

NO. 30
BUILDING SOCIETIES ACT, 1955

ARRANGEMENT OF SECTIONS

Preliminary

1. Appointment of Registrar.
2. Certificate as evidence.
3. Indemnity of officers.

Formation and Registration

4. Maintenance of register.
5. Formation of building societies.
6. Commencement of business.
7. Names of building societies.
8. Contents of rules of building societies.
9. Common seal.
10. Registered office and postal address.

Management of Building Societies

11. Directors.
12. Secretary.
13. Auditors.
14. Security by officers.
15. Officers to account.
16. Gifts.
17. Restriction of payment of commission.
18. Exclusion of liability.
19. High Court to grant relief.

Powers of Building Societies

20. Power to borrow.
21. Powers to hold land.
22. Power to make advances to members.
23. Power to invest.
24. Dividends.

Meetings and Periodical Returns

- 25. Annual general meeting.
- 26. Other meetings.
- 27. Annual account and statement.
- 28. Returns of sales and transfers.

Miscellaneous

- 29. Books and records.
- 30. Rules.
- 31. Supply of copies.
- 32. Evidence of rules.
- 33. Minors.
- 34. Shares.
- 35. Prohibition of balloting.
- 36. Implied warranty.
- 37. Notice before repayment.
- 38. Small sums on intestacy.
- 39. Notice, re-exercise of power of sale.
- 40. Withholding or misapplying property.
- 41. Exemption from stamp duty.
- 42. Title to land as security.
- 43. Receipt to vacate mortgage.

Change of Name, Address, Officers and Constitution

- 44. Change of name.
- 45. Change of address.
- 46. Change of directors.
- 47. Alteration of rules.
- 48. Penalties.

Amalgamation of Societies and Transfers

- 49. Amalgamation of societies.
- 50. Transfer of engagements.
- 51. Special provisions, re-transfer and amalgamation.
- 52. Registration of unions.
- 53. Union or transfer of engagements.

Determination of Disputes

- 54. Arbitration.
- 55. Jurisdiction of the High Court.
- 56. Determination.

Powers of the Registrar

- 57. Production of books.
- 58. Inspection of books.
- 59. Appointment of inspector.
- 60. Prohibition on invitations for subscriptions.
- 61. Suspension or cancellation of registration.

Dissolution and Winding-up

- 62. Dissolution.
- 63. Instruments of dissolution.
- 64. Winding-up.
- 65. Obligations of liquidators and trustees.
- 66. Liability of members.
- 67. Account and balance sheet on dissolution.
- 68. Dissolution by Registrar.

Rules and Regulations

- 69. Rules and Regulations.
- 70. Interpretation.

SCHEDULES

| | |
|-----------------|---|
| First Schedule | Classes of Additional Security which may be taken into account in Determining the Amount of Advances to Members |
| Second Schedule | Mortgages |
| Third Schedule | Receipt |

NO. 30
BUILDING SOCIETIES ACT, 1955(1)

AN ACT to provide for the formation and registration of building societies and for related matters.

Preliminary

1. Appointment of Registrar

The President shall appoint a Registrar of building societies to perform the functions imposed and conferred by this Act and may appoint a deputy Registrar and a number of assistant Registrars who shall be subject to the directions of the Registrar.2(2)

2. Certificate as evidence

A certificate of incorporation, certificate of registration or any other document relating to a building society purporting to be signed by the Registrar shall, in the absence of evidence to the contrary, be admissible as evidence without proof of the signature.

3. Indemnity of officers

The Registrar is not, nor is a person acting under the authority of the Registrar or under the Regulations, personally liable for or in respect of an act or a matter done in good faith in the performance or supposed performance of a function conferred by this Act or by the Regulations.

Formation and Registration

4. Maintenance of register

The Registrar shall keep a register of building societies in which shall be recorded, in respect of building societies registered under section 5,

- (a) the name of the society,
- (b) the situation of the registered office and the postal address of the society, and
- (c) any other information determined by the Registrar.

5. Formation of building societies

(1) Seven or more persons intending to form a building society may in a general meeting adopt rules in compliance with section 8 and shall, within fourteen days after the general meeting or an extended period allowed by the Registrar before or after the expiration of the fourteen days, send to the Registrar an application for registration in the prescribed form accompanied by two copies of rules.

(2) On being satisfied that the application and the rules are in compliance with this Act and the Regulations, the Registrar shall retain and register one copy of the rules.

(3) On that registration, the society becomes a body corporate by its registered name with perpetual succession until terminated or dissolved under this Act.

(4) The Registrar shall issue a certificate of incorporation in the prescribed form to a building society registered under this section, and shall send the certificate together with one copy of the rules to the secretary of the building society.

6. Commencement of business

A building society shall not commence business until it has obtained a certificate of incorporation issued under section 5.

7. Names of building societies

(1) A building society shall not be registered with a name which is identical with that of a building society previously registered and still subsisting, or which so nearly resembles the same as to be likely to deceive, unless the subsisting society is in course of being terminated or dissolved and consents to the registration, or which is, in the opinion of the Registrar, undesirable.

(2) The name of a building society shall end with the words, "Building Society".

(3) A building society shall not use a name or title, other than its registered name.

8. Contents of rules of building societies

The rules of a building 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 funds of the society shall be raised;
- (c) the terms on which shares shall be issued and withdrawn and the manner in which contribution shall be paid to the society;
- (d) whether preferential shares may be issued and, if so, within what limits;
- (e) the manner in which advances shall be made and repaid, the deductions for premiums, and the conditions on which a borrower may redeem the amount due from the borrower before the expiration of the period for which the advance was made, with tables, where applicable in the opinion of the Registrar, showing the amount due from the borrower after each stipulated payment;
- (f) the manner in which losses shall be ascertained and provided for;
- (g) the manner in which membership shall cease;
- (h) whether the society is entitled to borrow money and if so whether within the limits provided by this Act;
- (i) the purposes to which the funds of the society may be applied and the manner in which they may be invested;
- (j) the manner of altering and rescinding the rules of the society and of making additional rules;
- (k) the manner of appointing, remunerating and removing the board of directors, or committee of management, auditors and any other officers;
- (l) the manner of calling general and special meetings of the members;
- (m) provision for an annual or more frequent audit of the accounts and inspection by the auditors of the mortgages and any other securities belonging to the society;
- (n) whether disputes between the society and any of its members or a person claiming by or through a member or under the rules shall be settled by reference to the High Court or to the Registrar or to arbitration;
- (o) provision for the device, custody and use of the common seal of the society;
- (p) provision for the custody of the mortgages and any other securities belonging to the society;

- (q) the functions of the board of directors, or committee of management and any other officers;
- (r) the fines and forfeitures which may be imposed on members of the society; and
- (s) the manner in which the society may be terminated or dissolved.

9. Common seal

A building society shall have a common seal which shall bear the registered name of the society.

10. Registered office and postal address

A building society shall have a registered office and a postal address in the Republic to which communications and notices may be addressed.

Management of Building Societies

11. Directors

(1) A building society shall have a board of directors or committee of management consisting of three or more persons, of whom the secretary may be one.

