate of registration in the form set out as Form 4 in the Schedule. Such change of name shall not affect any right or obligation of the society, or any member thereof, or other person concerned.

Change of
name.

Schedule.
Form 4.

LAWS OF TRINIDAD AND TOBAGO

Officers to give security.

17. Every officer of a society under this Act having the receipt or charge of any moneys belonging to the society 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 set out as Form 5 in the Schedule, or give the security of a guarantee society, or such other security as the society directs, in such sum as the society requires, conditioned for rendering a true and just account of all moneys received and paid by him on account of the society, and for payment of all sums of money due from time to time to the society at such times as its rules appoint, or as the society requires him to do so.

Schedule. Form 5.

Officers to account.

18. Every such officer, his executors or administrators, shall, 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 the board of directors or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all the moneys remaining in his hands, and deliver all securities and effects, books, papers and property of the society in his hands and custody, to such persons as the society appoints; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to deliver such securities and effects, books, papers and property in manner mentioned above, the society may sue upon the bond, or may apply to a Judge of the High Court in Chambers, who may proceed in a summary way, and make such order as to him in his discretion may seem just, which order shall be final and conclusive.

Protection of money or property of society in possession of officer.

19. If any person appointed to or employed in any office in any society established under this Act, and having in his hands or possession by virtue of his office any moneys or property whatsoever of such society or any deeds or securities belonging to such society, dies, or becomes insolvent, or has any execution or attachment or other process issued against any part of his property, or has any action raised against his lands, goods, chattels, effects or property or other real or personal estate, or makes any assignment, disposition, assignation, or other conveyance for the benefit of his creditors, the heirs, executors, administrators or

assignees of every such officer, and every other person having or claiming right to the property of such officer, and the person executing such process, and the party raising such action respectively, shall upon demand in writing made by any person authorised by the board of directors or committee of management of such society or by some meeting of such society to make such demand, deliver and pay over all such moneys, property, deeds and securities belonging to such society to such person as shall have been appointed as mentioned above to receive the same.

20. Any society under this Act may from time to time, as the rules permit, invest any portion of the funds of the society, not immediately required for its purposes, upon real or leasehold securities, or in the purchase of lands, or lands and buildings, being freehold in Trinidad and Tobago, with power to exchange the said lands, or to sell the same together or in lots, or to erect any buildings thereon and to sell the same, or in the public funds of Trinidad and Tobago or in or upon any Parliamentary stock or securities or in or upon any stock or securities, payment of the interest on which is guaranteed by Parliament or in Inscribed Stock of Trinidad and Tobago, or in case of terminating societies, with other societies under this Act; and for the purpose of investments in stock or upon security of real or leasehold estate, the society, or the board of directors or committee of management thereof, may from time to time appoint and remove trustees or make such investments in its registered name.

Investment of surplus funds. [47 of 1980].

21. The powers of investment under this Act include power to invest in or upon any security in which trustees are for the time being authorised by law to invest.

Powers of investment.

22. If any member of or depositor with a society under this Act, having in the funds thereof a sum of money not exceeding five thousand dollars, dies intestate, then the amount due may be paid to the person who appears to the directors or committee of management of the society to be entitled, under the law for the time being regulating the devolution of personal estate applicable to the case, to receive the same, without taking out letters of

Payment of sums not exceeding five thousand dollars when members or depositors die intestate. [45 of 1979].

administration, upon the society receiving satisfactory evidence of death, and a statutory declaration that the member or depositor died intestate, and that the person so claiming is entitled as mentioned above. Whenever the society after the decease of any member or depositor has paid any such sum of money to the person who at the time appeared to be entitled to the effects of the deceased, under the belief that he had died intestate, the payment shall be valid and effectual with respect to any demand from any other person as next of kin or as the lawful representative of such deceased member or depositor against the funds of the society, but nevertheless such next of kin or representative shall have his lawful remedy for the amount of such payment against the person who has received the same.

Member dying
intestate leaving
infant next of
kin.
[51/1980].

