



Loan Societies Act 1840 (repealed 19.11.1998)

1840 CHAPTER 110 3 and 4 Vict

1, 2 ^{F1}

Textual Amendments

F1 Ss. 1, 2, 25, 30, 31 repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

3 Formation of Loan Societies under restrictions in this Act.

If any number of persons who have formed or shall form any society in England for establishing a fund for making loans to the industrious classes, and taking payment of the same by instalments, with interest thereon, shall be desirous of having the benefit of this Act, such persons shall cause the rules framed or to be framed for the management of such society to be certified, deposited, and enrolled in manner herein-after directed, and thereupon shall have the benefit of the provisions contained in this Act.

4 Three transcripts of rules to be submitted to a barrister, &c. Barrister, &c. to certify the transcripts. Fee payable to barrister. One transcript to be kept by the barrister, another returned to the society, and the third sent to the clerk of peace. Justices to confirm rules. Rules, &c. to be binding when certified by barrister.

Three transcripts fairly written or printed, or partly written and partly printed, on paper or parchment, of all rules made in pursuance of this Act, signed by three members, and countersigned by the clerk or secretary, (accompanied, in the case of any amendment of the rules, with an affidavit of the clerk or secretary, or one of the officers of the said society, that the provisions of this Act have been duly complied with,) with all convenient speed after the same shall be made or amended, and so from time to time after every making or amending thereof, shall be submitted to the barrister at law for the time being appointed to certify the rules of savings banks, for the purpose of ascertaining whether the said rules of such society, or amendment thereof,

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are calculated to carry into effect the intention of the parties framing such rules or amendments, and are in conformity to law; and the said barrister shall advise with the said clerk or secretary, if required, and shall give a certificate on each of the said transcripts, that the same are in conformity to law, or point out in what part or parts the said rules are repugnant thereto; and the barrister for advising as aforesaid, and perusing the rules or amendments of the rules of each society and giving such certificates as aforesaid, shall demand no further fee than the sum of [^{F2}£1.05p] ; and one of such transcripts, when certified by the said barrister, shall be kept by the said barrister, and another returned to the society, and the third of such transcripts shall be transmitted by such barrister to the clerk of the peace for the county, city, or borough wherein such society shall be formed, and by him laid before the court of general quarter sessions, . . . ^{F3}; and the said court is hereby authorized and required, . . . ^{F3}, to allow and confirm the same, and such transcript shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody, without fee or reward; and all rules and amendments thereof, from the time when the same shall be certified by the said barrister, shall be binding on the several members and officers of the said society, and the borrowers and sureties, and all other persons having interest therein.

Textual Amendments

F2 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

F3 Words repealed by [Courts Act 1971 \(c. 23\), Sch. 11 Pt. IV](#)

Modifications etc. (not altering text)

C1 Functions of court of general quarter sessions in respect of confirmation and record of rules of loan societies now exercisable by council of county (in Greater London, Greater London Council): [Local Government Act 1888 \(c. 41\), s. 3\(xv\)](#), [London Government Act 1963 \(c. 33\), s. 62\(5\)](#), [Local Government Act 1972 \(c. 70\), s. 179\(2\)](#); those exercisable by the Greater London Council and the clerk to that council are transferred by [Local Government Act 1985 \(c.51, SIF 81:1\), s.16, Sch. para. 26](#)

5 No confirmed rule to be altered but at a general meeting of the society, &c.

No rule, certified in manner aforesaid, shall be altered, rescinded, or repealed, unless at a general meeting of the members of such society, convened by notice, written or printed, signed by the secretary or president or other principal officer or clerk of such society, in pursuance of the enrolled rules, or of a requisition for that purpose signed by three or more of the members of such society, such notice to be forwarded by post or otherwise to every member of the society seven clear days at least before the day appointed for such meeting; and such alterations or repeal shall and may be made with the concurrence of the majority of the members of such society then and there present.

6 Limitation of fee payable to barrister.

The said barrister shall be entitled to no further fee for or in respect of any amendment of any rules enrolled under this Act, . . . ^{F4} upon which one fee has been already paid to the said barrister within the period of three years.