(2) The functions of a director, or member of the committee of management of a building society include the duty of personally being satisfied that the arrangements made for assessing the adequacy of securities to be taken in respect of advances to be made by the society are those that may be reasonably expected to ensure that the adequacy of security to be so taken will be assessed by a competent and prudent person experienced in the matters relevant to the determination of the value of that security.

(3) Subsection (2) shall not be construed as precluding a director or member of the committee of management of a building society from approving an arrangement by reason only that the arrangement provides for the assessment of the adequacy of the security by the member personally or any other director or member of the committee of management of the society.

12. Secretary

(1) A building society shall have a secretary.

(2) Anything required or authorised to be done by or to the secretary may, if the office is vacant or for any other reason the secretary is not capable of acting, be done by or to an assistant or deputy secretary, or, if an assistant or deputy is not capable of acting, by or to an officer of the society authorised generally or specially in that behalf by the board of directors or committee of management.

13. Auditors

A building society shall have one or more auditors, who are persons approved for that purpose by the Registrar.

14. Security by officers

(1) An officer of a building society having the receipt or charge of moneys belonging to the society shall, before assuming the functions office, become bound with at least one sufficient surety in a bond or give any other security directed by the board of directors in a sum of money that the society may require conditioned for rendering a just and true account of the moneys received and paid by that officer on

account of the society and for the payment of the sums of money due from that officer to the society at the times appointed by its rules or as the society may require.

(2) In the event that a loss to a building society arises by reason of a failure to comply with a provision of subsection (1), the directors or members of the committee of management, shall be jointly and severally liable to make good the loss to the society.

15. Officers to account

An officer of a building society, the executors or administrators of that officer shall, on demand made or notice in writing given or left at the last or usual place of residence by the board of directors or committee of management, render an account of the moneys received or paid by that officer on account of the society and of the moneys remaining in the hands of that officer and shall deliver the securities and effects, books, papers and property of the society in the hands or custody of that officer to a person appointed by the society.

16. Gifts

(1) A director, secretary, surveyor, or any other officer of a building society shall not, in addition to the remuneration prescribed or authorised by the rules of the society, receive from any other person a gift, bonus, commission, or benefit for or in connection with a loan made, or a transaction of business, by the society.

(2) A person paying or accepting the gift, bonus, commission or benefit commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred penalty units.

(3) The person accepting the gift, bonus, commission or benefit shall pay over to the society the amount or value of the gift, bonus, commission or benefit, and in default of that payment commits an offence and is liable to a term of imprisonment not exceeding six months.

17. Restriction of payment of commission

(1) A person having a financial interest in the disposition of a land, or a building society, or an officer, servant or agent of a building society

- (a) shall not receive or agree to receive a commission or gift from a building society or from an officer, servant or an agent of a building society in connection with the disposition of the land or in consideration of a promise to introduce that business to the society; or
- (b) shall not offer or give or agree to give a commission or gift to a person known to the society, officer, servant or agent, to have a financial interest in the disposition of land or to be a servant of a person having that interest, for a consideration as is mentioned in paragraph (a).

(2) For the purposes of subsection (1), a person who is employed, otherwise than in pursuance of a contract of service, in connection with the disposition of land by a person who has a financial interest in the disposition of land shall be treated, so far as relates to the disposition of land, as a servant of the person having the interest, unless the first-mentioned person carries on, independently of that person, the business of a solicitor, an estate agent, a surveyor or an auctioneer.

(3) Where a building society has a financial interest in the disposition of land, this section shall not prohibit,

- (a) the society, or an officer, a servant or an agent of the society from offering or giving or agreeing to give, in relation to the disposition of that land, a commission or gift to a servant

of the society, not being a person who, to the knowledge of the society, officer, servant or agent personally has a financial interest in the disposition of that land or is, in addition to being a servant of the society, also the servant of a person other than the society who has that interest for consideration as is mentioned in subsection (1); or

- (b) a servant of the society, not being a person who personally has a financial interest in the disposition of that land, or who is, in addition to being the servant of the society, also the servant of a person other than the society who has that interest, from receiving or agreeing to receive, in relation to the society, or from an officer, a servant or an agent of the society, for a consideration as already mentioned.

(4) A person who contravenes a provision of this section commits an offence and is liable on conviction to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding three years or both the fine and the imprisonment.

18. Exclusion of liability

(1) A provision, whether contained in the rules of a building society or in a contract with a building society or otherwise, for exempting a director, member of the committee of management, manager or an officer of a building society or a person, whether an officer of the society or not employed by the society as auditor from, or indemnifying that person against, a liability which by virtue of a rule of law would otherwise attach to that person in respect of negligence, default, breach of duty or breach of trust of which that person may be guilty in relation to the society, is void.

(2) A building society may, in pursuance of a provision referred to in subsection (1), indemnify the director, member of the committee of management, manager, officer or auditor against a liability incurred by that person in defending proceedings, whether civil or criminal, in which judgment is given in favour of, or in which that person is acquitted or in connection with an application under section 19 in which relief is granted to that person.

19. High Court to grant relief

(1) Where in proceedings for negligence, default, breach of duty or breach of trust against a person to whom this section applies, it appears to the High Court that that person is or may be liable in respect of the negligence, default, breach of the duty or breach of trust, but that person has acted honestly and reasonably and that having regard to the circumstances of the case including those connected with appointment that person ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the Court may relieve that person wholly or partly from liability on the appropriate terms.

(2) Where a person to whom this section applies has reason to believe that a claim will or might be made against that person in respect of negligence, default, breach of duty or breach of trust that person may apply to the Court for relief.

(3) The Court on an application made under subsection (2) may relieve that person as under this section it would have done if it had been a court before which proceedings against that person for negligence, breach of duty or breach of trust had been brought.

(4) The persons to whom this section applies are the directors, the members of the committee of management, the members and officers of a building society and any persons employed by a building society as auditors, whether they are or are not officers of the society.

20. Power to borrow

(1) A building society may receive deposits or loans at interest from the members or from any other persons to be applied to the purposes of the society.

(2) The total amount received on deposit or loan, including interest due on that amount and not repaid by the society shall not, at any time exceed two thirds of the amount, excluding prospective interest, secured to the society by mortgages from its members.

(3) In calculating the amount for the time being secured to a building society by mortgages from its members for the purposes of subsection (1), there shall be disregarded,

- (a) the amount secured on properties, the payments in respect of which whether by repayments of principal, payment of interest or otherwise, were upwards of twelve months in arrear at the date of the society's last preceding annual account and statement, and
- (b) the amount secured on properties of which the society had been twelve months in possession at the date of the account and statement.

(4) Moneys deposited with a building society as security for an advance made by the society to a member, or as security for a guarantee given in respect of an advance, is for the purposes of this Act, moneys borrowed by the society.

21. Powers to hold land

(1) A building society

- (a) may acquire and hold land which the society requires for its business premises or for the housing of its staff, and
- (b) may acquire by foreclosure or surrender land mortgaged to the society.

(2) Land acquired by a building society under paragraph (b) of subsection (1) shall be sold as soon afterwards as may be conveniently practicable, and converted into money.

