



Western Australia

Co-operative and Provident Societies Act 1903

Compare between:

[01 Jul 2006, 03-b0-08] and [22 Oct 2009, 03-c0-02]

Co-operative and Provident Societies Act 1903

An Act to provide for the incorporation and regulation of Co-operative and Provident Societies.

Preliminary

1. Short title and commencement

This Act may be cited as the *Co-operative and Provident Societies Act 1903* and shall come into operation on 1 January 1904¹.

2. Interpretation

In this Act, if not inconsistent with context, the following terms shall have meanings hereinafter respectively assigned to them —

Amendment of a rule includes a new rule and a resolution rescinding a rule;

Committee means the Committee of Management or other directing body of a society;

Department means the department of the Public Service principally assisting in the administration of this Act;

Land includes hereditaments and chattels real;

Meeting includes (when the rules of a society so allow) a meeting of delegates appointed by members;

Office means the registered office for the time being of a society;

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Officer extends to any trustee, treasurer, secretary, member of the committee, manager, or servant, other than a servant appointed by the committee, of a society;

Persons claiming through a member includes the executors, administrators, and assigns of a member, and also his nominees where nomination is allowed;

Property includes real and personal estate (including books and papers);

Public Auditor means a person appointed as such, under the provisions of section 61;

Registered society means a society registered or deemed to be registered under this Act;

Registrar means the person for the time being designated as the Registrar under section 67;

Rules mean the registered rules for the time being, and shall include any registered amendment of rules;

The Minister means the responsible Minister of the Crown administering this Act for the time being.

[Section 2 amended by No. 43 of 1969 s. 2; No. 2 of 1999 s. 18(a); No. 28 of 2006 s. 80.]

2A. Registered societies excluded from Corporations legislation

- (1) The following matters are declared to be excluded matters for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies, other than the provisions specified in subsection (2) —
 - (a) a registered society;
 - (b) any act or omission of any person, body or other entity in relation to a registered society.

- (2) The provisions referred to in subsection (1) are —
- (a) provisions that relate to any matter that the regulations provide is not to be excluded from the operation of the Corporations legislation;
 - (b) provisions that relate to the role of a registered society in the formation of a company;
 - (c) provisions that relate to substantial holdings, by or involving a registered society, in a company;
 - (d) provisions that confer or impose functions on a registered society as a member, or former member, of a corporation;
 - (e) provisions that relate to dealings by a registered society in securities of a body corporate, other than securities of the registered society itself;
 - (f) provisions that confer or impose functions on a registered society in its dealings with a corporation, not being dealings in securities of the registered society;
 - (g) provisions that relate to securities of a registered society, other than shares in, debentures of or deposits with a registered society;
 - (h) provisions relating to the futures industry;
 - (i) provisions relating to participants in the securities industry;
 - (j) provisions relating to the conduct of securities business;
 - (k) provisions relating to dealers' accounts and audit;
 - (l) provisions relating to money and scrip of dealers' clients; or
 - (m) provisions relating to registers of interests in securities.
- (3) The provisions specified in subsection (2) only apply to a registered society to the extent to which a registered society may engage in the activities covered by those provisions.

[Section 2A inserted by No. 10 of 2001 s. 48.]

Registration of societies

3. Societies which may be registered

- (1) A society which may be registered under this Act as a co-operative and provident society is a society for carrying on any lawful industries, businesses, or trades specified in or authorised by its rules, whether wholesale or retail, and including dealings of any description with land; but no member shall have or claim any interest in shares of the society exceeding \$50 000 or such other amount as prescribed.
- (2) No registered society shall carry on the business of banking.

[Section 3 amended by No. 48 of 1947 s. 3; No. 43 of 1969 s. 3; No. 61 of 1973 s. 2; No. 60 of 1986 s. 4.]

4. Conditions of registration

With respect to the registry of societies, the following provisions shall have effect —

- (1) No society shall be registered which does not consist of 7 persons at least.
- (2) For the purpose of registry, an application to register the society, signed by 7 members and the secretary, and 2 copies of the rules, written or printed, or partly written and partly printed, shall be sent to the Registrar.
- (3) No society shall be registered under a name identical with that under which any other existing society is registered, or so nearly resembling such name as to be likely, or in any name likely, in the opinion of the Registrar, to mislead the members or the public as to its nature or its identity; and no society shall change its name without the sanction of the Registrar, as herein after provided.
- (4) The words “society, limited” shall be the last words in the name of every society registered under this Act.

- (5) On the lodgment with the Registrar of any application to register any society, there shall be paid to the Registrar the prescribed fee.

[Section 4 amended by No. 43 of 1969 s. 4.]

5. Acknowledgment of registry

The Registrar, on being satisfied that a society has complied with the provisions as to registry in force under this Act, shall issue to such society an acknowledgment of registry.

6. Appeal from refusal to register

- (1) If the Registrar refuses to register the society or any rules, or amendments of rules, the society may apply to the State Administrative Tribunal for a review of the refusal.

[(2) deleted]

[Section 6 amended by No. 55 of 2004 s. 149.]

7. Evidence of registration

The acknowledgment of registry 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.

Cancellation and suspension of registry

8. Cancelling

- (1) The Registrar may, with the approval of the Minister, cancel the registry of a society —
- (a) at the request of a society; or
 - (b) on proof to his satisfaction that —
 - (i) an acknowledgment of registry has been obtained by fraud or mistake; or
 - (ii) the society exists for an illegal purpose; or

- (iii) the society has, after notice from the Registrar, violated any of the provisions of this Act; or
 - (iv) the number of the members of the society has been reduced to less than 7; or
 - (v) the society has ceased to exist.
- (2) The Registrar, in any case in which he might, with the approval of the Minister, cancel the registry of a society, may suspend the same by writing under his hand for any term not exceeding 3 months, and may, with the approval of the Minister, renew such suspension from time to time for the like period.
- (3) Not less than 2 months' previous notice in writing, specifying briefly the ground of any proposed cancelling or suspension of registry, shall be given by the Registrar to a society before the registry of the same can be cancelled (except at its request) or suspended; and notice of every cancelling or suspension shall be published in the *Government Gazette* and in a newspaper circulating in the locality in which the registered office of the society is situated, as soon as practicable after the same takes place.
- (4) A society may apply to the State Administrative Tribunal for a review of the cancelling of its registry, or any suspension of the same which is renewed after 3 months.
- (5) A society whose registry has been suspended or cancelled shall, from the date of publication in the *Government Gazette* of notice of such suspension or cancelling (but if suspended only while under such suspension, and subject also to the right of review hereby given), absolutely cease to enjoy, as such, the privileges of a registered society, but without prejudice to any liability actually incurred by such society which may be enforced against the same as if suspension or cancelling had not taken place.