Textual Amendments

F4 Words repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. V](#)

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7 Rules to be entered in a book to be kept by the officer of the society.

All rules from time to time made and in force for the management of any such loan society, and duly certified and enrolled, shall be entered in a book or books to be kept by an officer of such society to be appointed for that purpose, which book or books shall be open at all reasonable times for the inspection of all members of such society, and of the persons receiving loans from such society, and shall be binding on the several members and officers of such society, and the several persons receiving loans from the same, and their representatives, as well as those parties who may become the sureties for the repayment of any loan, their executors or administrators; and all such persons and parties shall be deemed to have full notice of the enrolled rules of the society by the deposit thereof with the clerk of the peace or town clerk, as required by this Act, and by the entry thereof in such book or books; and the entry of such rules in such book or books as aforesaid, or the transcript thereof, deposited with the clerk of the peace or town clerk, or a true copy of such transcript examined with the original, and proved to be a true copy, or the copy certified by the barrister at law appointed for that purpose, shall be received as evidence of such rules respectively in all cases; . . .^{F5} and every copy of any such transcript deposited with any clerk of the peace or town clerk as aforesaid shall be made without fee or reward, except the actual expence of making such copy; and such copy shall not be subject to any stamp duty.

Textual Amendments

F5 Words repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), [Sch. 1 Pt. V](#)

8 Property of society vested in the trustees thereof.

All monies and securities for money, and all chattels whatsoever, belonging to any such society, shall be vested in a trustee or trustees for the use and benefit of such society and the members thereof, their executors and administrators respectively, according to their several shares and interests therein, and after the death, resignation, or removal of any trustee or trustees shall vest in the surviving or succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, and also shall for all purposes of suit, as well criminal as civil, at law or in equity, in anywise concerning the same, be deemed to be the property of the person or persons appointed to the office of trustee or trustees of such society for the time being, in his or their proper name or names without further description; and such person or persons are hereby respectively authorized to bring or defend, or cause to be brought or defended, any suit, criminal as well as civil, at law or in equity, concerning the property or any claim of such society, and to sue and be sued, plead and be impleaded, in his or their proper name or names, as trustee or trustees of such society, without any other description; and no suit shall abate or be discontinued by the death of such person or persons, or his or their removal from the office of trustee or trustees as aforesaid, but the same shall and may be proceeded in and by or against the succeeding trustee or trustees; and such succeeding trustee or trustees shall pay or receive like costs for the benefit of or to be reimbursed from the funds of such society as if the suit had been commenced in his or their name or names.

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9 Societies to issue debentures.

For every sum of money deposited or to be deposited with any loan society, otherwise than by way of gift, it shall be lawful for such society, if they shall think fit, to issue a debenture, to be registered in the books of the loan society by whom such debenture shall be payable; and no such debenture shall be liable to any stamp duty or parliamentary imposition whatever.

10 Trustees signing debentures not personally liable unless specially undertaken.

No treasurer, trustee, or other officer of any loan society subscribing a debenture shall be individually responsible, in person or property, for the payment of the same, or of any interest thereon; but such debenture shall be a charge on the capital and property of the society alone, unless such treasurer, trustee, or other officer shall, in the instrument or by writing at the foot or on the back thereof, declare his or their willingness to be so liable in person or property; and such understanding shall only apply to the specific sums so guaranteed.

11 Sums under 50*l.* deposited in any loan fund society payable without probate to the representative of any deceased debenture holder.

In case any debenture holder, depositor, or other claimant, entitled to receive any sum not exceeding [^{F6}£5,000] out of the funds of any such loan society, shall die, it shall be lawful for the trustees or trustee thereof, from and after the expiration of three calendar months after the death of such debenture holder, depositor or other claimant, if they shall be satisfied [^{F7}that no will of the deceased has been or will be proved] , and that no letters of administration of the goods, chattels, rights, and credits of such deceased person have or will be taken out, to pay the same to any person who shall appear to the said trustees or trustee to be the person or one of the persons entitled. . . ^{F8} to the effects of the deceased. . . ^{F8}, although no letters of administration shall have been taken out [^{F9}and no probate of any will has been granted] ; and the payment of any such sum of money shall be valid and effectual with respect to any demand of any other person as next of kin of such deceased. . . ^{F8}, or as the lawful representative of such person, against the funds of such society, or against the trustee, treasurer, or officers thereof; but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person who shall have received the same.