(3) A building society may let a part of its business premises which is not required for the immediate use of the society.

22. Power to make advances to members

(1) A building society may make advances to its members out of its funds on the security of land in the Republic.

(2) A building society shall not advance money on the security of land which is subject to a prior mortgage, unless the prior mortgage is in favour of the society making the advance.

(3) Where an advance is made in contravention of subsection (2), the directors of the society or the members of the committee of management, who authorised the advance are jointly and severally liable for the loss on the advance occasioned to the society.

(4) In determining the amount of an advance by a building society to one of its members on the security of land, the society shall not take into account the value of an additional security taken by the society for the advance, other than a security of a class specified in Part One of the First Schedule.

(5) Where a charge on a policy of life assurance is taken as additional security for an advance under this section, the value of the policy shall be assessed at an amount not exceeding the surrender value of

the security at the time when the advance is made.

(6) Where a guarantee, given in pursuance of a continuing arrangement, is taken as additional security for an advance under this section, the advance shall not exceed ninety-five percent of the amount of the purchase price for the defraying of which the advance is made, the basic advance shall not exceed seventy-five percent of that amount and the excess advance shall not exceed twenty percent of that amount.

(7) Where a building society takes as additional security for an advance to a member a guarantee given in pursuance of a continuing arrangement, the terms of the advance shall not provide for the payment of sums of money to the society in respect of the advance, after the expiration of a period of twenty years from the date on which the advance is made.

(8) After the advance has been made by the society, the society shall not make an agreement which has the effect of rendering the sums of money payable to the society in respect of the advance after the expiration of that period.

(9) Subsections (7) and (8) do not affect the power of a society to make an agreement in relation to an advance which has been made by the society not less than one year before the making of the agreement if, in the opinion of the directors or members of the committee of management of the society, it is desirable so to do in order to avoid hardship to a member of the society.

23. Power to invest

(1) A building society may, as its rules permit, invest a portion of its funds not immediately required for its purposes, in or on any stock, shares or securities authorised by law for the investment of trust money or in any other classes of investment authorised by the President on the advice of the Cabinet by notice in the *Gazette*.³⁽³⁾

(2) A building society which makes an advance on the security of land to a person other than a member of the society shall not take an additional security for the advance.

24. Dividends

(1) Despite anything to the contrary contained in its rules, a building society shall not pay a dividend or an interest on any of its shares, whether preferential or not, otherwise than out of profits earned by the society.

(2) For any year within a period not exceeding five years after incorporation, a building society may pay a dividend or an interest on its shares not exceeding two percent for that year, although profits to cover the amount have not been earned by the society.

(3) Where a dividend or interest is paid under subsection (2), the total amount shall be shown, in so far as it was not paid from profits earned by the society, and carried forward in its annual account as a trading loss against which future profits earned shall be offset to determine whether profits have been earned in any year for the purposes of this section.

Meetings and Periodical Returns

25. Annual general meeting

(1) A building society shall in each calendar year, and within four months after the close of the previous calendar year, hold a general meeting as its annual general meeting in addition to any other

meetings in that year, and shall specify the meeting as an annual general meeting in the notice calling the meeting.

(2) Where a building society is incorporated after the 30th day of September in any year, it shall not be required to hold an annual general meeting during that year.

26. Other meetings

The board of directors or committee of management of a building society shall call any other general or special meetings as may be required by the rules of the society or they may consider desirable, and shall, despite anything contained in the rules of the society, call a general or special meeting on the application of one-tenth of the members or, in the case of a society consisting of more than one thousand members, of one hundred members.

27. Annual account and statement

(1) A building society shall, as soon as is practicable and not more than three months after the expiration of each calendar year, prepare an account of the receipts and expenditure of the society during that year and a general statement of its funds and effect, liabilities and assets.

(2) The account and statement shall be attested by the auditors of the society and shall be countersigned by two directors or two members of the committee of management.

(3) The account and statement shall be in the form and shall contain the particulars that may be prescribed and shall show

- (a) the amounts due to the holders of the various classes of shares respectively;
- (b) the amounts due to depositors and creditors for loans;
- (c) the balance due or outstanding on mortgage securities not including prospective interest;
- (d) the amount invested by the society in other securities; and
- (e) the amount of a loan outstanding to a director of the society or a member of the committee of management or to a company in which that person is a shareholder or has a beneficial interest in any of its shares.

(4) An auditor in attesting the annual account or statement shall certify

- (a) that it is correct, duly vouched and in accordance with law or specially report to the society in what respect the account or statement is incorrect, untouched or not in accordance with law, and
- (b) that the audit actually inspected the securities belonging to the society,

and shall state the number of properties with respect to which evidence of title has been produced to and actually inspected by the auditor.

(5) A depositor and creditor for loans is entitled, on request, to receive from the society, free of charge, a copy of the account and statement.

(6) A copy of the account and statement shall be sent to every shareholder of the society not later than twenty-one days before the general meeting at which it is to be presented.

(7) A copy of the annual account and statement certified in the prescribed manner shall be sent to the Registrar within fourteen days after the annual or any other general meeting at which it is presented, or within three months after the expiration of the calendar year to which it relates, whichever period expires

first.

(8) Where a building society fails to comply with a provision of this section, the society and every director, member of the committee of management, secretary or any other officer of the society commits an offence and is liable on conviction to a fine not exceeding fifteen penalty units for every day during which the default continues.

28. Returns of sales and transfers

A building society shall, in respect of each calendar year, prepare and send to the Registrar, at the same time as its annual account and statement is sent, a return in the prescribed form containing the prescribed particulars with respect to

- (a) property which has, during the period to which the return relates, been sold by the society in the exercise of its powers as mortgage, and
- (b) every mortgage which has been transferred by the society during that period.

Miscellaneous

29. Books and records

(1) A building society shall keep,

- (a) a minute book, recording the proceedings of general meetings,
- (b) a minute book, recording the proceedings of the board of directors or committee of management,
- (c) a register of directors or members of the committee of management, showing the full names of every director or member, the usual residential address, the nationality and, if that nationality is not the nationality of origin, the nationality of origin, the date of the appointment and the date of ceasing to hold office as director or member, and
- (d) the books of account that are necessary to show the receipts and expenditure of the society, the amounts due to the holders of the various classes of shares respectively and to depositors and creditors for loans, the balance due or outstanding on mortgage securities and the amount invested by the society.

(2) A building society shall keep records showing with respect to every advance made by the society on the security of a land,

- (a) the amount at which the land was assessed and the name of the person by whom the assessment was made, and
- (b) the particulars of an additional security taken by the society including the amount at which the security was assessed and the name of the person by whom the assessment was made.

(3) Where a building society fails to comply with a provision of this section the society and every director, member of the committee of management, secretary or any other officer of the society commits an offence and is liable on conviction to a fine not exceeding fifteen penalty units for every day during which the default continues.

30. Rules

(1) The rules of a building society registered under this Act are binding on the several members and officers of the society and on the persons claiming on account of a member or under the rules, all of whom shall be deemed and taken to have full notice of the rules.