[Section 8 amended by No. 55 of 2004 s. 150.]

Rules

9. Rules

- (1) The rules of a society registered under this Act shall contain provisions in respect of the several matters mentioned in the First Schedule.
- (2) No amendment of a rule made by a registered society shall be valid until the same has been registered under this Act, for which purpose 2 copies of the same, signed by 3 members and the secretary, shall be sent to the Registrar.
- (3) On the lodgment with the Registrar of any amendment of rules for registration, there shall be paid to the Registrar the prescribed fee.
- (4) The Registrar shall, on being satisfied that any amendment of a rule is not contrary to the provisions of this Act, issue to the society an acknowledgment of registry of the same, which shall be conclusive evidence that the same is duly registered.
- (5) A copy of the rules of a registered society shall be delivered by the society to every person on demand, on payment of a sum not exceeding such as may be approved by the Minister.
- (6) The rules of a registered society, or any schedule thereto, may set forth the form of any instrument necessary for carrying the purposes of the society into effect.
- (7) The rules of every society registered under this Act —
 - (a) shall provide for the profits being appropriated to any purpose stated therein or as may be determined in such manner as the rules direct; and
 - (b) are deemed to provide that all members qualified to vote on any question affecting the society shall have equal voting power irrespective of the number of shares held by them.

[Section 9 amended by No. 43 of 1969 s. 5.]

Duties and obligations

10. Duties of societies

Every registered society —

- (1) shall have a registered office to which all communications and notices may be addressed, and send to the Registrar notice of the situation of such office and of every change therein; and
- (2) shall paint or affix, and keep painted or affixed, its registered name on the outside of every office or place in which the business of the society is carried on, in a conspicuous position, in letters easily legible, and have such name engraven in legible characters on its seal, and have such name mentioned in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of such society, and in all bills of parcels, invoices, receipts, and letters of credit to or of the society.

11. Audit

- (1) Every registered society shall, once at least in every year, submit its accounts and securities for audit and inspection to a public auditor appointed by the society.
- (2) The public auditor appointed under subsection (1) shall have access to all the books, papers, deeds, documents, and accounts of the society, and shall examine the balance-sheets, showing the receipts and expenditure, funds, and effects of the society, and verify the same with the books, deeds, documents, accounts, and vouchers relating thereto, and by examining the securities held by the society, and shall either sign the same as found by him to be correct, duly vouched, and in accordance with the law, or specially report to the society in what respects he finds

them or any of them incorrect, unvouched, or not in accordance with law.

[Section 11 amended by No. 43 of 1969 s. 6.]

12. Annual returns

- (1) Every registered society shall once in every year, before 1 September, send to the Registrar a general statement (to be called the Annual return) of the receipts and expenditure, funds, and effects of the society, as audited.
- (2) The annual return —
 - (a) shall be signed by the auditor; and
 - (b) shall show separately the expenditure in respect of the several objects of the society; and
 - (c) shall be made out from the date of its registration or last annual return to 30 June then last inclusive, or to the date of the last published balance-sheet of the society, if such last-named date is not more than one month before or after such 30 June; and
 - (d) shall set out the full name and place of business of the public auditor by whom the audit was conducted.
- (3) The society shall, together with the annual return, send copies of all balance-sheets, and such other information as the Registrar, with the approval of the Governor, may prescribe, and a copy of the auditor report, or if more than one such report has been made during the period included in the return, a copy of each of such reports.

[Section 12 amended by No. 16 of 1926 s. 2; No. 43 of 1969 s. 7.]

13. Supplying copies of the annual return

Every registered society —

- (1) shall supply gratuitously every member or person interested in the funds of the society, on his application, with a copy of the last annual return of the society for the time being; and
- (2) shall keep a copy of the last annual balance-sheet for the time being, together with the report of the auditor, always hung up in a conspicuous place at the registered office of the society.

[Section 13 amended by No. 43 of 1969 s. 8.]

14. Returns and other documents to be in form prescribed by the Registrar

- (1) Every annual or other return and other document required for the purposes of this Act shall be made in such form and contain such particulars as the Registrar, with the approval of the Governor, from time to time prescribes; and
- (2) All documents required to be sent to the Registrar shall be deposited and registered or recorded by the Registrar in such manner and with such observations thereon (if any) as the Registrar directs.

Privileges

15. Incorporation of society with limited liability

The Registration of a society shall render it a body corporate by the name described in the acknowledgment of registry, by which it may sue and be sued, with perpetual succession and a common seal, and with limited liability; and shall vest in the society all property for the time being vested in any person in trust for the society; and all legal proceedings pending by or against the trustees of any such society may be prosecuted by or against the society in its registered name without abatement.

16. Rules to bind members

The Rules of a registered society shall bind the society and all members thereof, and all persons claiming through them, respectively to the same extent as if each member had subscribed his name and affixed his seal thereto, and there were contained in such rules a covenant on the part of such member, his heirs, executors, administrators and assigns, to conform thereto, subject to the provisions of this Act.

17. Remedy for debts from members

- (1) All moneys payable by a member to a registered society shall be a debt due from such member to the society, and shall be recoverable as such in a court of competent jurisdiction.
- (2) A registered society shall have a lien on the shares of any member for any debt due to it by him, and may set off any sum credited to the member thereon in or towards the payment of such debt.

[Section 17 amended by No. 59 of 2004 s. 141.]

18. Power of nomination for sums not exceeding \$100

- (1) A member of a registered society, not being under the age of 16 years, may, by a writing under his hand, delivered at or sent to the registered office of the society during the lifetime of such member, or made in any book kept thereat, nominate any person or persons other than an officer or servant of the society (unless such officer or servant is the husband, wife, de facto partner, parent, child, brother, sister, nephew, or niece of the nominator) to or among whom his property in the society, whether in shares, loans, or deposits, or so much thereof as is specified in such nomination, if the nomination does not comprise the whole, shall be transferred at his decease, provided the amount credited to him in the books of the society does not then exceed \$100.

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- (2) A nomination so made may be revoked or varied by any similar document under the hand of the nominator, delivered sent or made as aforesaid, but shall not be revocable or variable by the will of the nominator or any codicil thereto.
- (3) The society shall keep a book wherein the names of all persons so nominated, and of all revocations or variations, if any, of such nominations shall be entered; and the property comprised in any such nomination shall be payable or transferable to the nominees, although the rules of the society declare the shares to be generally not transferable.

[Section 18 amended by No. 113 of 1965 s. 8; No. 28 of 2003 s. 25.]

