

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1941.

# A BILL

To provide for the registration and management of funeral benefit societies; and for purposes connected therewith.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Funeral Benefits Act, 1941."

Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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**2.** In this Act, unless the context or subject matter otherwise indicates or requires— Definitions.

5       “Committee of management” means the governing body by whatever name known of a funeral benefit association and, without limiting the generality of the foregoing, means, in the case of a funeral benefit association which is a body corporate, the board of directors or other the governing body of the body corporate.

10       “Funeral benefit” means the provision of funeral and burial or cremation services (with or without any other services or benefits connected therewith) or of the costs and expenses of such funeral and burial or cremation services or  
15       other such services or benefits connected therewith.

20       “Funeral benefit association” means any person or body of persons (corporate or unincorporate) which undertakes or carries on in New South Wales (whether alone or in conjunction with any other business) the business of providing funeral benefit to members of the association or to other persons in respect of whom contributions are made to the association by members  
25       thereof.

      “Kindred” includes step-children, adopted children and step-parents.

30       “Member” means any person who makes periodical contributions in the form of payments, by whatever name known, to a funeral benefit association in respect of funeral benefits provided or to be provided by that association.

      “Model rules” means the model rules prescribed under this Act.

35       “Prescribed” means prescribed by this Act or by the regulations.

40       “Public officer” of an association means the person named as such in the application for registration or in any subsequent notice by the association to the Registrar under this Act.

      “Registered

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“Registered” means registered under this Act.

“Registrar” means the Registrar of Funeral Benefit Associations.

5 “Regulations” means regulations made under this Act.

“Rules” means the rules from time to time in force of a registered funeral benefit association.

**3.** (1) Subject to this Act, no funeral benefit association shall carry on business as a funeral benefit 10 association unless it is registered.

(2) Subsection one of this section shall not apply to or in respect of—

(a) a friendly society registered under the Friendly Societies Act, 1912-1935;

15 (b) a person carrying on insurance business within the meaning of the Insurance Act 1932-1937 of the Parliament of the Commonwealth and who has made the deposit required by that Act or who has been exempted from the requirement 20 of that Act to make a deposit;

(c) a society registered under the Co-operation Act, 1923-1941;

(d) a trade union registered under the Trade Union Act, 1881-1936;

25 (e) an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act 1904-1934 of the Parliament of the Commonwealth.

30 (3) If any funeral benefit association carries on business as such in contravention of this section, it shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding five pounds for every day upon which such business is so carried on.

35 **4.** The Registrar of Funeral Benefit Associations shall be the person who, for the time being, holds the office of Registrar of Friendly Societies or who is, for the time being, acting in the place of such Registrar.

Registrar  
of Funeral  
Benefit  
Association.

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5. (1) A funeral benefit association may be formed for the purpose of undertaking or carrying on in New South Wales the business of providing funeral benefit to members of the association or to other persons in respect of whom contributions are made to the association by members thereof.
- (2) A funeral benefit association may be formed by any seven or more persons who are qualified to be members of that association.
- 10 (3) No funeral benefit association formed after the commencement of this Act shall be registered under this Act unless there has been a meeting at which there have been present seven or more persons qualified to be members of the association.
- 15 (4) At the meeting there shall be presented—
- (a) a written statement showing the purpose for which the association is to be formed, and particulars of the scheme by which funeral benefit is to be provided, including the amount of such benefit or the value of the funeral, burial, cremation or other services to be provided;
- 20 (b) a copy of the rules which it is proposed to tender for registration.
- (5) If, at the same or any subsequent or adjourned meeting, after consideration of the statement and rules, seven or more persons qualified to be members approve the rules with or without amendment and sign an application for membership, they shall proceed to elect in accordance with the rules so approved—
- 25 (a) the first committee of management of the association;
- (b) three or more trustees of the association;
- (c) the public officer of the association.
- 30 (6) Within one month after the election of the committee of management an application shall be made in the prescribed manner to the Registrar for the registration of the funeral benefit association.

Formation.  
cf. Act No.  
1, 1924,  
s. 39.

Such

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Such application shall be accompanied by—

- (a) a statutory declaration from the chairman and secretary of the meeting as to compliance with the requirements of this section;
- 5 (b) a copy of the statement;
- (c) two copies of the proposed rules signed by not less than seven applicants for membership, each of whose signatures shall be attested by a witness;
- 10 (d) a list containing the full name and the occupation and address of each member of the committee of management, of each of the trustees, and of the public officer of the association;
- 15 (e) a list containing the full name and the occupation and address of each applicant for membership of the association;
- (f) a statement setting forth the full name and the address and occupation of the public officer of the association;
- 20 (g) a list containing the full name and the address and occupation of each of the trustees of the association;
- (h) such other particulars as may be prescribed.

25 (7) The statutory declaration mentioned in section six of this section may be accepted by the Registrar as sufficient evidence of compliance with the requirements of this section.