23. Whenever a member of a society under this Act, having executed a mortgage to the society containing a power of sale, dies intestate leaving an infant next of kin, the society may, after selling the premises so mortgaged to them, pay to the administrator of the deceased member any money to the amount of five thousand dollars, which remains in the hands of the society after paying the amount due to the society and the costs and expenses of the sale, any law in force in Trinidad and Tobago to the contrary notwithstanding. The said sum of five thousand dollars shall be considered as personal estate, and liable to duty accordingly.

Punishment of
fraud in
withholding
money, etc.

24. Any person who, by false representation or imposition, obtains possession of any moneys, securities, books, papers or other effects of a society under this Act, or, having the same in his possession, withholds or misapplies it, or wilfully applies any part of it to purposes other than those expressed or directed in the rules of the society and authorised by this Act, is liable on summary conviction to a fine of one thousand dollars and costs, and to be ordered to deliver up to the society all such moneys, securities, books, papers or other effects of the society, and to repay the amount of money applied improperly, and in default of such delivery of effects, or repayment of such amount of money, or payment of such fine and costs mentioned above, to imprisonment for three months; but nothing contained herein shall prevent any such person from being proceeded against by way of indictment if a conviction has not been previously obtained against him for the same offence under this Act.

25. Proceedings under section 24 may be taken by or at the instance of— Initiation of proceedings.

- (a) the society; or
- (b) any member authorised by the society or by the board of directors or committee of management thereof or by the Registrar; or
- (c) the Registrar.

26. A society under this Act may terminate or be dissolved— Proceedings necessary for determination or dissolution.

- (a) upon the happening of any event declared by its rules to be the determination of the society;
- (b) by dissolution in manner prescribed by its rules;
- (c) by dissolution with the consent of three-fourths of the members holding not less than two-thirds of the number of shares in the society testified by their signatures to the instrument of dissolution. The instrument of dissolution shall be in the form set out as Form 6 in the Schedule and shall state— Schedule. Form 6.
 - (i) the liabilities and assets of the society in detail;
 - (ii) the number of members, and the amount standing to their credit in the books of the society;
 - (iii) the claims of depositors and other creditors, and the provision to be made for their payment;
 - (iv) the intended appropriation or division of the funds and property of the society;
 - (v) the names of one or more persons to be appointed trustees for the special purpose and their remuneration.

Alterations in the instrument of dissolution may be made with the like consent, testified in the same manner; the instrument of dissolution and all alterations therein shall be registered in the manner provided for the registration of rules, and shall be binding upon all the members of the society;

Ch. 31 No. 1
(1950 Ed.).

*(d) by an order of the High Court to wind up the society, made as is directed in regard to companies by the Companies Ordinance, the provisions of which except paragraph (4) of section 161 of the said Ordinance shall apply to any such order.

Notice of the commencement and termination of every dissolution on winding up shall be sent to the Registrar and registered by him.

Power to
dissolve
society after
investigation.

27. (1) Notwithstanding the provisions of section 26 on the application in writing of one-tenth of the whole number of members of any society under this Act, or of one hundred members in the case of a society of more than one thousand members, setting forth that the society is unable to meet the claims of its members, and that it would be for their benefit that it should be dissolved, and requesting an investigation into the affairs of the society with a view to its dissolution, the Registrar may investigate the affairs of the society, but shall before doing so give not less than two months' previous notice in writing to the society at its registered chief office or place of meeting.

(2) If on such investigation it appears that the society is unable to meet the claims of its members, and that it would be for their benefit that it should be dissolved, the Registrar may, if he considers it expedient to do so, award that the society be dissolved, and shall direct in what manner the affairs of the society are to be wound up; and the Registrar may suspend his award for such period as he may deem necessary to enable the society to make such alterations of its rules as will in his judgment prevent the necessity of the award being made.

(3) The Registrar shall, within twenty-one days after the making of any award for dissolution under this section, cause notice thereof to be advertised in the *Gazette*, and in some newspaper circulating in Trinidad and Tobago.

Obligations of
liquidators and
trustees on
dissolution.

