

ANGUILLA

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CHAPTER B70

BUILDING SOCIETIES ACT

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BUILDING SOCIETIES ACT

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BUILDING SOCIETIES ACT

Interpretation

1. In this Act—

"Court" means the High Court;

"permanent society" means a society which has not by its rules any fixed date or specified result at which it shall terminate;

"Registrar" means such person as the Governor may appoint to be Registrar of Building Societies;

"society" means a building society established under this Act;

"terminating society" means a building society which by its rules is to terminate at a fixed date or when a result specified in its rules is attained.

Incorporation of societies

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

Purposes for which societies may be established

3. (1) Any number of persons may establish a society 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.

(2) A society may be either a terminating society or a permanent society.

(3) Advances made by a society out of its funds shall be made upon the security of a mortgage of a freehold or a leasehold estate or upon the security of the withdrawal value of shares held by members of the society.

(4) Any society shall, so far as is necessary for the purpose of advances made upon the security of a mortgage, have power—

(a) to hold land, with the right of foreclosure;

(b) from time to time to 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

(c) to repay such funds when no longer required for the purposes of the society;

but any land to which a society may become absolutely entitled by foreclosure or other extinguishment of the right of redemption shall, as soon after as may be conveniently practicable, be sold or converted into money.

Limitation of liability of members

4. The liability of a member of a society 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.

Power to borrow money

5. With respect to the borrowing of money by societies the following provisions shall have effect—

(a) a society may within the limits specified in paragraph (b) or (c) receive deposits or loans at interest from the members or other persons, or from corporate bodies, joint stock companies, 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 aforesaid, or a sum not exceeding 12 months' subscriptions on the shares for the time being in force;

(d) every deposit book or acknowledgment or security of any kind for a deposit or loan by a society shall have printed or written therein or thereon the whole of sections 4 and 5.

Matters to be set forth in the rules

6. The rules of every society 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 of funds of the society are to be raised, the terms upon which paid-up shares (if any) are to be issued and repaid, whether preferential shares are to be issued, and if so, within what limits, if any; whether the society intends to borrow money and, if so, within what limits, not exceeding the limits, prescribed by this Act;

(c) the purposes to which the funds of the society are to be applied and the manner in which they are to be invested;

(d) the terms upon which shares may be withdrawn and upon which mortgages may be redeemed;

(e) the manner of altering and rescinding the rules of the society and of making additional rules;

(f) the manner of appointing, remunerating and removing the board of directors or committee of management, auditors and other officers;

(g) the manner of calling general and special meetings of the members;

(h) 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;

(i) whether disputes between the society and any of its members or any person claiming by and through any member, or under the rules, shall be settled by reference to the Court, or to the Registrar, or to arbitration;

(j) provision for the device, custody, and use of the seal of the society, which shall in all cases bear the registered name thereof;

(k) provision for the custody of mortgages and other securities belonging to the society;

(l) the powers and duties of the board of directors or committee of management and other officers;

(m) the fines and forfeitures that may be imposed on members; and

(n) the manner in which the society, whether terminating or permanent, shall be terminated or dissolved.

Rules to be made

7. The persons intending to establish a society shall transmit to the Registrar 2 copies of the rules agreed upon by them for the government of the society, signed by 3 of such persons and by the intended secretary or other officer; and the Registrar, if satisfied that the rules contain all the provisions prescribed in section 6, and that they are in conformity with this Act, shall return 1 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, but no society shall be registered under this Act in a name identical with that in which any subsisting society is already registered.

Alteration of rules

8. Any society may alter or rescind any rule or make any additional rules in the manner which its rules direct. Every society altering or rescinding any rule, or making any additional rule, shall forward 2 copies of every alteration of or addition to its rules, signed by 3 members and the secretary to the Registrar, who, if satisfied that such alteration, rescission or addition is in conformity with this Act, shall return 1 of the copies to the secretary or other officer of the society with a certificate of registration in the form set forth in Schedule 2 and retain and register the other copy.

Rules may be made to provide forms of conveyance, etc.

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

Evidence of registration

10. Any certificate of incorporation or registration, or other document relating to a society, purporting to be signed by the Registrar, shall, in the absence of any evidence to the contrary, be received by the Court and elsewhere without proof of the signature of the Registrar; and a 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 evidence of the rules.

Rules binding on members and others

11. The rules of a society shall be binding on the 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 and taken to have full notice thereof.

Officers to give security

12. (1) Every officer of a society having the receipt or charge of any money belonging to the society shall, before taking upon himself the execution of his office, enter into a bond with one sufficient surety at the least, according to the form set forth in Schedule 3, or give the security of a guarantee society, or such other security as the society directs, in such sum as the society may require.

(2) Every such bond, guarantee or other security shall be conditioned for the rendering of a true and just account of all money received and paid by the officer 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 may require such officer so to do.