30 **6.** (1) The provisions of this section shall have effect with respect to every funeral benefit association which is carrying on business as such immediately before the commencement of this Act.

(2) The funeral benefit association shall, within six months after the commencement of this Act, make an application in the prescribed manner to the Registrar  
35 for the registration under this Act of the association.

(3) Every such application shall be accompanied by two copies of the rules of the funeral benefit association, verified by a statutory declaration of the public officer

Existing  
Funeral  
Benefit  
Associa-  
tions.  
cf. Act No.  
1, 1924,  
s. 41.

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officer of the association, and shall also be accompanied by a statement or statements setting forth—

- (a) the name of the funeral benefit association and the address of its office;
- 5 (b) the whole of the objects for which the funeral benefit association is established and particulars of the scheme by which benefits are to be provided, including the amount of such benefits or the value of the funeral, burial, cremation or other services to be provided;
- 10 (c) the purposes for which the funds of the funeral benefit association are to be applicable;
- (d) the name and address of the chairman and each of the other members of the committee of management of the funeral benefit association and of the public officer of the funeral benefit association;
- 15 (e) particulars of the property and funds of the funeral benefit association;
- 20 (f) a list of members of the funeral benefit association;
- (g) the names and addresses of three trustees appointed to administer the Benefits Trust Fund of the funeral benefit association; and
- 25 (h) such other particulars as may be prescribed.

(4) Where any alteration of the rules of a funeral benefit association is necessary to bring them into conformity with the provisions of this Act, such alterations may be made under and in accordance with the provisions in that behalf contained in its rules.

7. (1) Every application for registration of a funeral benefit association made under section five or section six of this Act shall be accompanied by a report by an actuary approved by the Registrar upon the scheme by which funeral benefit is to be provided.

Report of actuary.

(2) The report by the actuary shall include—

- (a) a statement indicating the proportion of each contribution by a member which is to be paid to

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- to the trustees of the Benefits Trust Fund of the funeral benefit association;
- 5 (b) a statement indicating that, in the opinion of the actuary, the proportion of contributions to be paid to such trustees, together with other moneys (if any) to be paid into the fund is adequate to provide the benefits to members in accordance with the rules of the association and also indicating the information, calculations and reasons upon which such opinion is based;
- 10 and
- (c) particulars or opinions as to such other matters as may be prescribed.

8. (1) A funeral benefit association shall not be registered unless its rules contain provisions with respect to the following matters, that is to say—

Matters for which provision must be made in the rules.

- 20 (a) the conditions under which persons may become members, the rates of contributions and any other moneys to be paid by members, the scale and nature of benefits to be provided and the fines and forfeitures which may be imposed on members;
- (b) the extent to which benefits enure after contributions cease to be paid;
- 25 (c) the holding of annual general meetings of members and other meetings of the association;
- (d) the investment of the funds, the keeping of the accounts, and the audit of the same once a year at least;
- 30 (e) the proportion of each contribution of a member which is to be paid to the trustees of the Benefits Trust Fund of the association;
- (f) the inspection of the books of the association by any member, or his legal personal representative;
- 35 (g) the appointment and removal of the trustees, the public officer and the committee of management;

(h)

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(h) the manner of making, altering or rescinding the rules; and

(i) such other matters as may be prescribed.

(2) Subject to subsection three of this section the 5 rules of every registered funeral benefit association shall stipulate that—

10 (a) no funeral benefit to be provided by the association shall in respect of any one person exceed an amount of thirty pounds or the equivalent thereof in funeral and burial or cremation services or (where that person is a child under the age of ten years) exceed an amount of five pounds or the equivalent thereof in funeral and burial or cremation services; and

15 (b) no funeral benefit shall be provided by the association for any persons other than members, their husbands, wives, children or kindred or those dependants of members who are nominated by members when making the first contribution for benefits for such dependants.

20 (3) Nothing in subsection two of this section shall be construed as requiring or authorising any registered funeral benefit association which was carrying on business as such immediately before the commencement of 25 this Act, and which, in accordance with its rules, undertook to provide benefits greater in amount or in extent than those referred to in that subsection, to so amend its rules as to deprive any member who was, before such commencement, contributing for such greater benefits, 30 from continuing to so contribute, or from receiving the benefits which the association so undertook to provide.

(4) A funeral benefit association shall be registered under this Act for the purpose of undertaking or carrying on the business of providing funeral benefit 35 and for no other purpose, and no such association so registered shall undertake or carry on any other business.

9. (1) A funeral benefit association shall not be registered under this Act by a name identical with that 40 by which any other funeral benefit association is already registered,

Name.  
cf. Act No.  
1, 1924,  
s. 40.



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registered, or identical with any of the names mentioned in subsection two of this section or so nearly resembling any such name as, in the opinion of the Registrar, to be calculated to deceive.