28. Where a society under this Act is being dissolved in manner prescribed by its rules, or in pursuance of the consent of three-fourths of the members, the provisions of this Act shall continue

*See corresponding provisions of the Companies Act (Ch. 81:01).

to apply in the case of the society, as if the liquidators or other persons conducting the dissolution of the society, or the trustees appointed under the instrument of dissolution, were the board of directors or committee of management of the society.

29. When a society under this Act is being dissolved or wound up, a member to whom an advance has been made under any mortgage or other security, or under the rules of the society, is not liable to pay the amount payable under such mortgage, security or rules, except at the time or times and subject to the conditions expressed therein.

Liability of borrowing members on dissolution.

30. If a society under this Act is dissolved in the manner prescribed by its rules, or in pursuance of the consent of three-fourths of the members, the liquidators, trustees or other persons having the conduct of the dissolution shall, within twenty-eight days from the termination of the dissolution, send to the Registrar an account and balance sheet signed and certified by them as correct, and showing the assets and liabilities of the society at the commencement of the dissolution and the mode in which those assets and liabilities have been applied and discharged and in default of so doing is each liable on summary conviction to a fine of two hundred dollars for every day during which the default continues.

Account and balance sheet to be sent to Registrar on dissolution.

31. A society under this Act shall not cause or permit the applicants for advances to ballot for precedence, or in any way make the granting of an advance depend on any chance or lot.

Prohibition of balloting for advances.

32. (1) A society under this Act shall not advance money on the security of any freehold or leasehold estate which is subject to a prior mortgage, unless the prior mortgage is in favour of the society making the advance.

Prohibition of advances on second mortgage.

(2) If any advance is made in contravention of this section, the directors of the society who authorised the advance are jointly and severally liable for any loss on the advance occasioned to the society.

Limits of borrowing power.

33. In calculating the amount for the time being secured to a society under this Act by mortgages from its members for the purpose of ascertaining the limits of its power to receive deposits or loans at interest, the amount secured on properties the payments in respect of which were upwards of twelve months in arrear at the date of the society's last preceding annual account and statement, and the amount secured on properties of which the society had been twelve months in possession at the date of such account and statement, shall be disregarded. This section shall not affect the validity of any deposit or loan which was within the limit provided by law at the time when it was received.

Provisions as to name and deposits.

34. (1) A society under this Act shall not use any name or title other than its registered name, and shall not accept any deposit except on the terms that not less than one month's notice may be required by the managers of the society before repayment or withdrawal.

(2) Any society that contravenes this section and also every director or member of the committee of management who is a party to the contravention, are liable on summary conviction to a fine of four hundred dollars, and, in the case of a continuing offence, to an additional fine of four hundred dollars for every week during which the offence continues.

Societies may unite or transfer engagements to another.

35. (1) Two or more societies under this Act may unite and become one society, with or without any dissolution or division of the funds of such societies or either of them, or a society may transfer its engagements to any other society, upon such terms as shall be agreed upon by three-fourths of the members (holding not less than two-thirds of the whole number of shares) of each of such societies present at general meetings respectively convened for the purpose. Notice of every such union or transfer shall be sent to the Registrar, and registered by him, and such registration shall operate as an effectual conveyance, transfer and assignment, as at the date of registration, of the funds, property and assets of the societies so uniting to the united society or of the society transferring its engagements to the society to which such

engagements may be transferred, as may be set forth in the instrument of union or transfer of engagements, without any conveyance, transfer or assignment whatsoever (save and except in the case of stocks and securities requiring any special mode of transfer). Such union or transfer of engagements shall not affect the rights of any creditor of either or any society uniting or transferring its engagements.

(2) Where three-fourths of the members of two or more societies present at general meetings respectively convened for the purpose of considering any union or transfer under this section, agree to the union or transfer, the agreement shall notwithstanding anything in this section, be valid if it obtains the concurrence in writing of the holders of not less than two-thirds of the whole number of shares of each society, whether they are present at the meeting or not.