Textual Amendments

- F6** “£5,000” substituted by virtue of [Administration of Estates \(Small Payments\) Act 1965 \(c. 32, SIF 116:1\)](#), ss. 1(1), 6, [Sch. 1 Pt. I](#) and S.I. 1984/539, [art. 2\(a\)](#)
- F7** Words substituted by [Administration of Estates \(Small Payments\) Act 1965 \(c. 32\)](#), [Sch. 3](#)
- F8** Words repealed by [Administration of Estates \(Small Payments\) Act 1965 \(c. 32\)](#), [Sch. 3](#)
- F9** Words inserted by [Administration of Estates \(Small Payments\) Act 1965 \(c. 32\)](#), [Sch. 3](#)

Modifications etc. (not altering text)

- C2** Unreliable marginal note.
- C3** Power to amend s. 11 conferred by [Administration of Estates \(Small Payments\) Act 1965 \(c. 32\)](#), ss. 1(1)(a), 6(1)(a), [Sch. 1 Pt. I](#)

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12 Treasurer, &c. to give security.

Every treasurer or other person whatsoever who shall be intrusted with the receipt or custody of any money or securities for money, the property of such society, shall become bound with sureties for the faithful execution of such office or trust, in such sum or sums of money as shall be required by the rules of such society; and such security shall be given by bond, in the form in the schedule to this Act annexed marked (D.), to the trustee or trustees of the society for the time being; and in case of forfeiture it shall be lawful for the trustee or trustees of such society for the time being to sue upon such bond or bonds, and to carry on such suit, at the costs and charges of and for the use of the said society; . . . ^{F10}

Textual Amendments

F10 Words repealed (1.8.1971) by [Finance Act 1971 \(c. 68\)](#), [Sch. 14](#) (Pt. VI)

13 Amount of loan.

It shall not be lawful for any such society to lend to any person at the same time a greater sum than fifteen pounds; and no second or other loan shall be made to the same person until the former loan shall have been repaid.

14 No note or security liable to stamp duty.

No note which shall be signed for the repayment of any loan made under this Act, . . . ^{F11}, nor any appointment of any agent, nor any other instrument whatever required to be made in pursuance of this Act or of the rules of the society, shall be chargeable with any stamp duty whatever.

Textual Amendments

F11 Words repealed (1.2.1971) by [Finance Act 1970 \(c. 24\)](#), [Sch. 8](#) (Pt. V)

15 Securities not transferable.

No note of hand, bill, or other security for the payment of money taken by any such society shall be transferable by endorsement or otherwise to any person or party whomsoever; nor shall any such note, bill, or other security be sued upon by any person or party other than the society to whom the same shall have been made.

16 Recovery of loans.

All notes signed for the repayment of such loans shall be made payable to the treasurer for the time being of the society, and may be in the form given in the schedule to this Act annexed marked (A.), or to the like effect; and it shall be lawful for any such society to add to or embody in such note the statement of any allegations made by the parties to such note respecting their goods or property, and all such allegations made under the hand of any such party may be given in evidence against him on any proceeding under this Act; and if the party liable to pay the same shall fail to make full payment in money of the sum in the note mentioned, or any part thereof, after demand in writing made on such party, or left or sent by the post, directed to