(2) Where the Government is the holder of preferential or ordinary investment shares in a building society, the Minister shall have one vote for every five hundred thousand cedis invested, despite anything in any rule of law or of the rules of the building society to the contrary, and an amendment to the rules shall not be registered, or if registered before the passing of this Act shall not continue to have effect, which seeks to confer more than one vote on any other holder of shares in the building society.⁴⁽⁴⁾

31. Supply of copies

A building society shall supply to a person requiring the same a complete printed copy of its rules, with a copy of the certificate of incorporation appended, and is entitled to charge for the same a sum of money not exceeding two thousand cedis.

32. Evidence of rules

A copy of the rules of a building society, certified by the secretary or any other officer of the society as a true copy of its registered rules, shall be admissible, in the absence of evidence to the contrary, as evidence of the rules.

33. Minors

(1) A person under the age of twenty-one years may be admitted as a member of a building society the rules of which do not prohibit this admission.

(2) A member of a building society while under the age of twenty-one years may

- (a) give the necessary acquaintances,
- (b) consent to the dissolution of the society, and
- (c) by the next friend, present a petition for winding-up,

but may not

- (d) vote at a meeting of the society,
- (e) hold an office in the society,
- (f) transfer a share standing in the name of the minor, or
- (g) execute a valid mortgage to secure advances made to the minor by the society.

34. Shares

Two or more persons may jointly hold a share or shares in a building society.

35. Prohibition of balloting

A building society shall not cause or permit an applicant for an advance to ballot for precedence or make the granting of an advance depend on chance or lot.

36. Implied warranty

By making to a member an advance for the purpose of its being used in defraying the purchase price of land the building society warrants to the member that the purchase price is reasonable unless, before a contract requiring the member to repay the advance is entered into, the society gives to the member a notice in writing in the prescribed form stating that the making of the advance does not imply a warranty.

37. Notice before repayment

(1) A building society shall not accept a deposit except on the terms that not less than one month's notice may be required by the society before repayment or withdrawal.

(2) Where a building society contravenes a provision of subsection (1), the society and every director, member of the committee of management, secretary or any other officer of the society who is a party to the contravention commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units.

38. Small sums on intestacy

(1) Where a member of, or depositor with, a building society, having in the funds of the society a sum of money not exceeding seven hundred and fifty million cedis, 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 to receive the same although letters of administration have not been taken out, on the society receiving satisfactory evidence of death and a statutory declaration that the member or depositor died intestate and that the person so claiming is so entitled.

(2) A payment made under subsection (1) is valid and effectual with respect to a demand from any other person as next of kin or as the legal personal representative of the deceased member, or depositor against the funds of the society, but the next of kin or representative has lawful remedy for the amount of the payment against the person who received the amount.

39. Notice, re-exercise of power of sale

(1) Where a building society exercises its power of sale of land mortgaged to it, it shall, within fourteen days from the completion of the sale, send by registered post to the person who immediately before the sale was the owner of the land, at the last known address, a notice containing the prescribed particulars relating to the sale.

(2) Subsection (1) does not affect the operation of a rule of law relating to the duty of a mortgagee to account to a mortgagor.

(3) Where a building society contravenes a provision of subsection (1), the society and every director, member of the committee of management, secretary or any other officer of the society commits an offence and is liable on conviction to a fine not exceeding three hundred penalty units and to an additional fine not exceeding fifteen penalty units for every day during which the default continues.

40. Withholding or misapplying property

(1) A person who by false representation or imposition obtains possession of moneys, securities, books, papers or any other effects of a building society or, having those things in possession, withholds or misapplies them or wilfully applies a part to purposes other than those expressed or directed in the rules of the society and authorised by this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred and fifty penalty units, and shall be ordered to deliver up to the society the money, securities, books, papers or any other effects and to repay the amount of money applied improperly and in

default of the delivery of effects or repayment of the amount of money, to a term of imprisonment not exceeding six months.

(2) Proceedings under subsection (1) may be taken by or at the instance of

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

41. Exemption from stamp duty

(1) There is exempt from the payment of stamp duty

- (a) a receipt, an entry in a book of receipt, for money deposited in the funds of a building society, or for money received by a member, the executors or administrators, assigns or attorney, of that member from the funds of a building society,
- (b) a transfer of share, bond or any other security to be given to or on account of a building society or by an officer of the society,
- (c) an order on an officer for payment of money to a member, an appointment of agent, a certificate or any other instrument for the revocation of the appointment, and
- (d) any other instrument or document required or authorised to be given, issued, signed, made or produced in pursuance of a provision of this Act or of the rules of a building society.

(2) The exemption granted under subsection (1) does not extend to a mortgage.

42. Title to land as security

When an advance out of its funds is made by way of mortgage by a building society on the security of land, the provisions of the Second Schedule which relate to title to and the creation of a charge on the land, the powers of the mortgagee and matters connected therewith shall have effect in relation to the advance.

43. Receipt to vacate mortgage

A receipt for the whole of the moneys intended to be secured by a mortgage or charge endorsed on the mortgage under the seal of a building society and countersigned by the secretary or manager, in the form specified in the Third Schedule shall vacate the mortgage charge or debt.

Change of Name, Address, Officers and Constitution

44. Change of name

(1) A building society may change its name by special resolution and with the prior approval of the Registrar, signified in writing.

(2) A society which changes its name in accordance with subsection (1) shall, within fourteen days from the date of the meeting at which the resolution was adopted, send to the Registrar two copies of the resolution certified in the prescribed manner.

(3) The Registrar shall register one copy of the resolution and return the other to the society endorsed

with a certificate of registration.

(4) A change of name by a building society in accordance with this section shall not affect the rights or obligations of the society, or render defective legal proceedings by or against the society, and legal proceedings that might have been continued or commenced against it, by its former name may be continued or commenced against it by its new name.

45. Change of address

A building society which changes the situation of its registered office or its postal address shall, within fourteen days after the change, send to the Registrar notice of the change in the prescribed form.

46. Changes of directors

Where a person is appointed a director or member of the committee of management of a building society, or ceases for a reason to be a director or member of the committee of management of a building society, the society shall within fourteen days after that happening send to the Registrar notice of the change in the prescribed form.

47. Alteration of rules

(1) A building society may, by special resolution, alter or rescind any of its rules or make an additional rule.

(2) For the purposes of subsection (1), a special resolution is not valid unless registered under subsection (4).

(3) Where a building society alters or rescinds any of its rules or makes an additional rule, it shall, within fourteen days from the date of the meeting at which the resolution was adopted, send to the Registrar two copies of the resolution, certified in the prescribed manner.

(4) The Registrar, if satisfied that the alteration, addition or rescission is in con-formity with this Act, shall register one copy of the resolution and return the other to the society endorsed with a certificate of registration.

48. Penalties

Where a building society fails to comply with subsection (2) of section 44, section 45, section 46, or subsection (2) of section 4, the society and every director, member of the committee of management, secretary and any other officer of the society commits an offence and are liable on conviction to a fine not exceeding fifteen penalty units for every day during which the default continues.