Officers to account

13. Every accounting officer of a society or his personal representative, shall, upon demand made or notice in writing given or left at his last known 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 money remaining in his hands and deliver all securities and effects, books, papers, and property of the society in his hands or custody to such person as the society appoints; and in case of any neglect or refusal to deliver such account or to pay over such money or to deliver such securities and effects, books, papers and property in manner aforesaid, the society may sue upon the bond of the accounting officer concerned or may apply to the Court, which may proceed thereupon in a summary way and make such order thereon as to the Court in its discretion may seem just, which order shall be final and conclusive.

Investment of surplus

14. (1) Any society may from time to time, as the rules permit, invest any portion of its funds, not immediately required for its purposes, upon real or leasehold securities, or in the securities of the Government of the United Kingdom or of any British Possession, or in such other way as by unanimous resolution of the directors may be determined.

(2) For the purposes of investments in the public funds or otherwise where the appointment of trustees may be required, it shall be lawful for the society or board of directors or committee of management thereof from time to time to appoint or remove trustees.

Payment of sums when members or depositors die intestate

15. If any member of or depositor with a society, having in the funds thereof a sum of money not exceeding $150, dies intestate, 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 administration, upon the society receiving satisfactory evidence of death and an affidavit sworn

before the Registrar that the member or depositor died intestate and that the person so claiming is entitled as aforesaid, but, 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 such deceased 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 against the person who received the same.

Provisions for the case of a member dying intestate leaving an infant heir

16. Whenever a member of a society, having executed a mortgage to the society, dies intestate, leaving an infant heir or infant co-heiress, it shall be lawful for the society, after selling the mortgaged premises, to pay to the administrator or administratrix of the deceased member any money which may remain in the hands of the society after paying the amount due to the society and the costs and expenses of sale.

Punishment of fraud in withholding money, etc.

17. If any person by false representation of any kind obtains possession of any money, securities, books, papers, or other effects of a society, or, having the same in his possession, withholds or misapplies, or wilfully applies the whole or any part thereof to purposes other than those expressed or directed in the rules of the society and authorised by this Act, he is guilty of an offence and is liable on summary conviction to a penalty of $4,000 and it shall be lawful for the Magistrate to make an order that he forthwith deliver up to the society all such money, securities, books, papers, or other effects, and do forthwith repay to the society 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 penalty it shall be lawful for the Magistrate to sentence him to be imprisoned for a term of 3 months; but nothing herein contained 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 the provisions of this Act.

Initiation of proceedings

18. Proceedings under section 17 may be taken by or at the instance of—

(a) the society;

(b) any member authorised by the society or by the board of directors or committee of management of the society or by the Registrar; or

(c) the Registrar.

Proceedings necessary for the termination or dissolution of a society

19. (1) A society may terminate or be dissolved—

(a) upon the happening of any event declared by its rules to bring about or to be the termination of the society;

(b) by dissolution in manner prescribed by its rules;

(c) by dissolution with the consent of three-fourths of its members holding not less than two-thirds of the number of shares in the society, testified by the signatures to the instrument of dissolution; or

(d) by winding up, either voluntarily under the supervision of the Court or by the Court, if the Court shall so order, on the petition of any member authorised by three-fourths of the members present at a general meeting of the society specially called for the purpose to present the same on behalf of the society, or on the petition of any judgment creditor for not less than $250.

(2) General rules and orders for regulating the proceedings of the Court under paragraph (1)(d) may be made as provided in the Eastern Caribbean Supreme Court (Anguilla) Act.

(3) Every instrument of dissolution shall set forth—

(a) the liabilities and assets of the society in detail;

(b) the number of members and the amount standing to their credit in the books of the society;

(c) the claims of depositors and other creditors and the provision to be made for their payments;

(d) the intended appropriation or division of the funds and property of the society; and

(e) the names of one or more persons to be appointed trustees for the special purpose, and their remuneration.

(4) Alterations in an instrument of dissolution may be made with the like consent, testified in the same manner as in the original instrument.

(5) Every instrument of dissolution and all alterations therein shall be registered in the manner provided for the registration of rules and shall be binding on all members of the society.

(6) Notice of the commencement and termination of every dissolution or winding up shall be sent to the Registrar and registered by him.

Societies may unite with others, or one society may transfer its engagements to another

20. Two or more societies 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 such 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 respectively present at general meetings convened for the purpose. Notice of every such union or transfer shall be sent to the Registrar and registered by him.

Determination of disputes by arbitration

21. Where the rules of a society direct disputes to be referred to arbitration, the following provisions shall apply—

(a) the arbitrators shall be named and elected in the manner provided by the rules or, if there is no such provision, at the first general meeting of the society;

(b) none of the arbitrators shall be persons who are beneficially interested, directly or indirectly, in the funds of the society;

(c) not less than 3 arbitrators shall be chosen by ballot in each case of dispute, the number of arbitrators and the mode of ballot being determined by the rules of the society;

(d) the names of the arbitrators shall be duly entered in the minute book of the society, and in the case of death or refusal or neglect of any of the arbitrators to act, the society, at a general meeting, shall name and elect an arbitrator to act in the place of the arbitrator dying, refusing or neglecting to act;

(e) whatever awards 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.