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him at his usual place of abode, or at his place of residence, as described in the said note, by or on behalf of the treasurer for the time being of the said society, any one of her Majesty’s justices of the peace for the county, riding, city, borough, division, district, or place where the person so neglecting to discharge any such note as aforesaid may happen to be or reside, upon complaint made by or on behalf of such treasurer, shall summon the person against whom such complaint shall be made, and after his appearance, or in default thereof, upon due proof upon oath of such summons having been given, left, or sent as aforesaid, shall thereupon proceed to hear and determine the said complaint, and award such sum to be paid by the person thereunto liable to such treasurer as aforesaid as shall appear to such justice to be due thereon, without any rebate of interest, together with such a sum for costs, not exceeding the sum of [^{F12}25p] , as to such justice shall seem reasonable; and it shall be lawful for any such society, if they shall think fit, to direct that the sureties for payment of any loan, or any one or more of them shall be sued for recovery of any loan or instalment thereof in preference to the actual borrower;. . .^{F13}

Textual Amendments
F12 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
F13 Words repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. V](#)

17 Recovery of loans in courts of request.

Notwithstanding the provisions herein-before contained, the treasurer or clerk of such society for the time being may proceed for the recovery of the sum due on such note against the party or parties liable to pay the same, in any county court,. . .^{F14}having jurisdiction. . .^{F14}.

Textual Amendments
F14 Words repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. V](#)

18 Power for societies to reduce demand to enable courts of request to adjudicate, provided they accept the same in full.

.^{F15}

Textual Amendments
F15 [Ss.18, 26](#) repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. V](#)

19 Treasurer of any loan society to sue for securities granted to his predecessor.

It shall be lawful for the treasurer or clerk for the time being of any loan society, whose rules shall have been duly certified as aforesaid, to sue for and recover, for the use of such society, the amount of any note or other security which shall have been passed or made payable to the treasurer for the time being of such society, whether or not any change or changes shall have taken place in the person by whom the said office of treasurer or clerk may be filled.

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20 Sum to be demanded for inquiries.

It shall be lawful for the trustees or trustee of any society established under the provisions of this Act to demand and receive from any person applying for a loan, at the time of giving out the form of application, such sum as shall be specified in the enrolled rules, not exceeding [^{F16}7½p], for the form of application, and the expence of making inquiries into the character and solvency of the applicant, and his proposed sureties, which sum the society shall not be bound to return, although no loan shall be granted; provided that such inquiry shall be made within fourteen days from the time when the application paper shall have been returned to the office of the society, duly filled up, as required by the enrolled rules.

Textual Amendments

F16 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

21 Sum for interest.

It shall be lawful for the trustees or trustee of any society established under the provisions of this Act to demand and receive from every person to whom a loan shall be made, by way of discount, at the time of making the same, the full amount which shall be specified by the enrolled rules of the society, not exceeding in the whole the rate of twelve pounds by the hundred, for the full term of one year, and to receive the amount of the principal sum by instalments, at such time or times, and in such proportion or proportions, as shall be specified by the enrolled rules, but so nevertheless that the first repayment shall not be paid sooner than the eleventh day after the day on which the loan shall have been actually granted and advanced, and that the time and manner of paying such instalments shall be taken into account in the calculation of the interest to be paid, and to take a note of hand for the whole amount of the loan, by which the same or so much thereof as shall then remain unpaid shall be recoverable immediately on failure of the payment of any instalment, . . .^{F17}

Textual Amendments

F17 Words repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. V](#)

22 New schemes must be certified by actuary of National Debt Office.

The instalments to be paid, and the corresponding sum charged for interest, may be such as is expressed in any one of the schemes mentioned in the schedule (E.) to this Act annexed; and the scheme which is adopted by any society, and the actual number of shillings and pence taken by way of interest for every loan, shall be fully and clearly set forth in the enrolled rules of such society; and if such scheme shall in any respect differ from every one of the schemes set forth in the said schedule (E.), it shall not be lawful for the said barrister to certify the rules of such society, until a certificate shall have been obtained, under the hand of the actuary to the National Debt Office, to the effect that the rate of interest proposed to be taken, including therein all charges whatsoever, except the aforesaid sum of [^{F18}7½p], or so much thereof as shall be charged for the form of application and expence of inquiry, is not greater than is allowed by this Act; for which certificate the said actuary shall be entitled to have a fee of [^{F18}£1.5p], and no more.