Amalgamation of Societies and Transfers

49. Amalgamation of societies

(1) Two or more building societies may unite and become one society on the terms agreed on by three-fourths of the members holding not less than two-thirds of the whole number of shares of each of the societies present at general meetings respectively convened for the purpose.

(2) Two or more societies, so uniting may adopt the name of either or any of them or any other name approved by the Registrar.

(3) Notice of the union shall be sent to the Registrar in the prescribed form and the Registrar shall register the union.

50. Transfer of engagements

(1) A building society may, by a special resolution, transfer its engagements to any other building society, which may undertake to fulfil the engagements of any other building society by a special resolution.

(2) A transfer of engagements shall not take effect until the consent in writing of the holders of not less than two-thirds of the whole number of shares of each society party to the transfer has been obtained, and notice of the transfer, which it shall be the duty of the society transferring its engagements to send to the Registrar, has been registered.

51. Special provisions, re-transfer and amalgamation

(1) Despite sections 49 and 50, a building society desiring to unite with one or more other building societies, or to transfer its engagements to another building society, or undertake to fulfil the engagements of another building society when the other building society has not obtained the concurrence of the holders of two-thirds of the whole number of shares of the society, may apply to the Registrar in the prescribed manner for a confirmation of the union, transfer or undertaking and the Registrar may confirm the union, transfer or undertaking.

(2) Before confirming the union, transfer or undertaking, the Registrar shall publish the appropriate notice in the *Gazette*, and in one or more newspapers as determined by the Registrar and shall give the society and any other persons an opportunity of being heard.

52. Registration of unions

The registration by the Registrar of the notice of a union under section 49, or of the transfer of the engagements of a building society to another building society under section 50, or the confirmation by the Registrar of the union or transfer under section 51, shall operate as an effectual conveyance, transfer and assignment, as at the date of the registration or confirmation, of the funds, properties and assets of the societies so uniting to the united society or of the society transferring its engagements to the society to which the engagements are transferred.

53. Union or transfer of engagements

A union of building societies or transfer of engagements from one building society to another shall not affect the rights of a creditor of either or a society uniting or transferring its engagements.

Determination of Disputes

54. Arbitration

(1) Where the rules of a building society direct disputes to be referred to arbitration, arbitrators shall be named and elected in the manner provided in the rules, or if the rules do not so provide, at the first general meeting of the society.

(2) An arbitrator shall not be elected who is beneficially interested, directly or indirectly, in the funds of the society.

(3) A certain number of arbitrators, not less than three, shall be chosen by ballot in each case of dispute.

(4) The number of the arbitrators and mode of ballot shall be determined by the rules of the society.

(5) In the case of the 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 that arbitrator.

(6) The names of the arbitrators elected to act under this section shall be entered in the minute book of the society.

(7) The award 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.

(8) Where either of the parties to the dispute refuses or neglects to comply with or conform to the award within the time limited by the award, the High Court, on good and sufficient proof being adduced of the award having been made and of the refusal or neglect of the party to comply with the award, shall enforce compliance with the award on the petition of a person concerned.

(9) Where the parties to a dispute arising in a building society 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 has the same effect as that of arbitrators.

55. Jurisdiction of the High Court

The High Court may hear and determine disputes,

- (a) if it appears to the Court on the petition of a person concerned
 - (i) that an application has been made by a 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
 - (ii) that the 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 an award, or
- (b) where the rules of the society direct disputes to be referred to the High Court.

56. Determination

(1) A determination of a dispute by arbitrators or by the High Court or by the Registrar under this Act is binding and conclusive on the parties.⁵⁽⁵⁾

(2) The arbitrators or the Registrar may, at the request of a party, state a case for the opinion of the Court on a question of law and the Court may grant to a party in the dispute discovery as to documents and otherwise as might be granted by the Court.

(3) The discovery shall be made on behalf of the society by an officer of the society determined by the arbitrators or the Registrar.

Powers of the Registrar

57. Production of books

(1) The Registrar may, by notice in writing served on a building society or on a person who is or has been an officer of the society, require the society or that person

- (a) to produce the books, accounts, deeds, and any other documents relating to the business of the society, and
- (b) to furnish any other information relating to the business that the Registrar considers necessary for the exercise of the powers given by this Act.

(2) The notice may contain a requirement that an information to be furnished in accordance with the notice shall be verified by a statutory declaration.

(3) Where a building society or the other person fails to comply with the requirements of a notice under subsection (1), the society and every director, member of committee of management, secretary or any other officer of the society or the other person, commits an offence and is liable on conviction to a fine not exceeding five hundred penalty units for every day during which the default continues.

58. Inspection of books

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

(2) A person applying under subsection (1) for the inspection, shall deposit with the Registrar a sum of money required by the Registrar as a security for the costs of the proposed inspection.

(3) The expenses of or incidental to the inspection shall be defrayed by the applicants, or out of the funds of the society, in the proportion directed by the Registrar.

(4) A person appointed under this section may make copies of the books of the society and take extracts from the books at a reasonable hour at the registered office of the society or at a place where the books are kept.

(5) The Registrar shall communicate the results of the inspection to the applicants and to the society.

59. Appointment of inspector

(1) The Registrar may, on the application of one-tenth of the whole number of members of a building society or of one hundred members in the case of a building society consisting of more than one thousand members, and with the consent of the President acting on the advice of the Cabinet,⁶⁽⁶⁾

- (a) appoint an inspector to examine and report on the affairs of the society; or
- (b) call a special meeting of the society.

(2) For the purposes of subsection (1),

- (a) the application shall be supported by evidence which the Registrar may direct for the purpose of showing that the applicants have good reason for requiring the inspection to be made or the meeting to be called, and that they are not actuated by malicious motives in their application;
- (b) the notice of the application shall be given to the society as directed by the Registrar;
- (c) the Registrar shall require the applicants to give security for the costs of the proposed inspection or meeting before the inspector is appointed or the meeting is called; and
- (d) the expenses of and incidental to the inspection or meeting shall be defrayed by the applicants or out of the funds of the society, or by the members or officers, or former

members or officers, of the society, in the proportions directed by the Registrar.

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

(4) The Registrar may direct at what time and place a special meeting under this section is to be held, and what matters are to be discussed at the meeting.

(5) The meeting shall have the powers of a meeting called according to the rules of the society, and shall appoint its own chairman, despite a rule of the society to the contrary.

(6) The Registrar may, without an application by members, but with the consent of the President given on each occasion, exercise the powers given by this section,

- (a) where a building society has for two months after notice, failed to make a return required by this Act;
- (b) where a building society has, for two months after notice, failed to correct or complete the return; or
- (c) where evidence is furnished by statutory declaration of not less than three members of a building society of facts which, in the opinion of the Registrar, call for investigation;

but the Registrar shall forthwith, on receipt of the declaration, send a copy to the society and the society is entitled within fourteen days from the sending of the copy, to give the Registrar an explanatory statement in writing by way of reply to the declaration.

60. Prohibition on invitations for subscriptions

(1) Where the Registrar considers it expedient so to do in the interests of persons who have invested or deposited or may invest or deposit money with a building society, the Registrar may by order, made with the prior approval of the Minister, direct that, unless the order is revoked, an invitation to subscribe for, or to acquire or offer to acquire securities, or to lend or deposit money, shall not be made by or on behalf of the society.

