



Industrial and Provident Societies Act 1967

CHAPTER 48

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SCHEDULE—Modifications to Companies (Floating Charges) (Scotland) Act 1961 in its application to registered societies by virtue of Part II of this Act.

ELIZABETH II



1967 CHAPTER 48

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

B E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

BORROWING BY SOCIETIES REGISTERED IN ENGLAND AND WALES

1.—(1) An instrument which is executed after the commencement of this Act by a registered society whose registered office is in England or Wales and which creates or is evidence of a fixed or floating charge on assets of the society shall not be a bill of sale for the purposes of the Bills of Sale Acts 1878 and 1882 or be invalidated by those Acts if an application for the recording of the charge is made in accordance with subsection (2) of this section.

Charges on assets of English and Welsh societies.

(2) An application for the recording of a charge in pursuance of the foregoing subsection shall be made by delivering by post or otherwise to the central office, within the period of fourteen days beginning with the date of execution of the instrument which creates or is evidence of the charge or within any extended period allowed under subsection (5) of this section,—

- (a) a copy of the instrument authenticated in the prescribed manner and such additional particulars relating to the charge and so authenticated as may be prescribed; and
- (b) such fee as may be determined in pursuance of section 70 of the principal Act as applied by this Act.

PART I

(3) It shall be the duty of the chief registrar to secure—

- (a) that an acknowledgment in the prescribed form of every application made for the purposes of this section is issued to the person by whom the application was made ; and
- (b) that the copy of the instrument included in such an application, a note of any prescribed particulars so included and a copy of the acknowledgment of the application issued in pursuance of the foregoing paragraph are placed on a file maintained by the central office in respect of the society by whom the instrument was executed ; and
- (c) that the file is available for inspection during office hours by members of the public on payment of such fee as may be determined as aforesaid ;

and an acknowledgment issued in pursuance of this subsection shall be conclusive evidence that any document specified by the acknowledgment was delivered to the central office on the date so specified.

(4) Without prejudice to the generality of the power to make regulations conferred by section 71 of the principal Act as applied by this Act, regulations under that section may make provision for the giving of notice to the central office of any release, discharge or other transaction relating to any charge in respect of which an application has been made for the purposes of this section and for the inclusion in the file mentioned in subsection (3) of this section of any such notice appearing to the chief registrar to relate to the charge.

(5) If in the case of such an instrument as is mentioned in subsection (1) of this section it appears to the High Court, on the application of the society by whom the instrument was executed or of any other person claiming the benefit of the instrument, that by reason of inadvertence or other sufficient cause—

- (a) an application for the recording of the charge to which the instrument relates was not made within the period of fourteen days mentioned in subsection (2) of this section ; or
- (b) any matters were omitted from or were mis-stated in such an application,

the Court may, on such terms as it thinks fit, order that the period for making such an application shall be extended or, as the case may be, that the omission or mis-statement shall be rectified.

2.—(1) This Part of this Act does not extend to Scotland. PART I

(2) Nothing in this Part of this Act shall apply to a debenture registered under section 14 of the Agricultural Credits Act 1928 (which provides for the registration of debentures of registered societies creating floating charges in favour of banks). Application of Part I. 1928 c. 43.

PART II

BORROWING BY SOCIETIES REGISTERED IN SCOTLAND

3.—(1) Subject to the following provisions of this section, the Companies (Floating Charges) (Scotland) Act 1961 (hereinafter referred to as “the Act of 1961”) shall apply to a registered society as it applies to an incorporated company; and accordingly (subject as aforesaid) any reference in that Act (except in section 8(1)(b) thereof) to an incorporated company shall be construed as including a reference to a registered society. Application to registered societies of Companies (Floating Charges) (Scotland) Act 1961.

(2) In its application to a registered society the Act of 1961 shall be construed subject to the modifications set out in the Schedule to this Act. 1961 c. 46.

(3) Where, in the case of a registered society, there are in existence—

(a) a floating charge created by the society under the Act of 1961 as applied by this section, and

(b) an agricultural charge created by the society under Part II of the Agricultural Credits (Scotland) Act 1929, 1929 c. 13.

and any assets of the society are subject to both charges, sections 1(2)(c) and 5(3) of the Act of 1961 shall have effect for the purpose of determining the ranking with one another of those charges as if the agricultural charge were a floating charge created under the Act of 1961 and registered under that Act at the same time as it was registered under the said Part II.

(4) In this section, and in the following provisions of this Part of this Act, “registered society” does not include a registered society whose registered office is situated in England or Wales.

4.—(1) In respect of every floating charge created by a registered society under the Act of 1961 as applied by section 3 above there shall be delivered by post or otherwise to the registrar, within the period of fourteen days beginning with the day of execution of the instrument creating the charge (or within any extended period allowed under subsection (2) of this section),— Filing of information relating to charges.