36. Where the rules of a society under this Act direct disputes to be referred to arbitration, arbitrators shall be named and elected in the manner such rules provide, or, if there be no such provision, at the first general meeting of the society, none of the said arbitrators being beneficially interested, directly or indirectly, in its funds; of whom a certain number, not less than three, shall be chosen by ballot in each such case of dispute, the number of the said arbitrators and mode of ballot being determined by the rules of the society; the names of such arbitrators shall be duly entered in the minute book of the society, and, in case of the death, or refusal or neglect of any of the said arbitrators to act, the society, at a general meeting, shall name and elect an arbitrator to act in the place of the arbitrator dying, or refusing or neglecting to act; and whatever award shall be made by the arbitrators or the major part of them, according to the true purport and meaning of the rules of the society, shall determine the dispute; and should either of the parties to the dispute refuse or neglect to comply with or conform to such award within a time to be limited therein, the High Court, upon good and sufficient proof being adduced of such award having been made, and of the refusal of the party to comply therewith, shall enforce

Determination
of disputes by
arbitration.

Determination
of disputes by
Registrar.

compliance with the same upon the petition of any person concerned. Where the parties to any dispute arising in a society under this Act agree to refer the dispute to the Registrar, or where the rules of the society direct disputes to be referred to the Registrar, the award of the Registrar shall have the same effect as that of arbitrators.

Determination
of disputes by
Court.

37. The High Court may hear and determine a dispute in the following cases:

- (a) if it appears to the Court, upon the petition of any person concerned, that application has been made by either party to the dispute to the other party, for the purpose of having the dispute settled by arbitration under the rules of the society, and that such application has not within forty days been complied with, or that the arbitrators have refused or for a period of twenty-one days have neglected to make any award;
- (b) where the rules of the society direct disputes to be referred to the said Court.

Determination
to be final.

38. Every determination of a dispute by arbitrators, or by the High Court, or by the Registrar, shall be binding and conclusive on all parties, and shall be final to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any Court of law, or restrained or restrainable by the injunction of any Court of equity. However, the arbitrators or the Registrar or the High Court, as the case may be, may, at the request of either party, state a case for the opinion of the Court of Appeal on any question of law, and shall have power to grant to either party to the dispute such discovery, as to documents and otherwise, as might now be granted by any Court of law or equity, such discovery to be made on behalf of the society by such officer of the society as the arbitrators, Registrar, or High Court may determine.

Special case.

39. The arbitrators, Registrar, or Court to whom a dispute is referred in pursuance of this Act, shall not be compelled to state a special case on any question of law arising in the case, but may do so on the request of either party as provided in section 38.

40. The word “disputes” in this Act, or in the rules of any society hereunder, shall be deemed to refer only to disputes between the society and a member or any representative of a member in his capacity of a member of the society, unless by the rules for the time being it shall be otherwise expressly provided; and, in the absence of such express provision, shall not apply to any dispute between any such society and any member thereof, or other person whatsoever, as to the construction or effect of any mortgage deed or other security, or any contract contained in any document other than the rules of the society, and shall not prevent any society, or any member thereof, or any person claiming through or under him, from obtaining in the ordinary course of law any remedy in respect of any such mortgage or other security or other contract to which such person or the society would otherwise be by law entitled.

Definition of “Disputes”.

41. A society under this Act may purchase, build, hire, or take upon lease any building for conducting its business, and may adapt and furnish the same, and may purchase or hold upon lease any land for the purpose of erecting thereon a building for conducting the business of the society, and may sell, exchange or let such building, or any part thereof.

Buildings may be purchased or leased, etc., as places of business.

42. Any person under the age of eighteen may be admitted as a member of any society under this Act the rules of which do not prohibit such admission, and may, subject to the rules of the society, enjoy all the rights of a member (save as herein provided), and may execute all instruments and give all necessary acquittances, but during his minority he shall not be competent to vote or hold any office in the society.

Minors may be elected members. [47 of 1980].

43. Two or more persons may jointly hold a share or shares in any society under this Act; and all shares held jointly by any two or more persons in any society registered under this Act, the rules whereof shall not prohibit such joint holding, shall be deemed to be lawfully so held.

Shares may be held jointly.

Annual account
and statement of
funds.