Court may order compliance with the decision of arbitrators

22. Should either of the parties to the dispute refuse or neglect to comply with or conform to the award within a time to be limited therein, the Court, upon being satisfied that the award has been made and of the refusal of the party to comply therewith, shall treat the award as if it were a judgment of the Court, and enforce compliance therewith upon the petition of any person concerned, in the same manner as it would enforce a judgment.

Determination of disputes by Registrar

23. Where the parties to any dispute arising in a society agree to refer the dispute to the Registrar, or where the rules of the society direct disputes to be referred to the Registrar, his award shall have the same effect as that of arbitrators.

Determination of disputes by Court

24. The 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 the application has not within 40 days been complied with, or that the arbitrators have refused or for a period of 21 days have neglected to make any award;

(b) where the rules of the society direct disputes to be referred to the Court.

Determination to be final

25. Every determination of a dispute by arbitrators or by the Court or by the Registrar under this Act shall be binding and conclusive on all parties, and shall be final, and shall not be subject to appeal, but the arbitrators or the Registrar, as the case may be, may, at the request of either party, state a case for the opinion of the Court on any question of law, and shall have power to grant to either party to the dispute such discovery, as to documents or otherwise, as might be granted by the Court.

Buildings may be purchased or leased

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

Minors may be elected members

27. Any person under the age of 18 years may be admitted as a member of a society, the rules of which do not prohibit such admission, and may give all necessary acquittances, but during his minority he shall not hold any office in the society.

Shares may be held by 2 or more persons

28. Two or more persons may jointly hold a share or shares in a society; and all shares held jointly by any 2 or more persons in any society existing before 11th July, 1956, the rules whereof do not prohibit such joint holding, shall be deemed to be unlawfully so held.

Annual account and statement of funds

29. (1) The secretary or other officer of a society shall, once at least in every year, prepare—

(a) an account of all receipts and expenditure of the society since the preceding statement;

(b) a general statement of its funds and effects, liabilities and assets, showing—

(i) the amount due to the holders of the various classes of shares, and to depositors and creditors for loans,

(ii) the balance due or outstanding on their mortgage securities, not including prospective interest, and

(iii) the amount otherwise invested.

(2) Every such account and statement shall be attested by the auditor or auditors to whom the mortgages and other securities belonging to the society shall be produced; and the account and statement shall be countersigned by the secretary or other officer.

(3) Every member, depositor, and creditor for loans shall be entitled to receive from the society a copy of the account and statement, and a copy thereof shall be sent to the Registrar within 14 days after the annual or general meeting at which it is presented.

Penalties

30. (1) If any society hereafter formed, or any persons representing themselves to be a society, commences business without first obtaining a certificate of incorporation, or if any society makes default in forwarding to the Registrar any returns or information by this Act required, or makes a return wilfully false in any respect, the person or persons by whom business is so commenced, or by whom default is made, or who have made such false return, are liable on summary conviction, for every day that business is so carried on, or for every such default or false return, to a fine of $600.

(2) If any society receives loans or deposits in excess of the limits prescribed by this Act, the directors or committee of management of the society shall be personally liable for the amount so received in excess.

Fees of Registrar

31. The fees specified in Schedule 4 shall be paid to the Registrar by every society.

Regulations

32. The Governor in Council may make regulations for carrying out the purposes and intention of this Act, and may alter the Schedule of fees hereto annexed.

Citation

33. This Act may be cited as the Building Societies Act, Revised Statutes of Anguilla, Chapter B70.

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SCHEDULE 1

(Section 2)

Anguilla

BUILDING SOCIETIES ACT

FORM OF CERTIFICATE OF INCORPORATION

I, ..……..……..……..., Registrar of Building Societies in Anguilla, hereby certify that the ……..…….……. Building Society established at ……..……. in Anguilla is incorporated under the Building Societies Act.

GIVEN under my hand this …… day of ……..……, 20……... .

…….…….
Registrar of Building Societies

———————

SCHEDULE 2

(Section 8)

Anguilla

BUILDING SOCIETIES ACT

FORM OF 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.

GIVEN under my hand this…..……... day of ……..……., 20 ……. .

……..
Registrar of Building Societies

———————

SCHEDULE 3

(Section 12)

Anguilla

BUILDING SOCIETIES ACT

FORM OF BOND

Know all men by these presents that we ……..…….…… of ……..…….…….. one of the officers of the ……..…… Building Society established at ……..……... 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, sealed with our seals.

Dated the ……... day of ……., 20……... .

Whereas the above-bounden …….. hath 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 conditions 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 money received and paid by him and shall and do pay over all the money 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.

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SCHEDULE 4

(Section 3)

SCHEDULE OF FEES PAYABLE TO THE REGISTRAR OF BUILDING SOCIETIES

For registering any document 12¢ a folio but in no case less than	60¢
For granting certificate of incorporation	$5.04
For granting any other certificate required by the Act	72¢
Acting as arbitrator in any matters referred to him for every day during which he shall be so engaged	$5.04