

*Building Societies.***No. 15 of 1891.****An Ordinance to make provision for the Formation and Registration of Building Societies.**

Preamble.	W HEREAS it is expedient to make provision for the formation and registration of building societies: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:
Short title.	1 This Ordinance may be cited as "The Building Societies Ordinance, 1891."
Commencement of Ordinance.	2 This Ordinance shall commence and take effect on the first day of January, 1892.
Definition of "registrar."	3 "The registrar" in this Ordinance means the registrar for the time being of the Supreme Court, who shall for the purposes of this Ordinance be the registrar of building societies.
Definition of "court."	4 "The court" in this Ordinance means the district court of the district in which the chief office or place of meeting for the business of the society is situate.
Definition of "terminating" and "permanent societies."	5 A "terminating society" in this Ordinance means a society which by its rules is to terminate at a fixed date, or when a result specified in its rules is attained; A "permanent society" means a society which has not by its rules any such fixed date or specified result at which it shall terminate.
Incorporation of societies.	6 Every society now subsisting or hereafter established shall, upon receiving a certificate of incorporation under this Ordinance, become a body corporate by its registered name, having perpetual succession until terminated or dissolved in manner herein provided, and a common seal.
Certificate of incorporation how to be granted.	7 A certificate of incorporation under this Ordinance shall not be granted to an existing society except upon application to the registrar made by authority of a general meeting of the society specially called for the purpose; and the registrar may require of the person making the application a declaration that such authority was duly given.
Purpose for which societies may be established.	8 Any number of persons may establish a society under this Ordinance, either terminating or permanent, for the purpose of raising by the subscriptions of the members a stock or fund for making advances to members out of the funds of the society upon security of freehold or leasehold estate, by way of mortgage; and any society under this Ordinance shall, so far as is necessary for the said purpose, have power to hold land or mortgages over lands, and may from time to time raise funds by the issue of shares of one or more denominations, either paid up in full or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may repay such funds when no

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longer required for the purposes of the society. Provided always that any land to which any such society may become absolutely entitled by purchase at fiscal's sale, or by surrender, shall as soon afterwards as may be conveniently practicable be sold or converted into money.

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

Limitation of liability of members.

10 With respect to the borrowing of money by societies under this Ordinance, the following provisions shall have effect :

Power to borrow money.

- (1) Any society under this Ordinance may receive deposits or loans, at interest, within the limits in this section provided, 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 ;
- (2) 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 ;
- (3) 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 twelve months' subscriptions on the shares for the time being in force ;
- (4) Any deposits with or loans to a society under this Ordinance made before the commencement of this Ordinance in accordance with its rules are hereby declared to be valid and binding on the society, but no further deposits or loans shall be received by such society except within the limits provided by this section ;
- (5) Every deposit book or acknowledgment or security of any kind given for a deposit or loan by a society shall have printed or written therein or thereon the whole of the 9th and 10th sections of the present Ordinance.

11 The rules of every society hereafter established under this Ordinance shall set forth—

Matters to be set forth in the rules.

- (1) The name of the society and chief office or place of meeting for the business of the society ;
- (2) The manner in which the stocks or funds of the society are to be raised, the terms upon which paid-up shares (if any) are to be issued and repaid, and whether preferential shares are to be issued,

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and if so, within what limits, if any ; and whether the society intends to avail itself of the borrowing powers contained in this Ordinance, and if so, within what limits not exceeding the limits prescribed by this Ordinance ;

- (3) The purposes to which the funds of the society are to be applied, and the manner in which they are to be invested ;
- (4) The terms upon which shares may be withdrawn, and upon which mortgages may be redeemed ;
- (5) The manner of altering and rescinding the rules of the society, and of making additional rules ;
- (6) The manner of appointing, remunerating, and removing the board of directors or committee of management and other officers ;
- (7) The manner of calling general and special meetings of the members ;
- (8) 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 ;
- (9) Whether disputes between the society and any of its members, or any persons claiming by or through any member, or under the rules, shall be settled by reference to the court, or to the registrar, or to arbitration ;
- (10) Provision for the device, custody, and use of the seal of the society, which shall in all cases bear the registered name thereof ;
- (11) Provision for the custody of the mortgage deeds and other securities belonging to the society ;
- (12) The powers and duties of the board of directors or committee of management and other officers ;
- (13) The fines and forfeitures to be imposed on members of the society ;
- (14) The manner in which the society, whether terminating or permanent, shall be terminated or dissolved.

Rules to be made.

12 The persons intending to establish a society under this Ordinance shall transmit to the registrar two copies of the rules agreed upon by them for the government of the society, signed by three of such persons and by the intended secretary or other officer ; and the registrar, if he find that the rules contain all the provisions set forth in section 11 of this Ordinance, and that they are in conformity with this Ordinance, shall return one copy of the rules to the secretary or other officer of the society, with a certificate of incorporation, and shall retain and register the other copy.