19. Proceedings on death of a nominator

On receiving satisfactory proof of the death of a nominator, the committee of the society shall either transfer the property comprised in the nomination in manner directed by it, or pay to every person entitled thereunder the full value of the property given to him, unless the shares comprised therein, if transferred as directed by the nominator, would raise the share capital of any nominee to a sum exceeding \$50 000 or such other amount as is prescribed, in which case they shall pay him the value of such shares.

[Section 19 amended by No. 48 of 1947 s. 4; No. 43 of 1969 s. 9; No. 61 of 1973 s. 3; No. 60 of 1986 s. 5.]

20. Provision for intestacy

If any member of a registered society entitled to property therein in respect of shares, loans, or deposits, not exceeding in the whole, at his death, \$100, dies intestate, without having made any nomination thereof then subsisting, the committee may, without letters of administration, distribute the same among such persons as appear to them, on such evidence as they deem satisfactory, to be entitled by law to receive the same.

[Section 20 amended by No. 113 of 1965 s. 8.]

21. Payment on behalf of insane members

Where a member or person claiming through a member of a society is insane, and no committee of his estate or trustee of his property has been duly appointed, the society may, when it is proved to the satisfaction of the committee that it is just and expedient so to do, pay the amount of the shares, loans and deposits, not exceeding \$100, belonging to such member or person, to any person whom they shall judge proper to receive the same on his behalf, whose receipt shall be a good discharge to the society for any sum so paid.

[Section 21 amended by No. 113 of 1965 s. 8.]

22. Payments to persons apparently entitled valid

All payments or transfers made by the committee of a registered society, under the provisions of this Act with respect to payments or transfers to or on behalf of deceased or insane members, to any person who at the time appears to the committee to be entitled thereunder, shall be valid and effectual against any demand made upon the committee or society by any other person.

23. Membership of minors

A person under the age of 21 years, but above the age of 16, may be a member of a registered society unless provision be made in the rules thereof to the contrary, and may, subject to the rules thereof, enjoy all the rights of a member except as herein provided, and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee, trustee, manager, or treasurer.

24. Promissory notes and bills of exchange

A promissory note or bill of exchange shall be deemed to have been made, accepted, or indorsed on behalf of any society if

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made, accepted, or indorsed in the name of the society, or by or on behalf or account of the society, by any person acting under the authority of the society.

25. Register of members or shares

Any register or list of members or shares kept by any society shall be *prima facie* evidence of any of the following particulars entered therein —

- (a) the names, addresses, and occupations of the members, the number of shares held by them respectively, the numbers of such shares, if they are distinguished by numbers, and the amount paid or agreed to be considered as paid on any such shares;
- (b) the date at which the name of any person, company, or society was entered into such register or list as a member;
- (c) the date at which any such person, company, or society ceased to be a member.

26. Contracts how made, varied or discharged

Contracts on behalf of any registered society may be made, varied, or discharged, as follows —

- (a) any contract which, if made between private persons, would be by law required to be in writing under seal, may be made, varied, or discharged in the name and on behalf of the society, in writing, under the seal of the society;
- (b) any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the society, in writing, signed by any person acting under the expressed or implied authority of the society;

- (c) any contract which if made between private persons, would by law be valid, although made by parole only, and not reduced into writing, may be made, varied, or discharged by parole, in the name and on behalf of the society, by any person acting under the expressed or implied authority of the society;

and all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the society and all other parties thereto, their heirs, executors, or administrators, as the case may be.

Property and funds

27. Investment of funds

A registered society may invest any part of its capital in or upon any security authorised by its rules, and also, if the rules do not direct otherwise —

- (a) in any bank incorporated by Royal Charter, or by or under the provisions of any Act of Parliament or on deposit with the Treasurer under any law now or hereafter to be in force relating to post office savings banks;
- (b) on Government securities of the State of Western Australia;
- (c) on mortgage of freehold or leasehold property (such leasehold being for a term of years absolute, of which not less than 20 years is unexpired);
- (d) on securities of a local government;
- (e) in the shares or on the security of any other society registered or deemed to be registered under this Act, or of any company within the meaning of the *Corporations Act 2001* of the Commonwealth. Provided that no such investment be made in the shares of any society or company other than one with limited liability.

[Section 27 amended by No. 10 of 1982 s. 28; No. 14 of 1996 s. 4; No. 10 of 2001 s. 49.]

28. Holding of land

A registered society may (if its rules do not direct otherwise), hold, purchase, or take on lease in its own name any land, and may sell, exchange, mortgage, lease, or build upon the same (with power to alter and pull down buildings and again rebuild), and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire as to the authority for any such sale, exchange, mortgage, or lease by the society, and the receipt of the society shall be a discharge for all moneys arising from or in connection with such sale, exchange, mortgage, or lease.

29. Advances to members

The rules of a registered society may provide for advances of money to members on the security of real or personal property.

30. Societies members of other bodies corporate may vote by proxy

A registered society which has invested any part of its capital in the shares or on the security of any other body corporate may appoint as proxy any one of its members, although such member is not personally a shareholder of such other body corporate. The proxy shall, during the continuance of his appointment, be taken in virtue thereof as holding the number of shares held by the society by whom he is appointed for all purposes except the transfer of any such shares, or the giving receipts for any dividends thereon.

31. Any body corporate may hold shares in a society

Any other body corporate may, if its rules, articles, or regulations permit, hold shares by its corporate name in a registered society.

Discharge of mortgages

32. Discharges of mortgages by receipt indorsed

- (1) A receipt in full, signed by 2 members of the committee, and countersigned by the secretary, of a registered society, for all moneys secured to the society on the security of any property to which such receipt relates, and being in the form contained in the Second Schedule, or in any other form specified in the rules of the society or any schedule thereto, if indorsed on or annexed to any mortgage or assurance, shall vacate the same and vest the property therein comprised in the person entitled to the equity of redemption thereof without any formal reconveyance or surrender.
- (2) If such mortgage or other assurance has been registered under any Act for the registration or record of deeds or titles, the Registrar under such Act, or keeper of the register, shall, on production of such receipt, and on being satisfied that the persons signing such receipt are, at the date thereof, members of the committee and secretary respectively of the society, enter satisfaction on the register of such mortgage or of the charge made by such assurance, and shall grant a certificate, either upon such mortgage or assurance, or separately, to the like effect, which certificate shall be received in evidence in all courts and proceedings without further proof.