44. The secretary or other officer of every society under this Act shall, once in every year at least, prepare an account of all the receipts and expenditure of the society since the preceding statement, and a general statement of its funds and effects, liabilities and assets, showing the amounts due to the holders of the various classes of shares, respectively, to depositors and creditors for loans, and also the amount due or outstanding on their mortgage securities (not including prospective interest), and the amount invested on stock or other securities; and every such account and statement shall be attested by the auditors, and such account and statement shall be countersigned by the secretary or other officer; and every member, depositor, and creditor for loans shall be entitled to receive from the society a copy of such account and statement.

Annual account
and statement of
funds.
[12 of 1958
51/1980].

45. (1) Every annual account and statement under section 44 shall be made up to the end of the official year of the society to which it relates, and shall be in such form and shall contain such particulars as the Registrar may from time to time with the approval of the Minister direct, either generally or with respect to any society or class of societies. The form of annual account and statement prescribed for general use by the Registrar under this section, and every alteration of that form, shall as soon as practicable be laid before Parliament, and shall not come into operation until the expiration of forty days from the date at which it is so laid.

Particulars as to
mortgages.

Every such account and statement shall set forth—

- (a) with respect to mortgages to the society upon each of which the present debt does not exceed \$100,000 (not being mortgages where the repayments are upwards of twelve months in arrear, or where the property has for upwards of twelve months been in possession of the society), the number of all such mortgages, and the aggregate amount owing thereon at the date of

the account or statement, such information being given separately in respect of each of the four following classes:

- (i) where the debt does not exceed \$10,000;
 - (ii) where the debt exceeds \$10,000 and does not exceed \$25,000;
 - (iii) where the debt exceeds \$25,000 and does not exceed \$50,000;
 - (iv) where the debt exceeds \$50,000 and does not exceed \$100,000; and
- (b) with respect to any other mortgage to the society, the particulars shown by the appropriate tabular form set out as Form 7A, Form 7B or Form 7C in the Schedule.

Schedule.
Form 7A.
Form 7B.
Form 7C.

(2) Every auditor, in attesting any such annual account or statement, shall—

Duties of
auditors.

- (a) verify that it is correct, duly vouched, and in accordance with law, or specially report to the society in what respect he finds it incorrect, unvouched, or not in accordance with law; and
- (b) certify that he has at that audit actually inspected—
 - (i) the mortgage deeds and other securities belonging to the society; or
 - (ii) where such mortgage deeds or securities have been registered with the Registrar General, copies thereof certified to be correct by the Attorney-at-law who prepared the same and the Registrar General's receipts for their registration; and
- (c) state the number of properties with respect to which he has certified in accordance with paragraph (b) that he actually inspected the mortgage deeds and other securities or copies thereof.

Time for
sending copies
of account to
Registrar.

(3) A copy of every such annual account and statement shall be sent to the Registrar within fourteen days after the annual or other general meeting at which it is presented, or within three months after the expiration of the official year of the society, whichever period expires first, and another copy thereof shall be suspended in a conspicuous place in every office of the society.

“Official year”.

(4) For the purposes of this section, the expression “official year” shall mean, in the case of any society hereafter to be established, the year ending on the 31st of December, and, in the case of any existing society, the year ending on the day up to and inclusive of which its annual account and statement is made.

Auditors.

46. Notwithstanding anything in the rules of any society, one at least of the auditors of the society shall be a person who publicly carries on the business of an accountant.

Inspection of
books.

47. (1) The Registrar may, if he thinks fit, on the application of ten members of a society under this Act, each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application, appoint an accountant or actuary to inspect the books of the society, and to report thereon.

(2) The applicants shall deposit with the Registrar such sum as a security for the costs of the proposed inspection as the Registrar may require; and all expenses of and incidental to any such inspection shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers, or former members or officers, of the society in such proportions as the Registrar may direct.

(3) The person appointed under this section 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.

(4) The Registrar shall communicate the results of any such inspection to the applicants and to the society.

48. (1) The Registrar may, on the application of one-tenth of the whole of the members of a society under this Act, or of one hundred members in the case of a society consisting of more than one thousand members, and with the consent of the Minister, either appoint an inspector to examine into and report on the affairs of the society or call a special meeting of the society.