Registration of rules.

Provided that no society shall be registered under this Ordinance in a name identical with that in which a subsisting society is already registered, or so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved and consents to such registration. The society shall supply

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to any person requiring the same a complete printed copy of the rules, with a copy of the certificate of incorporation appended thereto, and shall be entitled to charge for every such printed copy of rules a sum not exceeding fifty cents.

13 Any society under this Ordinance existing previously to the passing of this Ordinance may alter or rescind any rule, or make any additional rule, by the vote of three-fourths of the members present at a special meeting called for the purpose, of which meeting notice specifying the proposed alteration, rescission, or addition shall be given to the members in the manner provided by the rules of the society, or in the absence of such rules, by letters sent through the post seven days previous to such meeting, and any society hereafter established may alter or rescind any rule or make an additional rule in the manner its rules direct; and every society under this Ordinance altering or rescinding any rule, or making an additional rule, shall forward two copies of every resolution for rescission of a rule, and of every alteration or addition to its rules, signed by three members and the secretary, and a declaration of an officer of the society that the provisions of this section have been complied with, to the registrar, who, if he find that such alteration, addition, or rescission is in conformity with this Ordinance, shall return one of the copies to the secretary or other officer of the society, with a certificate of registration, and retain and register the other copy.

Alteration of rules.

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

Rules may be made to provide forms of conveyance, &c.

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

Evidence of registration.

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

Rules to be binding on members and others.

17 A society under this Ordinance may change its name by resolution of three-fourths of the members present at a meeting called for the purpose, provided that the new name is not identical with that of any society previously registered and still subsisting, or so nearly resembling the same as to be calculated to deceive, unless such subsisting society is in course of being terminated or dissolved, and

Change of name.

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consents to such registration. Notice of the change of name shall be sent to the registrar and registered by him, and he shall give a certificate of registration. Such change of name shall not affect any right or obligation of the society or of any member thereof or other person concerned.

Officers to give security.

18 Every officer of a society under this Ordinance having the receipt or charge of any money belonging to the society shall, before taking upon himself the execution of his office, become bound, with one sufficient surety at the least, in a bond according to the form set forth in the schedule to this Ordinance, or give the security of a guarantee society, or such other security as the society direct, in such sum as the society require, conditioned for rendering a just and true account of all moneys received and paid by him on account of the society, and for payment of all sums of money due from him to the society, at such times as its rules appoint or as the society require him to do so.

Officers to account.

19 Every such officer, his executors, or administrators shall, upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the board of directors or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all the moneys remaining in his hands, and deliver all securities and effects, books, papers, and property of the society in his hands or custody, to such person as the society appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to deliver such securities and effects, books, papers, and property in manner aforesaid, the society may sue upon the bond.

Investment of surplus funds.

20 Any society under this Ordinance may from time to time, as the rules permit, invest any portion of the funds of the society not immediately required for its purposes, upon immovable property or leasehold securities, or in the public funds of Great Britain, India, or Ceylon, or in or upon any stock or securities payment of the interest on which is guaranteed by authority of Government, or in the case of terminating societies with other societies under this Ordinance; and for the purpose of investments in such public funds the society, or the board of directors, or committee of management thereof, may from time to time appoint and remove trustees.

Payment of sums not exceeding one thousand rupees when members or depositors die intestate.

21 If any member of or depositor with a society under this Ordinance having in the funds thereof a sum of money not exceeding one thousand rupees shall die intestate, then the amount due may be paid to the person who shall appear to the directors or committee of management of the society to be entitled to receive the same, without taking out letters of administration, upon the society receiving satisfactory evidence of death and a declaration that the member or depositor died intestate, and that the person so claiming is entitled as aforesaid.

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Provided that whenever the society, after the decease of any member or depositor, has paid any such sum of money to the person who at the time appeared to be entitled to the effects of the deceased, under the belief that he had died intestate, the payment shall be valid and effectual with respect to any demand from any other person as next of kin, or as the lawful representative of such deceased member or depositor against the funds of the society; but nevertheless such next of kin or representative shall have his lawful remedy for the amount of such payment as aforesaid against the person who has received the same.

Payment to persons appearing to be next of kin declared valid.

22 If any person whosoever by false representation or imposition obtains possession of any moneys, securities, books, papers, or other effects of a society under this Ordinance, 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 authorized by this Ordinance, he shall be liable on conviction to a penalty not exceeding two hundred rupees, and to be ordered to deliver up to the society all such moneys, securities, books, papers, or other effects of the society, and to repay the amount of money applied improperly, and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty aforesaid, to be sentenced to rigorous or simple imprisonment for any term not exceeding three months.