(2) Before making an order under subsection (1), the Registrar shall serve on the society a written notice stating the intention to make the order and shall consider the representations made by the society within the period of thirty days from the date of the service of the notice and, if the society so requests, shall afford it an opportunity of being heard by the Registrar within that period.

(3) Where an invitation is made in contravention of an order made under subsection (1), the person by whom the invitation is made commits an offence and is liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding one thousand penalty units or to both the imprisonment and the fine.

61. Suspension or cancellation of registration

(1) Where the Registrar is satisfied that a certificate of incorporation has been obtained for a building society by fraud or mistake, or that the society exists for an illegal purpose or has wilfully and after notice from the Registrar violated a provision of this Act or has ceased to exist, the Registrar may by notice in writing cancel the registration of the society or suspend the registration for a period not exceeding three months, and may renew the suspension from time to time for the like period.

(2) The Registrar shall, before cancelling or suspending the registration of a building society under

subsection (1), give to the society not less than two months' previous notice in writing specifying briefly the grounds for the proposed cancellation or suspension and shall, as soon as practicable after the cancellation or suspension takes place, publish a notice in the *Gazette* and as determined by the Registrar in one or more newspapers.

(3) A building society may appeal to the High Court against the cancellation or suspension of its registration and the Court may set aside the cancellation or suspension.

(4) The Registrar may at the request of a building society, evidenced in the manner directed by the Registrar, cancel the registration of the society.

(5) A building society whose registration is cancelled or suspended shall, from the time of the cancellation or suspension, cease to enjoy the privileges conferred by this Act, but without prejudice to a liability incurred by the society, which liability may be enforced against the society as if the cancellation or suspension, had not taken place.

(6) In the case of suspension only subsection (5) applies while the suspension lasts subject to the right of appeal given by this section.

Dissolution and Winding-up

62. Dissolution

(1) A building society may be dissolved

- (a) on the happening of an event declared by its rules to be the termination of the society,
- (b) in the manner prescribed by its rules,
- (c) 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 an instrument of dissolution, or
- (d) by winding-up voluntarily under the supervision of the High Court or by the High Court.

(2) Notice of the termination of a building society and of the commencement and completion of a dissolution or winding-up shall be sent to, and registered by, the Registrar.

63. Instruments of dissolution

(1) An instrument of dissolution of a building society shall state

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

(2) An instrument of dissolution may be varied with the consent, testified in the manner required under paragraph (c) of subsection (1) of section 62 for an instrument of dissolution.

(3) An instrument of dissolution and an instrument varying the provisions of an instrument of

dissolution shall be made and signed in duplicate and sent to the Registrar within fourteen days of signature, and the Registrar shall register one copy of the instrument and return the other to the society endorsed with a certificate of registration.

(4) An instrument of dissolution or an instrument varying the provisions of an instrument of dissolution is, when registered, binding on the members of the society.

64. Winding-up

(1) The High Court may order that a building society be wound up, voluntarily under the supervision of the Court or by the Court, on the petition of,

- (a) a member authorised to present the petition on behalf of the society by three-fourths of the members present at a general meeting of the society specially called for the purpose, or
- (b) a judgment creditor for not less than thirty million cedis, or
- (c) the Registrar as regards a building society of which registration has been cancelled under section 61.

65. Obligation of liquidators and trustees

Where a building society is being dissolved in the manner prescribed by its rules or in pursuance of a special resolution, this Act shall continue to apply as if the liquidators or the other persons conducting the dissolution of the society or the trustees appointed under the instrument of dissolution were the board of directors or committee of management of the society.

66. Liability of members

(1) The ability of a member of a building society

- (a) in respect of a share on which an advance has not been made shall be limited to the amount actually paid or which the member has to pay until the share is fully paid up; and
- (b) in respect of a share on which an advance has been made shall be limited to the amount payable on the share under a mortgage or any other security or under the rules of the society.

(2) Where a building society is being dissolved or wound up, a member to whom an advance has been made under a mortgage or any other security or under the rules of the society is not liable to pay the amount payable under the mortgage or, any other security or the rules except at the time or times and subject to the conditions, expressed in the mortgage, security or the rules.

67. Account and balance sheet on dissolution

Where a building society is dissolved in the manner prescribed by its rules or in pursuance of a special resolution, the liquidators, trustees and any other persons having the conduct of the dissolution shall, within twenty-eight days from the termination of the dissolution, send to the Registrar an account and a balance sheet signed and certified by them as correct showing the assets and liabilities of the society at the commencement of the dissolution and the way in which those assets and liabilities have been applied and discharged.

68. Dissolution by Registrar

(1) On the application in writing of one-tenth of the whole number of members of a building society

or of one hundred members in the case for a society of more than one thousand members, stating

- (a) that the society is unable to meet the claims of its members, and
- (b) that it would be for their benefit that the society is dissolved, and

that the society is requesting an investigation into the affairs of the society with a view to dissolution, the Registrar may investigate the affairs of the society, but shall before doing so give not less than two months' prior notice in writing to the society at its registered office.

(2) Where, on investigation it appears that the society is unable to meet the claims of its members and that it would be for their benefit that the society is dissolved, the Registrar may order the society to be dissolved and shall direct in what manner the affairs of the society are to be wound up.

(3) The Registrar may suspend an order under subsection (2) for a sufficient period to enable the society to make the alterations to its rules as will prevent the necessity of the order being made.

(4) The Registrar shall, within twenty-one days after the making of an order for dissolution under this section, advertise a notice in that behalf in the *Gazette* and in one or more newspapers as determined by the Registrar.

Rules and Regulations

69. Rules and Regulations

(1) The Rules of Court Committee constituted under article 157 of the Constitution, may make rules of court for regulating proceedings before the High Court and applications and appeals to the Court, under this Act and for the fees to be paid in respect of those matters.

(2) Subject to subsection (1), the President acting on the advice of the Cabinet may, by legislative Instruments, make Regulations prescribing anything required to be pre-scribed under this Act and for the better carrying into effect of this Act.⁷⁽⁷⁾

(3) The Regulations may provide for

- (a) the procedure in the registry of building societies,
- (b) the hours on which the registry is to be open for business,
- (c) the forms to be used and the fees to be paid in respect of a matter under this Act required, permitted or entitled to be done, and
- (d) the minimum ratio which liquid assets of a building society shall bear to the total assets of the society.