Officers in receipt or charge of money

33. Security by officers

Every officer of a registered society having receipt or charge of money shall, before taking upon himself the execution of his office, become bound, either with or without a surety as the committee may require, in a bond according to the form in the Third Schedule, or such other form as the committee approve, or give the security of a guarantee society in such sum as the committee may direct, conditioned for his rendering a just and

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true account of all moneys received and paid by him on account of the society at such times as its rules appoint, or as the society or committee thereof require him to do, and for the payment by him of all sums due from him to the society.

34. Accounts of officers

- (1) Every officer of a registered society having the 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 upon notice in writing given or left at his last or usual place of residence, give in his account as required by the society or by the committee thereof, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society or the committee appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys or to deliver such property in manner aforesaid, the society may sue upon the bond or security before mentioned, and every such officer so neglecting or refusing as aforesaid shall be guilty of an offence under this Act and be liable to a penalty of not less than \$2 and not more than \$20.
- (2) This section shall apply to every servant of a registered society in receipt or charge of money in every case where he is not engaged under a special agreement to account.

[Section 34 amended by No. 113 of 1965 s. 8.]

Disputes

35. Decision of disputes

- (1) Every dispute between a member of a registered society, or any person aggrieved who has for not more than 6 months ceased to be a member of a registered society, or any person claiming through such member or person aggrieved, or claiming under the rules of a registered society, and the society or an officer thereof, shall be decided in manner directed by the rules of the

society, if they contain any such direction, and the decision so made 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 the enforcement thereof may be made to the Magistrates Court.

- (2) The parties to a dispute in a society may, by consent (unless the rules of such society expressly forbid it), refer such dispute to the Registrar, who shall, with the consent of the Minister, hear and determine such dispute, and shall have power to order the expenses of determining the same to be paid either out of the funds of the society or by such parties to the dispute as he thinks fit, and such determination and order shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the society.
- (3) The Registrar, when any dispute is referred to him, may administer oaths, and may require the attendance of all parties concerned and of witnesses, and the production of all books and documents relating to the matter in question, and any person refusing to attend or to produce any documents or to give evidence before such Registrar shall be guilty of an offence under this Act.
- (4) When the rules of a society direct that disputes shall be referred to Justices of the Peace, the dispute shall be determined by the Magistrates Court.
- (5) When the rules contain no direction as to disputes or no direction applicable to any particular dispute, or when no decision is made on a dispute within 40 days after application to the society for a reference under its rules, the member or person aggrieved may apply to the Magistrates Court, which may hear and determine the matter in dispute.
- (6) The Magistrates Court or Registrar may, at the request of either party, state a case for the opinion of the Supreme Court on any question of law, and also may grant to either party such discovery as to documents and otherwise, or such inspection of

documents as might be granted by the Supreme Court; such discovery to be made on behalf of the society by such officer of the same as the Court or Registrar determine.

[Section 35 amended by No. 59 of 2004 s. 141.]

36. Enforcing decisions

- (1) A decision of a dispute made under the rules of a registered society may be enforced by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with the Magistrates Court.
- (2) When lodged, the order is to be taken to be a judgment of the Magistrates Court and may be enforced accordingly.

[Section 36 inserted by No. 59 of 2004 s. 141.]

Inspection

37. Inspection of books

- (1) Save as provided by this Act no member or person shall have any right to inspect the books of a registered society, notwithstanding anything in the existing rules relating to such inspection.
- (2) Any member or person having any interest in the funds of a registered society shall be allowed to inspect his own account and the books containing the names of the members, at all reasonable hours, at the registered office of the society, or at any place where the same are kept, subject to such regulations as to the time and manner of such inspection as may be made from time to time by the general meetings of the society.
- (3) A registered society may, by its rules, authorise the inspection of any of its books therein mentioned, in addition to the said books containing the names of members, under such conditions as are thereby imposed, so that no person, unless he be an officer of the society, or be specially authorised by a resolution

thereof, shall have the right to inspect the loan or deposit account of any other member without his written consent.

38. Power to appoint inspectors, and call special meeting

- (1) Upon the application of one-tenth of the whole number of members of a registered society, or of 100 members in the case of a society exceeding 1 000 members, the Registrar, with the consent of the Minister in every case, may —
 - (a) appoint an inspector or inspectors to examine into and report on the affairs of such society; or
 - (b) call a special meeting of the society.
- (2) The application under this section shall be supported by such evidence, for the purpose of showing that the applicants have good reason for requiring such inspection to be made or meeting to be called, and that they are not actuated by malicious motives in their application, and such notice thereof shall be given to the society as the Registrar shall direct.
- (3) The Registrar may, if he think fit, require the applicants to give security for the costs of the proposed inspection or meeting before appointing any inspector or calling such meeting.
- (4) All expenses of and incidental to any such inspection or meeting shall be defrayed by the members applying for same, 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 shall direct.
- (5) 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.
- (6) 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.

Change of name — amalgamation — conversion

39. Special resolutions

For the purposes of this Act a special resolution shall mean a resolution which is —

- (a) passed by a majority of not less than three-fourths of such members of a society for the time being entitled under the rules to vote as are present in person, or by proxy where the rules allow proxies, at any general meeting of which notice, specifying the intention to propose such resolution, has been duly given according to the rules; and
- (b) confirmed by a majority of such members for the time being entitled under the rules to vote as are present in person, or by proxy where the rules allow proxies, at a subsequent general meeting of which notice has been duly given, held not less than 14 days nor more than one month from the day of the meeting at which such resolution was first passed.

At any meeting mentioned in this section a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact.

40. Power to change name

A registered society may, by special resolution, with the approval in writing of the Registrar, change its name, but no such change shall 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 society, notwithstanding its new name.

41. Power of amalgamation

- (1) Any 2 or more registered societies may, by special resolution of both or all such societies, become amalgamated together as one society, with or without any dissolution or division of the funds of such societies or either of them, and the property of such societies shall become vested in the amalgamated society without any form of conveyance other than that contained in the special resolution amalgamating the societies.
- (2) And any registered society may, by special resolution, transfer its engagements to any other registered society, which may undertake to fulfil the engagements of such society.

42. Power of conversion into a company, etc.

- (1) A registered society may, by special resolution, determine to seek incorporation as a company under any law for the time being in force relating to the incorporation of companies, or to amalgamate with, or transfer its engagements to, any such company.
- [(2) deleted]*
- (3) If a society is registered as, or amalgamated in with, or transfers all its engagements to a company, the registry of such a society under this Act shall thereupon become void, and the same shall be cancelled by the Registrar, but the registration of a society as a company shall not affect any right or claim for the time being subsisting against such society or any penalty for the time being incurred by such society, and for the purpose of enforcing any such right, claim or penalty, the society may be sued and proceeded against in the same manner as if it had not been registered as a company, and every such right or claim, or the liability to such penalty, shall be enforceable as against the property of such company.