Punishment for fraud in withholding money.

23 A society under this Ordinance may terminate or be dissolved—

Proceedings necessary for the termination or dissolution of a society.

- (1) Upon the happening of any event declared by its rules to be the termination of the society.
- (2) By dissolution in manner herein prescribed by its rules.
- (3) By dissolution with the consent of three-fourths of the members holding not less than two-thirds of the number of shares in the society, testified by their signatures to the instrument of dissolution. The instrument of dissolution shall 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 payment;
 - (d) The intended appropriation or division of the funds and property of the society.
 - (e) The names of one or more persons to be appointed trustees for the special purpose, and their remuneration.

Alterations in the instrument of dissolution may be made with the like consent, testified in the same manner. The instrument of dissolution and all alterations therein shall

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be registered in the manner provided for the registration of rules, and shall be binding upon all the members of the society.

- (4) 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 authorized 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 five hundred rupees, but not otherwise. General rules and orders for regulating the proceedings of the court under this section may be from time to time made by the authority for the time being empowered to make general rules and orders for the court. 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.

24 Two or more societies under this Ordinance 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 under this Ordinance 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 present at two general meetings respectively convened for the purpose; but no such transfer shall prejudice any right of any creditor of either society. Notice of every such union or transfer shall be sent to the registrar, and registered by him.

Determination of disputes by arbitration.

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

Court may order compliance with the decision of arbitration.

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having been made and of the refusal of the party to comply therewith, shall enforce compliance with the same upon the petition of any person concerned.

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

Determination of disputes by registrar.

26 The court may hear and determine a dispute in the following cases :

Determination of disputes by court.

- (1) If it shall appear to the court upon the petition of any person concerned, that application has been made by either party to the dispute to the other party, for the purpose of having the dispute settled by arbitration under the rules of the society, and that such application has not within forty days been complied with, or that the arbitrators have refused or for a period of twenty-one days have neglected to make any award.
- (2) Where the rules of the society direct disputes to be referred to the court.

27 Every determination by arbitrators or by the court or by the registrar under this Ordinance of a dispute shall be binding and conclusive on all parties, and shall be final to all intents and purposes, and shall not be subject to appeal, and shall not be removed or removable into any court, or restrained or restrainable by the injunction of any court; provided always that the arbitrators, or the registrar, or the court, as the case may be, may, at the request of either party, state a case for the opinion of the Supreme Court on any question of law, and shall have power to grant to either party to the dispute such discovery as to documents and otherwise as might now be granted by any court, such discovery to be made on behalf of the society by such officer of the society as the arbitrators, registrar, or court may determine.

Determination to be final.

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

Buildings for the purpose may be purchased or leased.

29 Any person under the age of twenty-one years may be admitted as a member of any society under this Ordinance, the rules of which do not prohibit such admission, and may give all necessary acquittances; but during his minority he shall not be competent to vote or hold any office in the society.

Minors may be elected members.

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Shares may be held by two or more persons.

30 Two or more persons may jointly hold a share or shares in any society under this Ordinance; and all shares held jointly by any two or more persons in any society subsisting at the time appointed for the commencement of this Ordinance the rules whereof shall not prohibit such joint holding, shall be deemed to be lawfully so held.

Societies shall make annual audits and statement of the funds to the members.

31 The secretary or other officer of every society under this Ordinance shall, once in every year at least, prepare an account of all the receipts and expenditure of the society since the preceding statement, and a general statement of its funds and effects, liabilities and assets, showing the amounts due to the holders of the various classes of shares respectively, to depositors and creditors for loans, and also the balance due or outstanding on their mortgage securities (not including prospective interest), and the amount invested in the funds or other securities, and every such account and statement shall be attested by a public auditor to be appointed by the Governor, to whom the mortgage deeds and other securities belonging to the society shall be produced, and such account and statement shall be countersigned by the secretary or other officer, and be published in the *Government Gazette*; and every member, depositor, and creditor for loans shall be entitled to receive from the society a copy of such account and statement, and a copy thereof shall be sent to the registrar within fourteen days after the annual or other general meeting at which it is presented, and another copy thereof shall be suspended in a conspicuous place in every office of the society under this Ordinance.

Special power of registrar.

32 With respect to the inspection of the affairs of societies incorporated under this Ordinance the following provisions shall have effect:

Application from members.

(1) Upon the application of one-fifth of the number of members of a society, or of one hundred members in the case of a society of more than five hundred members, the registrar, with the consent of the Governor, in every case may—

Inspectors.

(a) Appoint one or more inspectors to examine into the affairs of such society and to report thereon, who may require the production of all or any of the books and documents of the society, and may examine on oath or affirmation its officers, members, agents, and servants, in relation to its business, and may administer such oath or affirmation accordingly;

Special meetings.