70. Interpretation

In this Act, unless the context otherwise requires,

“**basic advance**” in relation to an advance made or to be made by a building society for the purpose of its being used in defraying the purchase price of land, means the maximum amount which the society would consider proper to advance on the security of that land if any other security were not taken by the society;

“**building society**” means a society formed for the purpose of raising by the subscriptions of its members a stock or fund from which to make advances to members and registered in accordance with this Act;

“continuing arrangement” means an arrangement made between a building society and another person by which, in contemplation of a series of advances comprising excess advances being made by the society to members for the purposes of their being used in defraying the purchase price of land, that person undertakes to give to the society a series of guarantees, each of which is to secure sums of money payable to the society in respect of the advance;

“dispute” means a dispute between a building society and a member or a representative of a member in the capacity of a member of the society, unless by the rules for the registered society it is otherwise expressly provided, but

- (a) in the absence of an express provision, does not include a dispute between the society and a member or any other person as to the construction or effect of a mortgage deed or a contract contained in a document, other than the rules of the society;
- (b) in this definition contained shall not prevent a society, or a member or a person claiming through or under a member, from obtaining in the ordinary course of law a remedy in respect of the mortgage or any other contract to which the member or the society would otherwise be entitled by law;

“excess advance” means, in relation to an advance, the amount by which the advance exceeds the basic advance;

“functions” includes powers and duties;

“land” includes an estate or interest in land and a right of occupancy;

“Minister” means the Minister responsible for Housing;

“mortgagor” and **“mortgagee”** include the successors in title of a mortgagor and mortgagee respectively;

“prescribed” means prescribed by this Act or the Regulations;

“register” means the register of building societies kept by the Registrar under section 6;

“Registrar” includes the Registrar of building societies appointed under section 3, a deputy Registrar and an assistant Registrar;

“Regulations” means the Regulations made under a provision of this Act;

“special resolution” means a resolution passed by not less than three-fourths of the members of a building society present and entitled to vote at a general meeting of which notice specifying the intention to propose that resolution has been duly given according to the rules of the society.

SCHEDULES

First Schedule

PART ONE

CLASSES OF ADDITIONAL SECURITY, WHICH MAY BE TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF ADVANCES TO MEMBERS

[Section 22 (4)]

1. A charge on a policy of life assurance.
2. A guarantee given, whether in pursuance of a continuing arrangement or not, by an assurance company.
3. A charge given by the member on money deposited with the society or on the stocks, shares or securities authorised by law for the investment of trust moneys.
4. A guarantee, which is not a guarantee given in pursuance of continuing arrangement, accepted by the society with the written consent of the members and supported by a charge on money deposited with the society or on those stocks, shares or securities.
5. A charge on money deposited with the society, which is a charge given in accordance with arrangements which are approved by the Registrar and which provide that the society shall also take as further security for each advance in respect of which a charge is given to the society, a guarantee given by an assurance company.
6. A guarantee given in pursuance of a continuing arrangement which conforms to the requirements of Part Two being a guarantee supported by deposits of money made in pursuance of that arrangement.

PART TWO
REQUIREMENTS APPLICABLE TO CERTAIN CONTINUING ARRANGEMENTS

In order to conform to the requirements of this Part of this Schedule, a continuing arrangement must provide

- (a) that each guarantee given in pursuance of the arrangement by the guarantor with whom the society made the arrangement will secure repayment to the society,
 - (i) on account of the principal of the advance to which the guarantee relates, of a sum of money not less than the amount by which the advance exceeds two thirds of the purchase price for the defraying of which the advance was made, and
 - (ii) of the sums of money which may accrue due to the society in respect of the advance, otherwise than on account of the principal, before the sums of money repayable to the society on account of the principal have been reduced to two-thirds of the purchase price;
- (b) that the guarantor will not be released from liability in respect of the guarantee until the sum of money repayable to the society in respect of the principal of the advance to which it relates has been reduced to or below an amount equal to two-thirds of the purchase price for the defraying of which the advance was made;
- (c) that the guarantor will deposit with the society, as security for liability in respect of each guarantee, a sum of money, which in the case of the first five guarantees, shall be at least equal to the amount of the excess advance;
- (d) that, subject to a right of withdrawal which may be given by the arrangement in conformity with paragraph (e), each sum deposited as already mentioned, will be held by the society, not only as security for the liability of the guarantor in the advances made, whether before or after the deposit in pursuance of the arrangement as are for the time being, advances of which the sums of money repayable in respect of the principal have not been reduced to the amount mentioned in paragraph (b);
- (e) that a withdrawal of or from the sums of money deposited with the society shall not be made by the guarantor unless the sums of money held by the society in accordance with paragraph

(d) as security in respect of the advances there mentioned will, after the withdrawal, be of an amount at least equal to the sum of money,

- (i) the amount by which the aggregate of the sums of money then repayable to the society in respect of the principal of the advances which were included in the first five advances made by the society in pursuance of the arrangement exceeds two-thirds of the aggregate of the purchase prices for the defraying of which those advances were not so included were made, and
 - (ii) one-third of the amount by which the aggregate of the sums of money then repayable to the society in respect of the principal of some of the advances as were not included in the first five advances made by the society in pursuance of the arrangement exceeds an amount equal to two thirds of the aggregate of the purchase prices for the defraying of which those advances were not so included, were made.
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Second Schedule

MORTGAGES

[Section 42]

1. Creation of a charge by mortgage

(1) When a building society makes an advance on the security of a land by way of mortgage, the amount of the advance shall, if the conditions set out in paragraph 3 have been fulfilled, by virtue of this paragraph be a charge on the land in favour of the mortgage despite the existence of, and with priority over, a right or title to or an interest in the land adverse to the title of the mortgagor.

(2) A right or title of or an interest in the land of which the building society has express notice prior to the making of an advance on the security of the land or of which notice has been received by the Registrar by registered post, within the period of three months immediately following the observance of the conditions set out in paragraph 3 shall not be prejudiced by the operation of this paragraph.

2. Creation of a power of sale and power to enter into possession

When a charge on land arises under paragraph 1, the charge shall create a power of sale and a power to enter into possession of the land, and a sale or entry into possession under a mortgage to which the provisions of paragraph 1 of this Schedule relate shall not be effected except in accordance with this Schedule.

3. Conditions precedent to creation of a charge

(1) For the purposes of paragraph 1, the conditions are that the building society shall, not less than three months prior to the payment of the advance or a part of the advance,

- (a) publish in the *Gazette* and in a daily newspaper ordinarily circulating in the areas in which the land in question is situated, a notice in the form set out in the Table to this Schedule,
- (b) post a similar notice on the land and, if there is a court house in the area of the local authority in which the land is situated, on the court house, and
- (c) forward a copy of the notice in the form set out in the Table to this Schedule to the Registrar.

(2) A notice referred to in subparagraph (1) which does not contain a full and accurate description of

the land in question, which may be by a plan attached to the notice, does not constitute a notice for the purpose of paragraph 1.

4. Register to be maintained by Registrar

The Registrar shall maintain a register setting out the land in respect of which a notice given under paragraph 3 has been received and shall enter in the register, immediately on receipt, a claim to a right or title to, or an interest in, land to which the notice relates, in proximity to the entry relating to notice, and the register shall be arranged in a manner that facilitates reference to entries in the register by the locality of the land.

5. Regulation of power of sales, and power of entry

A power of sale or power to enter into possession conferred by this Act shall not be exercised unless

- (a) notice requiring payment of the mortgage money had been served on the mortgagor or one of two or more mortgagors, and default has been made in payment of the mortgage money, or of part of that money, for three months after the service; or
- (b) an interest under the mortgage is in arrear and unpaid for two months after becoming due; or
- (c) there has been a breach of a provision contained in the mortgage deed, and on the part of the mortgagor, or of a person concurring in making the mortgage, to be observed or performed, other than and besides a covenant for payment of the mortgage money or interest on that money.