[Section 42 amended by No. 10 of 1982 s. 28.]

43. Conversion of company into society

- (1) A company within the meaning of the *Corporations Act 2001* of the Commonwealth that is taken to be registered in Western Australia may, by a special resolution, determine to seek registration as a registered society, and, for the purpose, in any case where the nominal value of its shares held by any member other than a registered society exceeds \$50 000 or such other amount as prescribed may, by such resolution, provide for the conversion of the excess of such share capital over \$50 000 or such other amount as is prescribed into a transferable loan stock bearing such rate of interest as may thereby be fixed, and repayable on such conditions only as are in such resolution determined.
- (2) An application for the registration of a company as a registered society shall be accompanied by a copy of the rules of the society therein referred to, and a copy of a special resolution referring to the proposed rules appointing 7 persons, members of the company, who, together with the secretary, shall sign the rules, and who may either be authorised to accept any alternations made by the Registrar therein, without further consulting the company, or may be required to lay all such alterations before the company in general meeting for acceptance as the resolution may direct.
- (3) The Registrar, upon the registration of the society, shall give to it, in addition to the acknowledgment of registry, a certificate similarly sealed or signed that the rules of the society referred to in the resolution have been registered; but in the registered name of the company as a society the word “company” shall not be used.
- (4) Effect shall not be given by the Registrar to an application for the registration of a company as a registered society unless, after consultation with the Commissioner for Corporate Affairs, he is satisfied —

- (a) that provision is made for the voluntary winding up of the company;
 - (b) as to the extent to which, and the manner in which, the constituent documents of the society provide for the affairs of the company, its members and creditors pending dissolution of the company; and
 - (c) that the Commissioner for Corporate Affairs is not aware of any failure of the company to comply with any requirement of the *Corporations Act 2001* of the Commonwealth, the Corporations Law, the *Companies (Western Australia) Code* or the *Companies Act 1961* that remains applicable to it.
- (5) The registration of a company as a registered society shall not affect any right or claim for the time being subsisting against the company, or any penalty for the time being incurred by such company, and, for the purpose of enforcing any such right, claim, or penalty, the company may be sued and proceeded against in the same manner as if it had not been registered as a society.

[Section 43 amended by No. 48 of 1947 s. 5; No. 43 of 1969 s. 10; No. 61 of 1973 s. 4; No. 10 of 1982 s. 28; No. 60 of 1986 s. 6; No. 10 of 2001 s. 50.]

44. Registration of special resolution

A copy of every special resolution for any of the purposes mentioned in this Act signed by the chairman of the meeting, and countersigned by the secretary, shall be sent to the Registrar and registered by him and until such copy is so registered, such special resolution shall not take effect.

45. Creditors not prejudiced

No amalgamation or transfer of engagements shall prejudice any right of a creditor of either or any society party thereto.

Dissolution

46. Dissolution of a registered society

- (1) A registered society may be dissolved —
 - (a) by order of the Court, or pursuant to a special resolution for the winding up of the society; or
 - (b) by the consent of three-fourths of the members, testified by their signatures to an instrument of dissolution.
- (2) The dissolution of a registered society under subsection (1)(a) is declared to be an applied Corporations legislation matter for the purposes of Part 3 of the *Corporations (Ancillary Provisions) Act 2001* in relation to Parts 5.4 to 5.6, 5.7B and 5.8 (winding up) of the *Corporations Act 2001* of the Commonwealth.
- (3) The following modifications to the text of Parts 5.4 to 5.6, 5.7B and 5.8 of the *Corporations Act 2001* of the Commonwealth apply for the purposes of subsection (2) —
 - (a) a reference to a company is to be read as a reference to a registered society;
 - (b) a reference to a special resolution is to be read as a reference to a special resolution under this Act;
 - (c) a reference to ASIC is to be read as a reference to the Registrar;
 - (d) a reference to the Court is to be read as a reference to the Supreme Court.

[Section 46 inserted by No. 10 of 2001 s. 51; amended by No. 20 of 2003 s. 14.]

47. Liability of members in winding up

Where a registered society is wound up in pursuance of an order or resolution, the liability of a present or past member of the society to contribute for payment of the debts and liabilities of the society, the expenses of winding up, and the adjustment of

the rights of contributories amongst themselves shall be qualified as follows —

- (a) no individual, society, or company who or which has ceased to be a member for one year or upwards prior to the commencement of the winding up shall be liable to contribute;
- (b) no individual, society, or company shall be liable to contribute in respect of any debt or liability contracted after he or it ceased to be a member;
- (c) no individual, society, or company, not a member, shall be liable to contribute, unless it appears to the Court that the contributions of the existing members are insufficient to satisfy the just demands on the society;
- (d) no contribution shall be required from any individual, society, or company, exceeding the amount, if any, unpaid on the shares in respect of which he or it is liable as a past or present member;
- (e) an individual, society, or company shall be taken to have ceased to be a member, in respect of any withdrawable share withdrawn, from the date of the notice or application for withdrawal.

48. Contents of instrument of dissolution

When a society is terminated by an instrument of dissolution —

- (1) The instrument of dissolution shall set forth —
 - (a) the liabilities and assets of the society in detail;
 - (b) the number of members and the nature of their interests in the society respectively;
 - (c) the claims of creditors (if any) and the provision to be made for their payment;
 - (d) the intended appropriation or division of the funds and property of the society, unless the same be stated in the

instrument of dissolution, to be left to the award of the Registrar.

- (2) Alterations in the instrument of dissolution may be made with the like consents as hereinbefore provided, testified in the same manner.
- (3) A statutory declaration shall be made by 3 members and the secretary of the society that the provisions of this Act have been complied with, and shall be sent to the Registrar with the instrument of dissolution.
- (4) The instrument of dissolution, and all alterations therein, shall be registered in manner herein provided for the registry of rules, and shall be binding upon all members of the society.
- (5) The Registrar shall cause a notice of dissolution to be advertised, at the expense of the society, in the *Government Gazette* and in some newspaper circulating in the locality in which the registered office of the society is situated; and unless, within 3 months from the date of the *Government Gazette* in which such advertisement appears, a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the instrument of dissolution shall be considered to have been duly obtained without proof of the signatures thereto.
- (6) Notice shall be sent to the Registrar of any proceeding to set aside the dissolution of a society not less than 7 days before it is commenced by the person taking such proceeding, and of any order setting a dissolution aside by the society 7 days after such order is made.

[Section 48 amended by No. 70 of 2004 s. 82.]