(b) Call a special meeting of the society in such manner and in such time and place as the registrar may direct, and may direct what matters shall be discussed and determined on at such meeting, which shall have all the powers of a meeting called according to the rules of the society, and shall in all cases

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have power to appoint its own chairman, any rule in the society to the contrary notwithstanding.

- (2) The application herein mentioned shall be supported by 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. Application to be supported by evidence.
- (3) The registrar may, if he thinks fit, require the applicants to give security for the cost of the proposed inspection or meeting, before appointing any inspector or calling such meeting. Security for costs.
- (4) All expenses of and incidental to any such inspection or meeting shall be defrayed either by the members applying for the same or out of the funds of the society, as the registrar shall direct. Expenses.

33 Notwithstanding anything contained in "The Stamp Ordinance, 1890," every instrument of mortgage executed by a member of a society incorporated under this Ordinance in favour of any such society shall be subject to only one-half of the stamp duty payable in respect of such bond or mortgage under the provisions of "The Stamp Ordinance, 1890." Stamp duty.

34 When all moneys intended to be secured by any mortgage under this Ordinance have been fully paid or discharged, the society may endorse upon or annex to such mortgage a receipt under the seal of the society, countersigned by the secretary or manager, and such receipt shall vacate the mortgage. Receipt endorsed on mortgage to be sufficient discharge.

35 If any society hereafter formed under this Ordinance, or any persons representing themselves to be a society under this Ordinance, commence business without first obtaining a certificate of incorporation under this Ordinance, or if any society under this Ordinance makes default in forwarding to the registrar any returns or information by this Ordinance required, or in inserting in any deposit book or acknowledgment or security for loans the matters required by section 10 of this Ordinance to be inserted therein, or makes a return wilfully false in any respect, the person or persons by whom business shall have been so commenced, or by whom such default shall have been made, or who shall have made such wilfully false return, shall be liable for every day business is so carried on, or for every such default or false return, upon conviction before a police court on the complaint of the registrar, to a fine not exceeding fifty rupees. Penalties.

If any society under this Ordinance receives loans or deposits in excess of the limits prescribed by this Ordinance, the directors or committee of management of such society receiving such loans or deposits on its behalf shall be personally liable for the amount so received in excess.

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Regulations.

36 The Governor, with the advice of the Executive Council, may from time to time make regulations respecting the fees to be paid to the public auditor or for the transmission, registration, and inspection of documents under this Ordinance, and generally for carrying this Ordinance into effect. The registrar shall give his certificates in the forms contained in the schedule to this Ordinance respectively.

SCHEDULE.

Form of Bond.

Know all men by these presents that we, *A. B.*, of _____, one of the officers of the _____ Building Society established at _____, in the _____ Province, 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 _____, 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 bind himself, our and each of our heirs, executors, and administrators, firmly by these presents.

Signed and dated the _____ day of _____, in the year of our Lord _____.

Whereas the above-bounden *A. B.* hath been duly appointed to the office of _____, of the _____ Building Society, established as aforesaid, and he, together with the above-bounden *C. D.*, as his surety, have entered into the above-written bond, subject to the condition hereinafter contained :

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

Form of Receipt to be endorsed on Mortgage or Further Charge.

The _____ Building Society hereby acknowledge to have received all moneys intended to be secured by the within (or above) written deed.

In witness whereof the seal of the Society is hereto affixed this _____ day of _____, by order of the Board of Directors (or Committee of Management), in presence of _____.

Secretary (or Manager).

(Other Witnesses, if any, required
by the Rules of the Society.)

Forms of Certificate to be given under this Ordinance.

Certificate of Incorporation.

I, _____, Registrar of Building Societies in Ceylon, hereby certify that the _____ Building Society, established at _____, in the _____ of _____, is incorporated under "The Building Societies' Ordinance, 1891."

Given under my hand this _____ day of _____, 18 —.

Registrar of Building Societies.

Certificate of Registration of Alteration of Rules.

I, _____, Registrar of Building Societies in Ceylon, hereby certify that the foregoing alterations of (or addition to) the rules of the _____ Building Society, established at _____, in the _____ of _____, are registered under "The Building Societies' Ordinance, 1891."

Given under my hand this _____ day of _____, 18 —.

Registrar of Building Societies.

Certificate of Registration of Change of Name.

I, _____, Registrar of Building Societies in Ceylon, hereby certify that the registered name of the _____ Building Society, established at _____, in the _____ of _____, is changed from the date hereof to the name following: _____, pursuant to "The Building Societies' Ordinance, 1891."

Given under my hand this _____ day of _____, 18 —.

Registrar of Building Societies.

13th December, 1891.