Registrar may appoint inspector or call special meeting.

(2) (a) The application under this section shall be supported by such evidence as the Registrar may direct for the purpose of showing that the applicants have good reason for requiring the inspection to be made or the meeting to be called, and that they are not actuated by malicious motives in their application.

(b) Such notice of the application shall be given to the society as the Registrar may direct.

(c) The Registrar shall require the applicants to give security for the costs of the proposed inspection or meeting before the inspector is appointed or the meeting is called.

(d) All expenses of and incidental to the inspection or meeting shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers, or former members or officers of the society, in such proportions as the Registrar may direct.

(3) An inspector appointed under this section may require the production of all or any of the books, accounts, securities and documents of the society, and may examine on oath its officers, members, agents and servants in relation to its business, and may administer an oath accordingly.

Powers of inspector.

(4) The Registrar may direct at what time and place a special meeting under this section is to be held, and what matters are to be discussed and determined at the meeting, and the meeting shall have all the powers of a meeting called according to the rules of the society, and shall in all cases have power to appoint its own chairman, any rule of the society to the contrary notwithstanding.

Time and place of meeting.

Power in certain cases to call special meeting.

(5) The Registrar may, without any application by members, but with the consent of the Minister given on each occasion, exercise the powers given by this section in the following cases:

- (a) where a society has, for two months after notice, failed to make any return required by this Act;
- (b) where a society has, for two months after notice, failed to correct or complete any such return;
- (c) where evidence is furnished by a statutory declaration of not less than three members of a society of facts which in the opinion of the Registrar call for investigation, or for recourse to the judgment of a meeting of the members; and the Registrar shall, forthwith on receipt of such declaration, send a copy thereof to the society, and such society shall, within fourteen days from the sending of such copy, be entitled to give the Registrar an explanatory statement in writing, by way of reply thereto.

Cancelling and suspension of registry.

49. (1) Where the Registrar is satisfied that a certificate of incorporation has been obtained for a society under this Act by fraud or mistake, or that any such society exists for an illegal purpose, or has wilfully and after notice from the Registrar violated any of the provisions of this Act, or has ceased to exist, the Registrar may, by writing under his hand, with the approval of the Minister, cancel the registration of the society, or suspend the registration thereof for any term not exceeding three months, and may, with the like approval, renew such suspension from time to time for the like period.

Notice of intention to suspend or cancel registry.

(2) The Registrar shall, before cancelling or suspending the registry of the society under the foregoing powers, give to the society not less than two months' previous notice in writing, specifying briefly the ground of the proposed cancelling or suspension, and shall, as soon as practicable after the cancelling or suspension takes place, cause notice thereof to be published in the *Gazette*, and in some newspaper circulating in Trinidad and Tobago.

(3) A society may appeal from the cancelling of its registry, or from any suspension thereof for a term exceeding six months, to the High Court, and thereupon the Court may, if it thinks it just to do so, set aside the cancelling or suspension.

Appeal from Registrar.

(4) The Registrar may also, if he thinks fit, at the request of any society under this Act, evidenced in such manner as he may direct, cancel the registry of the society.

Cancellation at request of society.

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

Effect of cancellation or suspension.

50. When all moneys intended to be secured by any mortgage or further charge of or upon any land not brought under the provisions of the Real Property Act, given to a society under this Act, have been fully paid or discharged, the society may endorse upon or annex to such mortgage or further charge a reconveyance of the mortgaged property to the then owner of the equity of redemption, or to such persons and to such uses as he may direct, or a receipt under the seal of the society, countersigned by the secretary or manager, in the form set out as Form 8 in the Schedule; and such receipt shall vacate the mortgage or further charge or debt, and vest the estate of and in the property comprised therein in the person for the time being entitled to the equity of redemption, without any reconveyance or surrender whatever; and if the said mortgage or further charge has been registered under any law of Trinidad and Tobago for the registration or record of deeds or titles other than the Real Property Act, the Registrar under such law, or his Deputy, or the recording officer, as the case may be, shall, on production of such receipt verified by the oath of any person, endorse upon or annex to such mortgage or further charge an entry to the effect that such mortgage or charge is satisfied, and shall grant a certificate separately to the like effect, which certificate

Receipt to be sufficient discharge without conveyance. [51/1980]. Ch. 56:02.