Offences, penalties, and legal proceedings

49. Offences by societies

It shall be an offence under this Act if any registered society —

- (1) fails to give any notice, send any return or document, or do or allow to be done any act or thing which the society or such officer or member, as the case may be, is by this Act required to give, send, do, or allow to be done;
- (2) wilfully neglects or refuses to do any Act or to furnish any information required for the purposes of this Act by the Registrar or other person authorised under this Act, or does any act or thing forbidden by this Act;
- (3) makes a return or wilfully furnishes information in any respect false or insufficient.

50. Responsibility of officers for offences of society

Every offence by a society under this Act shall be deemed to have been also committed by every officer of the same bound by the rules thereof to fulfil any duty whereof such offence is a breach, or if there be no such officer, then by every member of the committee of the same, unless such member be proved to have been ignorant of, or to have attempted to prevent the commission of, such offence, and every act or default under this Act constituting an offence, if continued, shall constitute an offence in every week during which the same continues.

51. Punishment for fraudulently obtaining, withholding, or misappropriating the property of a society

If any person obtains possession by false representation or imposition of any property of a society, or, having the same in his possession, withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorised by this Act, he shall on a prosecution commenced by the society or any member authorised thereby, or the committee of the same, or by

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the Registrar or any person authorised by the Registrar, be liable on summary conviction to a penalty not exceeding \$40 and costs, and to be ordered to deliver up all such property or to repay all moneys applied improperly.

But nothing herein contained 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 Act.

[Section 51 amended by No. 113 of 1965 s. 8; No. 51 of 1992 s. 16(1); No. 50 of 2003 s. 49(3); No. 59 of 2004 s. 141; No. 84 of 2004 s. 80.]

52. Falsification of documents

If any person wilfully makes, orders, or allows to be made any entry, erasure in, or omission from any balance-sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall be liable to a penalty not exceeding \$100.

[Section 52 amended by No. 113 of 1965 s. 8.]

53. Penalty for not using name of society

If any officer of a registered society, or any person on its behalf, using any seal purporting to be a seal of the society, whereon its name is not engraved as herein provided, or issues or authorises the issue of any notice, advertisement, or other official publication of the society, or signs or authorises to be signed, on behalf of the society, any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or issues or authorises to be issued any bills of parcels, invoice, receipt, or letters of credit of the society, wherein its name is not mentioned in manner provided herein, he shall be liable to a fine not exceeding \$100, and shall further be personally liable to the

holder of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof unless the same is duly paid by the society.

[Section 53 amended by No. 113 of 1965 s. 8.]

54. Delivery of false rules

If any person, with intent to mislead or defraud, gives to any other person a copy of any rules, laws, regulations, by-laws or other documents, other than the rules for the time being registered under this Act, on the pretence that the same are existing rules of a registered society, or that there are no other rules of such society, or gives to any person a copy of any rules on the pretence that such rules are the rules of a registered society, when the society is not registered, the person so offending shall be deemed guilty of an offence under this Act.

55. Illegal dissolution

Any officer or person aiding or abetting in the dissolution of a society, otherwise than as in this Act provided, shall be liable to a penalty not exceeding \$20.

[Section 55 amended by No. 113 of 1965 s. 8; No. 51 of 1992 s. 16(1); No. 50 of 2003 s. 49(4).]

56. Power to societies to impose penalties on officers and members

A registered society may, by its rules, impose penalties on its officers and members for acts or defaults contrary to such rules not exceeding, for any such act or default, \$20; and such penalties shall be recoverable in like manner as penalties imposed by this Act, and shall be payable to such society, and shall be applicable in the manner directed by its rules.

[Section 56 amended by No. 113 of 1965 s. 8.]

57. When no other penalty provided

Every society, officer, or member of a society, or other person guilty of an offence under this Act for which no penalty is expressly provided herein, shall be liable to a penalty of not less than \$2 and not more than \$40.

[Section 57 amended by No. 113 of 1965 s. 8.]

58. Proceedings for offences

- (1) Proceedings for an offence against this Act may be taken by the Registrar or a person authorised by the Registrar to do so.
- (2) Proceedings for an offence against this Act shall be dealt with summarily in a court of summary jurisdiction.

[Section 58 inserted by No. 78 of 1995 s. 18; amended by No 84 of 2004 s. 78.]

[59. Deleted by No. 84 of 2004 s. 80.]

Supplemental

60. Forms of acknowledgment of registry

The acknowledgment of registry of a society and of any amendment of the rules thereof respectively shall be in the forms provided in the Fourth Schedule.

61. Appointment of public auditors

The Governor may, from time to time, by Order in Council, appoint persons to be public auditors, for the purposes of this Act, and may, in like manner, terminate any such appointment.

[Section 61 inserted by No. 43 of 1969 s. 11.]

62. Evidence

All Courts, Judges, and persons acting judicially shall take judicial notice of the seal of the Registrar, and every instrument

or document bearing such seal shall be received in evidence without further proof; and every document purporting to be signed by the Registrar or any inspector or public auditor under this Act, shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

63. Printed copies of rules in use to be evidence

A printed copy of rules in use in any society, purporting to be the rules of such society registered under this Act, or to be a consolidation of such rules registered at different times, shall be *prima facie* evidence of the registration of such society as from the date on which such rules or any of them purport to have been registered and of the rules thereof.

And a printed copy of rules which have been in use in any society purporting as aforesaid shall be *prima facie* evidence of the registration of such society as from the date on which such rules or any of them purport to have been registered, and of the rules thereof, and of any repealed rules thereof.

The books containing the minutes of the meeting of any society, duly confirmed by the presiding officer at such meeting, shall be *prima facie* evidence of the business transacted thereat, and that the meeting of which such minutes are a record was duly and regularly convened, held, and constituted.

64. Governor may make regulations

- (1) The Governor may from time to time make, alter, and revoke regulations for the following purposes, or any of them —
 - (a) providing for registry and procedure under this Act, and the forms to be used for such registry;
 - (b) prescribing the duties and functions of the Registrar;
 - (c) prescribing the conditions under which, and the manner in which inspection of documents kept by the Registrar may be made;

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- (d) determining a scale of fees to be paid for matters transacted, and the inspection of documents under this Act, including the fees to be paid to the Registrar for any certificate;
 - (e) providing for all other matters and things necessary for carrying out the objects of this Act.
- (2) Such regulations may impose penalties for acts or defaults contrary thereto, not exceeding \$40 for any such act or default.

[Section 64 amended by No. 113 of 1965 s. 8.]

65. Report by Registrar

The Registrar shall, in every year, make to the Minister a report of his proceedings, and of the principal matters transacted by him during the year ending 31 December preceding, and the Minister shall lay such report before Parliament.