(a) a copy of the instrument, authenticated in the prescribed manner;

PART II

- (b) a note, so authenticated, of such particulars relating to the charge as may be prescribed ; and
- (c) such fee as may be determined in pursuance of section 70 of the principal Act as applied by this Act ;

and if in the case of any such charge the said copy, note and fee are not delivered as aforesaid within the period limited by this subsection the charge shall be void against any person other than the society concerned.

(2) If in the case of any such charge it appears to the Court of Session, on the application of the society by whom the instrument creating the charge was executed or of any other person claiming the benefit of the instrument, that by reason of inadvertence or other sufficient cause—

- (a) a duly authenticated copy of the instrument was not delivered to the registrar within the period of fourteen days mentioned in subsection (1) of this section ; or
- (b) any matters were omitted from, or were mis-stated in, the note required under that subsection to be delivered to the registrar,

the Court may, on such terms as it thinks fit, order that the said period shall be extended or, as the case may be, that the omission or mis-statement shall be rectified.

(3) Where any person delivers to the registrar any document such as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section, together with the fee mentioned in paragraph (c) of that subsection, it shall be the duty of the registrar to secure—

- (a) that there is issued to that person an acknowledgment in the prescribed form stating the date on which, and the time at which, the delivery was effected ;
- (b) that the document delivered and a copy of the acknowledgment are placed on a file maintained by the registrar in respect of the society concerned ; and
- (c) that the file is available for inspection during office hours by members of the public on payment of such fee as may be determined in pursuance of section 70 of the principal Act as applied by this Act.

(4) Any acknowledgment issued in pursuance of paragraph (a) of the last foregoing subsection shall be conclusive evidence that any document specified by the acknowledgment was delivered to the registrar on the date, and at the time, so specified.

5.—(1) Without prejudice to the generality of the power to make regulations conferred by section 71 of the principal Act as applied by this Act, regulations under that section may make provision for the giving of notice to the registrar of—

PART II

Supplemental provisions.

(a) any release, discharge or other transaction relating to any charge created by an instrument a copy of which has been delivered to the registrar in pursuance of the last foregoing section ;

(b) any security granted by a registered society over any of its assets otherwise than under the Act of 1961 as applied by this Part of this Act ;

and for the inclusion in the file mentioned in subsection (3)(b) of that section of any such notice.

(2) The Court of Session may by Act of Sederunt make rules prescribing the nature of the documents with which, in relation to any such charge as is mentioned in paragraph (a) of the foregoing subsection, the creditor may require to be furnished for identifying the assets affected by the charge and establishing the title of the society thereto.

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

Interpretation and application of Part II.

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

PART III

GENERAL

7.—(1) In this Act “the principal Act” means the Industrial and Provident Societies Act 1965, and “prescribed”, “registered” and “registered society” have the same meanings as in that Act.

Interpretation, etc.—general. 1965 c. 12.

(2) Sections 70 to 73 of the principal Act (which contain supplemental provisions relating to fees, regulations, documents, registrars and the central office) shall apply for the purposes of this Act as they apply for the purposes of that Act.

8.—(1) This Act may be cited as the Industrial and Provident Societies Act 1967, and this Act and the principal Act may be cited together as the Industrial and Provident Societies Acts 1965 and 1967.

Citation, commencement and extent.

(2) This Act shall come into operation on the expiration of the period of two months beginning with the date on which it is passed.

(3) This Act does not extend to Northern Ireland.

Section 3.

SCHEDULE

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

1. In section 1(2), the reference to section 106A of the Act of 1948 shall be omitted.

2. In section 2, the reference to the Court of Session shall be construed as a reference to any sheriff court.

3. In section 3, the reference to the Act of 1948 shall be construed as a reference to such provisions of that Act as apply (by virtue of section 55 of the principal Act) to registered societies.

4. In section 4, the reference to section 399(5) of the Act of 1948 shall be omitted; and the reference to the Court of Session shall be construed as a reference to any sheriff court.

5. Section 5 shall have effect as if, at the end thereof, there were inserted the following subsection:—

“(6) In this section as applied by Part II of the Industrial and Provident Societies Act 1967 to registered societies within the meaning of that Part ‘the registrar’, in relation to a floating charge created by such a society, means the Assistant Registrar of Friendly Societies for Scotland; and references to registration, in relation to such a charge, are references to the deliverance to the registrar of the documents required by section 4(1) of the said Act of 1967 to be so delivered”.

6. Section 6 and Schedule 2 shall be omitted.

7. Paragraph (d) of section 8 shall be omitted.

8. In this Schedule, “Act of 1948” has the same meaning as in the Act of 1961.

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