Schedule. Form 8.

shall be received in evidence in all Courts and proceedings without any further proof, and which entry shall have the effect of clearing the register or record of such mortgage; and there shall be paid to the Registrar or recording officer for the use of the State a fee of one dollar for making the said entry and granting the said certificate, and such fee shall be paid by stamps and applied as the other fees of such registry of deeds or titles are for the time being applied.

Application of
Companies Act.
Ch. 81:01.

51. Every society under this Act shall be deemed to be a company within the meaning of the Companies Act.

Penalties.

52. If any society formed under this Act, or any persons representing themselves to be a society under this Act, commence business without first obtaining a certificate of incorporation under this Act, or if any society under this Act makes default in inserting in any deposit book or acknowledgment or security for loan the matters required by section 8 to be inserted therein, the person or persons by whom such business has been so commenced, or by whom such default has been made, are liable, for every day business is so carried on, or for every such default, on summary conviction, on the complaint of the Registrar, to a fine of two hundred dollars. If any society under this Act receives loans or deposits in excess of the limits prescribed by this Act, the directors or committee of management of such society receiving such loans or deposits on its behalf are personally liable for the amount so received in excess.

Penalties for
neglect or
refusal to
comply with
provisions of
Act.

53. If any society neglects or refuses—

- (a) to give any notice, send any return or document, or do or allow to be done anything which the society is by this Act required to give, send, do or allow to be done; or
- (b) to do any act or furnish any information required for the purpose of this Act by the Registrar or by an inspector,

the society, and also every officer thereof bound by the rules thereof to fulfil the duty a breach of which has been committed,

and if there is no such officer then every member of the committee of management or board of directors of the society, unless it appears that he was ignorant of or attempted to prevent the breach, is for each offence liable on summary conviction to a fine of one thousand dollars, and, in the case of a continuing offence, to an additional fine of two hundred dollars for every week during which the offence continues.

54. Any person who wilfully makes, orders or allows to be made any false statement in any document required by this Act to be sent to the Registrar, or by erasure, omission or otherwise wilfully falsifies any such document, is liable on summary conviction to a fine of two thousand dollars. False entries.

55. No director, secretary, surveyor, Attorney-at-law or other officer of the society under this Act shall, in addition to the remuneration prescribed or authorised by the rules of the society, receive from any person any gift, bonus, commission or benefit for or in connection with any loan made by the society, and any person paying or accepting any such gift, bonus, commission or benefit is liable on summary conviction to a fine of two thousand dollars, and the person accepting any such gift, bonus, commission or benefit shall, as and when directed by the Court by whom he is convicted, pay over to the society the amount or value of such gift, bonus, commission or benefit, and, in default of such payment, is liable to imprisonment for six months. Gifts, etc., not to be accepted by officials.

56. The Registrar shall cause to be made an abstract and report of the annual accounts and statements of societies and of his proceedings as Registrar under this Act, and shall transmit the same to the Minister to be laid before Parliament. Annual report by Registrar.

57. The Minister may make Regulations respecting the fees, if any, to be paid for the transmission, registration, and inspection of documents under this Act and generally for carrying this Act into effect. Regulations.

SCHEDULE

Section 4.

FORM 1

CERTIFICATE OF INCORPORATION

No.

The Registrar hereby certifies that the Building Society,
established at is incorporated under the Building Societies Act,
this day of, 20..... The incorporation of a Building
Society does not imply any approval by the Registrar of its rules or tables, or
any guarantee of its good management or financial stability.

Registrar of Building Societies.

Section 11.

FORM 2

**CERTIFICATE OF REGISTRATION OF
ALTERATION OF RULES**

The Registrar hereby certifies that the foregoing alteration of (or addition to)
the rules of the Building Society, established
at, is registered under the Building Societies
Act this day of, 20..... The registration of rules or
alterations does not imply any approval of them by the Registrar, or any guarantee
of the good management or financial stability of the society.