66. Saving liability of Her Majesty's Government

Nothing contained in this Act shall in any way be deemed or construed to impose any liability on Her Majesty's Government.

67. Registrar

- (1) The Minister is required, by notice published in the *Gazette*, to designate a person who is an executive officer of the Department as the Registrar for the purposes of this Act.
- (2) The Registrar may be referred to by a title specified by the Minister by notice published in the *Gazette*.
- (3) In this section —

executive officer has the meaning given by section 3(1) of the *Public Sector Management Act 1994*.

[Section 67 inserted by No. 28 of 2006 s. 81.]

68. Delegation by Registrar

- (1) The Registrar may delegate to any other person employed in the Department any power or duty of the Registrar under another provision of this Act.
- (2) The delegation must be in writing signed by the Registrar.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Registrar to perform a function through an officer or agent.

[Section 68 inserted by No. 28 of 2006 s. 81.]

69. Information officially obtained to be confidential

- (1) A person who misuses information obtained by reason of any function that person has, or at any time had, in the administration of this Act commits an offence.
Penalty: \$20 000.
- (2) A person misuses information if it is, directly or indirectly, recorded, used, or disclosed to another person, other than —
 - (a) in the course of duty;
 - (b) under this Act;
 - (c) for the purposes of the investigation of any suspected offence or the conduct of proceedings against any person for an offence;
 - (d) in a manner that could not reasonably be expected to lead to the identification of any person to whom the information refers; or

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(e) with the consent of the person to whom the information relates, or each of them if there is more than one.

(3) In this section —

information means information concerning the affairs of a person.

[Section 69 inserted by No. 28 of 2006 s. 81.]

70. Protection from liability for wrongdoing

- (1) A person is not liable for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (2) The State is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

[Section 70 inserted by No. 28 of 2006 s. 81.]

71. Judicial notice

All courts, judges and persons acting judicially shall take judicial notice of the official signature of every person who is for the time being and every person who has at any time been the Registrar and of the fact that such person holds or has held such office.

[Section 71 inserted by No. 28 of 2006 s. 81.]

Schedules

First Schedule

[Section 9]

Matters to be provided for by the rules of societies registered under this Act

1. Name, objects, and registered office of the society.
2. Terms and admission of the members, including any society or company investing funds in the society under the provisions of this Act.
3. Mode of holding meetings, right of voting, and of making, altering, or rescinding rules.
4. The appointment and removal of a committee of management, by whatever name, of managers or other officers, and their respective powers and remuneration.
5. Determination of the amount of interest, not exceeding \$50 000 or such other amount as is prescribed, in the shares of the society which any member or body other than a registered society may hold.
6. Determination whether the society may contract loans or receive money on deposit subject to the provisions of this Act from members or others; and, if so, under what conditions, on what security, and to what limits of amount.
7. Determination whether the shares or any of them shall be transferable, and provisions for the form of transfer and registration of the shares, and for the consent of the committee thereto; determination whether the shares or any of them shall be withdrawable, and provision for the mode of withdrawal and for payment of the balance due thereon on withdrawing from the society.
8. Provision for the audit of accounts, and for the appointment of auditors or a public auditor.
9. Determination whether and how members may withdraw from the society, and provision for the claims of the representatives of deceased

Co-operative and Provident Societies Act 1903

First Schedule Matters to be provided for by the rules of societies registered under this Act

members, or the trustees of the property of bankrupt members, and for the payment of nominees.

10. Mode of application of profits.
11. Provisions for the device, custody, and use of the seal of the society.
12. Determination whether, and by what authority, and in what manner, any part of the capital may be invested.

[First Schedule amended by No. 48 of 1947 s. 6; No. 43 of 1969 s. 12; No. 61 of 1973 s. 5; No. 60 of 1986 s. 7.]

Second Schedule

[Section 32]

Form of receipt to be indorsed on mortgage or further charge

THE _____ Society, Limited, hereby acknowledges to have received all moneys intended to be secured by the within (*or* above) written deed.

Given under our hand this _____ day of _____ 20 ____ .

Signatures of 2 or more Members of the Committee { Members of the Committee

Countersigned [*Signature of Secretary.*]

Secretary.

Third Schedule

[Section 33]

Form of bond

KNOW all men by these presents that we, A.B., of _____ one
of the officers of the _____ Society, Limited, hereinafter
referred to as “the Society” whose registered office is at _____ and
C.D., of _____ (as surety on behalf of the said A.B.), are
jointly and severally held and firmly bound to the said society in the sum of
_____ dollars, to be paid to the said society, 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. Sealed with our seals. Dated the
_____ day of _____ in the year of our Lord 20

WHEREAS the above-bounden A.B. has been duly appointed to the office of
_____ of the _____ Society,
Limited, and he, together with the above-bounden C.D. 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 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 or
deliver all property (including books and papers) belonging to the society in his
hands or custody to such person or persons as the society or the committee
thereof appoint, according to the rules of the society, together with the proper
and legal receipt or vouchers for such payments, then the above-written bond
shall be void, but otherwise shall remain in full force.

Sealed and delivered in the presence of [2 witnesses].

[Third Schedule amended by No. 113 of 1965 s. 8.]

Fourth Schedule

[Section 60]

Acknowledgment of registry of society

The _____ Society, Limited, is registered under the
Co-operative and Provident Societies Act 1903.

Given under my hand this _____ day of _____, 20 ____ .

Registrar,

Registry of Co-operative and Financial Institutions, Perth.

Acknowledgment of registry of amendment of rules

The foregoing [*or annexed*] amendment of the rules of the
Society, Limited, is registered under the *Co-operative and Provident Societies*
Act 1903.

Given under my hand this _____ day of _____, 20 ____ .

Registrar,

Registry of Co-operative and Financial Institutions, Perth.

[Fourth Schedule amended by No. 2 of 1999 s. 18(b).]