6. Conveyance on sale

(1) A person exercising the power of sale conferred by this Act may by deed, convey the whole of the interest of the mortgagor in the property sold, freed from the estates, interests and rights to which the mortgage has priority, but subject to the estates, interests and rights which have priority to the mortgage.

(2) For the purposes of subparagraph (1),

- (a) where the power of sale is exercised in a case in which there exists a right or title to, or an interest in the property sold, of which the person exercising the power of sale, has notice, and which is adverse to the title of the mortgagor, the person exercising the power of sale shall not convey an interest or estate in the property for a term exceeding sixty years, or in a case where the mortgage is of a term of years, and, under the instrument purporting to create the term, a term of less than sixty years remains unexpired, the term as so purports to remain unexpired,
- (b) the person exercising the power of sale shall not in the exercise of that power convey an interest exceeding a term of fifty years at any one time in a land to a person who is not a citizen within the meaning given to that expression by the law relating to Ghanaian citizenship in force in the Republic.⁸⁽⁸⁾

(3) Where a conveyance is made in exercise of the power of sale conferred by this Schedule, the title of the purchaser shall not be impeachable on the grounds

- (a) that a case had not arisen to authorise the sale, or
- (b) that due notice was not given, or
- (c) that the power was otherwise improperly or irregularly exercised,

and a purchaser shall not, before or on conveyance, be concerned to see or inquire whether a case has arisen to authorise the sale, or due notice has been given, or the power is otherwise properly and regularly exercised; but a person damnified by an unauthorised, or improper, or irregular exercise of the power shall have remedy in damages against the person exercising the power of sale.

(4) A conveyance on sale made after the commencement of this Act by a mortgagee in relation to land mortgaged to a building society, shall be deemed to have been made in exercise of the power of sale conferred by this Schedule.

(5) The Rent Control Act, 1952, does not apply to a sale in exercise of the power of sale given under this Schedule.

7. Application of proceeds of sale

The money which is received arising from a sale under this Schedule, after discharge of prior incumbrances to which the sale is not made subject, or after payment into court of a sum of money to meet a prior incumbrance, shall be held by the recipient in trust to be applied,

- (a) first, in payment of the costs, charges, and expenses properly incurred as incident to the sale or an attempted sale, or otherwise, and
- (b) secondly, in discharge of mortgage money, interest and costs, and any other money due under the mortgage,

and the residue of the money so received shall be paid to the mortgagor or a person authorised to give receipts for the proceeds of the sale.

8. Provisions as to exercise of power of sale

(1) The person entitled to exercise the power of sale conferred by this Schedule is not answerable for an involuntary loss happening in or about the exercise or execution of the power of sale conferred by this Schedule.

(2) At any time after the power of sale conferred by this Schedule becomes exercisable, the person entitled to exercise the power may demand and recover from a person, other than a person having in the mortgaged property an estate, or right in priority to the mortgage, the deeds and documents relating to the property, or to the title which a purchaser under the power of sale would be entitled to demand and recover.

9. Rights following upon entry into possession

(1) A person entering into possession of land under a power conferred by paragraph 2 is entitled to receive the income arising from the land except in so far as some other person is entitled to that under rights preserved by subparagraph (2) of paragraph 1 of this Schedule, but is not entitled to enter into a lease, and entry into possession shall not prejudice the right of that person to exercise the power of sale.

(2) A person entitled to enter into possession under this Schedule is not answerable for an involuntary loss happening in or about the exercise of the power to enter into possession conferred by this Schedule.

10. Application of moneys received on entering into possession

Moneys received by a person under paragraph 9 of this Schedule, in consequence of entry into possession of land shall be held in trust to be applied,

- (a) first in payment of the costs, charges and expenses properly incurred in and in consequence of, entering into possession; and
- (b) secondly in discharge of the mortgage money, interest and costs and any other money due under the mortgage,

and the residue of the money so received shall be paid to the mortgagor or a person authorised to give receipts for those moneys.

11. Mortgagor required to purchase interest postponed on creation of charge

- (1) A person who has a right or title to or an interest in land, which is
 - (a) the subject of a charge under paragraph 1 of this Schedule, or
 - (b) in which a leasehold interest has been created under paragraph 6 of this Schedule,

and the right, title or interest is postponed to the charge or lease-hold interest by reason of a provision of this Schedule, may require the mortgagor in writing to acquire that right or interest in or title to the land.

(2) The price which the mortgagor shall pay for the acquisition shall be the market value to the right, title or interest at the date when that person so required the mortgagor to acquire it without having regard to the charge, on the land in which the right, title or interest exists, created under paragraph 1 of this Schedule.

(3) The improvements effected on the land subsequent to the creation of the charge under paragraph 1 of this Schedule shall be disregarded in ascertaining the market value.

TABLE

Notice is hereby given that the
 Building Society intends to grant a loan to
 (*description of plot of land and reference to plan attached where appropriate*)
 Whereof he claims to be
 (*interest claimed to by applicant*)

A person claiming a right, title or an interest to or in the land adverse to the title of the applicant is required to lodge, by registered post, a claim in writing with the Registrar of Building Societies
 at
 (*naming the office of the Registrar*) within three months of the date hereof if a written claim is not lodged a sum of money paid as a loan to
 (*name of applicant*) on the Security of the land referred to above will be a statutory charge on the land ranking in priority to the right, title or interest of a person which is adverse to the title of the applicant.

Dated this day of, 20

.....
 Building
 Society

Third Schedule

RECEIPT

[Section 43]

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

In witness whereof the seal of the society is affixed this day of By order of the Board of Directors (or Committee of Management) in the presence of Secretary (or Manager).

(L.S.)

(Other witnesses as may be required by the rules of the society)

Endnotes

1 (Popup - Footnote)

1. This Act was enacted as the Building Societies Ordinance, 1955 ([No. 30 of 1955](#)). It was assented to on the 1st day of December, 1955 and came into force on 3rd December, 1955.

2 (Popup - Footnote)

2. Amended by [the Constitution](#) (Consequential Provisions) Act, 1960 (C.A. 8).

3 (Popup - Footnote)

3. Amended by [the Constitution](#) (Consequential Provisions) Act, 1960 (C.A. 8).

4 (Popup - Footnote)

4. Added by [section 2](#) of the Building Society (Amendment) Act, 1959 ([Act 59](#)).

5 (Popup - Footnote)

5. Amended by [the Constitution](#) (Consequent Amendment) Act, 1960 (C.A. 80).

6 (Popup - Footnote)

6. Amended by [the Constitution](#) (Consequential Amendments) Act, 1960 (C.A. 8).

7 (Popup - Footnote)

7. Amended by [the Constitution](#) (Consequential Amendments) Act, 1960 (C.A. 8).

8 (Popup - Footnote)

8. Substituted by section 2 of the Building Societies (Amendment) Act, 1957 (Act 9). The sixty years has been changed to fifty years in view of [article 160](#) of [the Constitution](#).