Registrar of Building Societies.

FORM 3

Section 12.

CERTIFICATE OF ALTERATION OF CHIEF OFFICE

The Registrar hereby certifies that the registered chief office of the Building Society, established at, is changed from the date hereof to the office or place following:

This day of, 20.....

Registrar of Building Societies.

FORM 4

Section 16.

**CERTIFICATE OF REGISTRATION OF
CHANGE OF NAME**

The Registrar hereby certifies that the registered name of the Building Society, established at, is changed from the date hereof to the name following:

This day of, 20.....

Registrar of Building Societies.

Section 17.

FORM 5

BOND

KNOW ALL MEN by these presents that we, of one of the officers of the Building Society established at in the of and of (as surety on behalf of the said.....) are jointly and severally held and firmly bound to the said society in the sum of to be paid to the said society, 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, 20.....

Whereas the above bounden has been duly appointed to the Office of of the Building Society, established as aforesaid, and he, together with the above bounden as his surety, have entered into the above-written bond subject to the condition hereinafter contained.

Now, therefore, the condition of the above-written bond is such, that if the said shall and do render a just and true account of all moneys received and paid by him, and shall and do pay over all the moneys remaining in his hands, and assign and transfer or deliver all securities and effects, books, papers and property of or belonging to the said society in his hands or custody, to such person or persons as the said society shall appoint according to the rules of the said society, together with the proper or legal receipts or vouchers for such payments, then the above-written bond shall be void and of no effect, otherwise shall be and remain in full force and virtue.

FORM 6

Section 26.

**CERTIFICATE OF REGISTRATION OF
INSTRUMENT OF DISSOLUTION**

The Registrar hereby certifies that the foregoing instrument of dissolution of
the Building Society, established at, is registered
under the Building Societies Act.

This day of, 20.....

Registrar of Building Societies.

LAWS OF TRINIDAD AND TOBAGO

Section 45.

FORM 7A

Particulars to be set forth in the case of a mortgage where the repayments are not upwards of twelve months in arrear, and the property has not been upwards of twelve months in possession of the society, and where the present debt exceeds \$100,000.

Observations.		
Arrear. Amount of Payments in	\$	
Advance. Amount of Payments in	\$	
Present Debt.	\$	
Amount of Advance.	\$	
Property: Original Valuation of	\$	
Whether Freehold or Leasehold.	Total ...	
Whether subject to any prior mortgage or charge. If so, what amount.		
Date of Advance.		

LAWS OF TRINIDAD AND TOBAGO

FORM 7B

Section 45.

Particulars to be set forth in the case of property of which the society has been upwards of twelve months in possession.

Roll Numbers.		
Date of Advance		
Date when possession was taken.		
Whether subject to any prior mortgage or charge. If so, what amount.		
Whether Freehold or Leasehold.		Total ...
Amount of Advance.	\$	
Original Valuation of Property.	\$	
Debt when possession was taken.	\$	
Present amount included in assets.	\$	
Gross income for the year.	\$	
Outgoings for the year.	\$	
Observations.		

LAWS OF TRINIDAD AND TOBAGO

Section 45.

FORM 7C

Particulars to be set forth in the case of a mortgage where the repayments are upwards of twelve months in arrear, and the property has not been upwards of twelve months in possession of the society.

Observations.		
Arrear.	\$	
Amount of Payments in		
Present Debt.	\$	
Amount of Advance.	\$	
Original Valuation of Property	\$	
Number of months in arrear.		Total ...
Whether Freehold or Leasehold.		
Whether subject to any prior mortgage or charge. If so, what amount.		
Date of Advance.		

FORM 8

Section 50.

**RECEIPT TO BE ENDORSED ON MORTGAGE OR
FURTHER CHARGE**

The Building Society hereby acknowledge
to have received all moneys intended to be secured by the within written Deed.

In witness whereof the seal of the society is hereto affixed this day
of, 20....., by order of the Board of Directors in presence
of