Notes

¹ This is a compilation of the *Co-operative and Provident Societies Act 1903* and includes the amendments made by the other written laws referred to in the following table^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Co-operative and Provident Societies Act 1903</i>	2 of 1903	8 Sep 1903	1 Jan 1904 (see s. 1)
<i>Co-operative and Provident Societies Act Amendment Act 1926</i>	16 of 1926	25 Oct 1926	25 Oct 1926
<i>Co-operative and Provident Societies Act Amendment Act 1947</i>	48 of 1947	19 Dec 1947	19 Dec 1947
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Co-operative and Provident Societies Act Amendment Act 1969</i>	43 of 1969	21 May 1969	21 May 1969
Reprint of the <i>Co-operative and Provident Societies Act 1903</i> approved 30 Sep 1969 (includes amendments listed above)			
<i>Co-operative and Provident Societies Act Amendment Act 1973</i>	61 of 1973	19 Nov 1973	19 Nov 1973
<i>Companies (Consequential Amendments) Act 1982</i>	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079) s. 28
<i>Co-operative and Provident Societies Amendment Act 1986</i>	60 of 1986	26 Nov 1986	26 Nov 1986 (see s. 2)
<i>Criminal Law Amendment Act (No. 2) 1992</i>	51 of 1992	9 Dec 1992	6 Jan 1993
<i>Sentencing (Consequential Provisions) Act 1995</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Local Government (Consequential Amendments) Act 1996</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)

Co-operative and Provident Societies Act 1903

Short title	Number and year	Assent	Commencement
<i>Friendly Societies (Western Australia) Act 1999</i> s. 18	2 of 1999	25 Mar 1999	24 May 1999 (see s. 2 and <i>Gazette</i> 21 May 1999 p. 1999)
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 16	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
Reprint of the Co-operative and Provident Societies Act 1903 as at 7 Sep 2001 (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act (No. 2) 2003</i> Pt. 5	20 of 2003	23 Apr 2003	15 Jul 2001 (see s. 2(1) and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 8	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 49	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 27 ²	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Law Amendment (Simple Offences) Act 2004</i> s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 78 and 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
Reprint 3: The Co-operative and Provident Societies Act 1903 as at 1 Jul 2005 (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 4 Div. 8 ³	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)

^{1a} [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

Provisions that have not come into operation

<u>Short title</u>	<u>Number and year</u>	<u>Assent</u>	<u>Commencement</u>
Co-operatives Act 2009 s. 491⁴	24 of 2009	22 Oct 2009	Operative on the last day of the period of 2 years after the day fixed under s. 2(b) (see s. 2(c))

² The State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5, the State Administrative Tribunal Act 2004 s. 167 and 169, and the State Administrative Tribunal Regulations 2004 r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

³ The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 4 Div. 23 reads as follows:

“

Division 23 — Transitional provisions

151. Commissioner for Fair Trading

- (1) On commencement, the person holding the office of Commissioner for Fair Trading immediately before commencement is to be taken to have been designated as the Commissioner or Registrar (as the case requires) for the purposes of each of the following enactments —
- (a) the Associations Incorporation Act 1987;
 - (b) the *Business Names Act 1962*;
 - (c) the *Chattel Securities Act 1987*;
 - (d) the *Companies (Co-operative) Act 1943*;
 - (e) Part 8 of the *Competition Policy Reform (Western Australia) Act 1996*;
 - (f) the *Consumer Affairs Act 1971*;
 - (g) the *Co-operative and Provident Societies Act 1903*;
 - (h) the *Credit Act 1984*;
 - (i) the *Credit (Administration) Act 1984*;
 - (j) the *Employment Agents Act 1976*;
 - (k) the *Hire-Purchase Act 1959*;
 - (l) the *Limited Partnerships Act 1909*;

- (m) the *Motor Vehicle Dealers Act 1973*;
 - (n) the *Petroleum Products Pricing Act 1983*;
 - (o) the *Petroleum Retailers Rights and Liabilities Act 1982*;
 - (p) the *Residential Tenancies Act 1987*;
 - (q) the *Retirement Villages Act 1992*;
 - (r) the *Travel Agents Act 1985*.
- (2) A thing done or omitted to be done by, to or in relation to, the Commissioner for Fair Trading (including in his or her capacity as the Prices Commissioner) before commencement under a provision of the *Consumer Affairs Act 1971* for the purposes of another enactment listed in subsection (1) has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted —
- (a) by, to or in relation to, the Commissioner or Registrar (as the case requires) as defined in that other enactment as in force after commencement; and
 - (b) where relevant, under the corresponding provision of that other enactment as in force after commencement.
- (3) To the extent that a thing done or omitted to be done by, to or in relation to, the Commissioner for Fair Trading (including in his or her capacity as the Prices Commissioner) before commencement under, or for the purposes of, an enactment listed in subsection (1) is not covered by subsection (2), it has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the Commissioner or Registrar (as the case requires) as defined in that enactment as in force after commencement.
- (4) A thing done or omitted to be done by, to or in relation to, the Commissioner for Fair Trading before commencement under, or for the purposes of, an enactment not listed in subsection (1) has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the Commissioner as defined in the *Consumer Affairs Act 1971* as in force after commencement.
- (5) A reference in an enactment to the Commissioner for Fair Trading is to have effect after commencement as if it had been amended to be a reference to —
- (a) in the case of an enactment listed in subsection (1) or subsidiary legislation made under such an enactment — the Commissioner or Registrar (as the case requires) as

defined in the enactment as in force after commencement; or

- (b) in the case of any other enactment or subsidiary legislation — the Commissioner as defined in the *Consumer Affairs Act 1971* as in force after commencement.

152. Commissioner for Corporate Affairs and Registrar of Co-operative and Financial Institutions

- (1) A thing done or omitted to be done by, to or in relation to, the Commissioner for Corporate Affairs before commencement under, or for the purposes of, the *Companies (Co-operative) Act 1943* has the same effect after commencement as if it had been done or omitted by, to or in relation to, the Registrar as defined in that Act as in force after commencement.
- (2) A thing done or omitted to be done by, to or in relation to, the Registrar of Co-operative and Financial Institutions before commencement under, or for the purposes of, the *Co-operative and Provident Societies Act 1903* has the same effect after commencement as if it had been done or omitted by, to or in relation to, the Registrar as defined in that Act as in force after commencement.

153. Consumer Affairs Act 1971

Each office in existence immediately before commencement because of section 15(1) of the *Consumer Affairs Act 1971* does not cease merely because that subsection is repealed by this Act.

154. Petroleum Products Pricing Act 1983

Each office in existence immediately before commencement because of section 5(2)(b) of the *Petroleum Products Pricing Act 1983* does not cease merely because that paragraph is deleted by this Act.

155. Interpretation

In this Division —

commencement means the time at which this Division comes into operation;

Commissioner for Fair Trading means the Commissioner for Fair Trading referred to in section 15 of the *Consumer Affairs Act 1971* as in force before commencement;

Prices Commissioner means the Prices Commissioner referred to in section 5(1) of the *Petroleum Products Pricing Act 1983* as in force before commencement.

⁴ On the date as at which this compilation was prepared, the *Co-operatives Act 2009* s. 491 had not come into operation. It reads as follows:

491. *Co-operative and Provident Societies Act 1903 repealed*
The *Co-operative and Provident Societies Act 1903* is repealed.