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Textual Amendments

F18 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

23 Sums herein stated to be in full of all charges.

The said sum of [^{F19}7½p] , or so much thereof as shall be charged under this head by each society, and the sum so to be taken by way of interest, shall be in full of all charges and demands to be made by the said society for making inquiry, and for executing the note, and for the purchase of the borrower’s pass book and copy of the rules, and all other books, papers, or things which he is required by the society to have, and for all business whatsoever connected with the granting of the said loan; and it shall not be lawful by the rules of any such society to impose any fine or penalty for any irregularity in making payment of the instalments of the loan, except by requiring the balance of the loan then remaining due and unpaid, or any part thereof, to be paid either forthwith, or within such time as shall be allowed by the rules of the society; . . .^{F20} and it shall be expressed in the enrolled rules of every such society that an entry must be made in the borrower’s pass book of every payment made to the society by any such borrower, including the payment made for inquiries; and entries shall be made therein accordingly.

Textual Amendments

F19 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
F20 Words repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. V](#)

24 Instalments not to be paid in advance, nor loans to be balloted for. Penalty.

It shall not be lawful for any such society to receive from any borrower any sum by way of instalment or otherwise, (except the said sum of [^{F21}7½p] , or so much thereof as shall be taken for the form of application and expenses of inquiry,) before the day when the loan shall be actually advanced and paid to such borrower; nor shall it be lawful for any such society to cause the applicants for loans to ballot for precedence, or in any way to make the granting of any such loan to depend upon any chance, lot or other gambling device whatsoever; and every society which shall offend against this enactment shall forfeit all the benefit of the provisions of this Act.

Textual Amendments

F21 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

25 ^{F22}

Textual Amendments

F22 [Ss. 1, 2, 25, 30, 31](#) repealed by [Statute Law Revision \(No. 2\) Act 1874 \(c. 96\)](#)

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26 Forms stated in schedule may be used.

F23

Textual Amendments

F23 Ss.18, 26 repealed by Statute Law (Repeals) Act 1981 (c. 19), Sch. 1 Pt. V

27 Abstract of accounts to be made out yearly, and sent to the barrister.

The trustees of every society established under the provisions of this Act, or which may become entitled to the benefits thereof, shall cause an abstract of the accounts of such society for each year to be made out, and up to the thirty-first day of December, together with a statement of the funds and effects and of the debts or liabilities of such society, and an estimate of the clear net profit or loss up to that period; which abstract, statement, and estimate shall be in such forms, and shall contain such particulars connected with the accounts and transactions of such society, as the barrister appointed to certify the rules of savings banks shall from time to time direct; and acopy of such abstract, statement, and estimate, duly certified to be correct by the secretary, treasurer, and at least one trustee, shall, during the month of January in each year, be delivered or sent to the said barrister, and shall be laid by him before both Houses of Parliament; and every society which shall refuse or neglect to deliver such account as aforesaid shall be liable to a penalty of fifty pounds, to be recovered, at the suit of the said barrister, against the trustees of the society, in any of her Majesty's superior courts of record: Provided always, that the trustees shall not be liable, in their persons or goods, to the consequences of any judgment obtained against them in any such suit, but the same shall avail and be enforced only against the stock and goods of the society in their hands or within their control.

28 Extent of Act.

This Act shall extend to England, Wales, Berwick-upon-Tweed, . . . F24 .

Textual Amendments

F24 Words repealed by Statute Law (Repeals) Act 1981 (c. 19), Sch. 1 Pt. V

29 Interpretation clause.

. . . F25 whenever in this Act, in describing any person or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include also several persons or things, and females as well as males; unless there be something in the subject or context repugnant to such construction.

Textual Amendments

F25 Words repealed by Statute Law Revision (No. 2) Act 1890 (c. 51)

30, 31. F26

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Textual Amendments

F26 Ss. 1, 2, 25, 30, 31 repealed by Statute Law Revision (No. 2) Act 1874 (c. 96)

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