- 5 (2) The names referred to in subsection one of this section are—
  - (a) the name of a friendly society registered under the Friendly Societies Act, 1912-1935;
  - 10 (b) the name of a company within the meaning of the Companies Act, 1936;
  - (c) a business name under which any firm, individual or corporation is registered under the Business Names Act, 1934;
  - 15 (d) the name of a society registered under the Co-operation Act, 1923-1941;
  - (e) the name of a trade union registered under the Trade Union Act, 1881-1936;
  - 20 (f) the name of an association of employees registered as an organisation under the Commonwealth Conciliation and Arbitration Act, 1904-1934, of the Parliament of the Commonwealth.

(3) If a funeral benefit association is, through inadvertence or otherwise, registered by a name by which its registration is prohibited under subsection one of this section, the funeral benefit association shall, if the Registrar so directs, change its name.

(4) A funeral benefit association may change its name by an alteration of its rules made in the manner provided in that behalf by its rules.

(5) The change of name shall not affect the identity of the funeral benefit association or any right or obligation thereof or of any member or other person; nor shall it render defective any legal proceedings by or against the trustees or any other officer who may sue or be sued on behalf of the association.

**10.** If the Registrar is satisfied that a funeral benefit association which has made application for registration under this Act has complied with the requirements of this <sup>Registration.</sup>

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this Act and the regulations, and that the rules of the society, the scheme by which funeral benefit is to be provided, and the report of the actuary thereon are not contrary to the requirements of this Act and the 5 regulations, the Registrar shall register the association and its rules, and issue a certificate that the association is registered under this Act.

11. (1) Model rules shall be prescribed by regulation for registered funeral benefit associations.

Model rules.  
cf. Act No.  
1, 1924,  
s. 81.

10 (2) A funeral benefit association which is to be registered under this Act or is registered thereunder may adopt as its rules all or any of the model rules.

(3) Where a funeral benefit association is formed under this Act, in so far as any rules tendered 15 for registration are not inconsistent with or do not exclude or modify the model rules, the model rules shall be deemed to form part of the rules of the society in the same manner and to the same extent as if they were contained in the rules tendered.

20 (4) No alteration of the model rules shall apply to any funeral benefit association which is registered before the alteration is published in the Gazette unless the association by rule adopts the alteration.

12. (1) (a) The rules of a registered funeral benefit 25 association shall bind the association and all members and officers thereof and all persons claiming through them respectively to the same extent as if each member and officer had subscribed his name and affixed his seal thereto and there were contained in the rules a covenant 30 on the part of each member and his legal representatives and of each officer and his successors in office to observe all the provisions of the rules subject to the provisions of the Act.

Rules.  
cf. *Ibid.*  
s. 73.

35 (b) For the purposes of this subsection, the trustees, members of the committee of management, public officer, secretary and any other person in a position of trust and authority shall be deemed to be officers of the association.

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(2) The rules of a registered funeral benefit association, copies whereof are lodged with the application for registration, shall upon registration be the rules of that association, but may be amended in accordance with the provisions in that behalf made by the rules.

(3) (a) No amendment of the rules of a registered funeral benefit association shall be valid unless and until the same is registered by the Registrar.

(b) No amendment of any rule of a registered funeral benefit association which contains any table of contributions or benefits or which might in any way affect the sufficiency of the contributions to provide funeral benefits, shall be so registered unless the Government Actuary first certifies that the contributions under the rules as amended are sufficient to provide the funeral benefit or that the amendment improves or does not in any way prejudice the financial position of the benefits trust fund of the association.

(4) A copy of the rules of any registered funeral benefit association shall be delivered by the public officer thereof to any person upon payment of the sum of one shilling.

**13.** (1) Where the Registrar refuses to register a funeral benefit association or any of its rules or refuses to register any alteration of a rule of a registered funeral benefit association or refuses to register or directs a change of the name of any registered association or gives notice of his intention to cancel the registration of an association the Registrar shall, if so required by the association, set forth in writing under his hand the grounds of his refusal or the grounds upon which the direction was given or the grounds of the proposed cancellation, as the case may be.

Appeal.  
cf. Act No.  
1, 1924,  
s. 122.

(2) The funeral benefit association may summon the Registrar to appear before a judge of the Supreme Court to substantiate and uphold the grounds so set forth.

(3) Rules of court of the Supreme Court may be made for the purpose of prescribing the time within which any summons under this section may be served, and

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and for the purpose of regulating the practice and procedure in matters arising under this section.

(4) The decision of the judge on any such summons shall be final and the Registrar shall carry the same into effect.

14. (1) Every registered funeral benefit association shall have three or more trustees. Trustees. cf. Act No. 46, 1912, s. 32.

(2) The trustees shall be appointed in the manner provided in that behalf by the rules of the funeral benefit association.

(3) The same person shall not be a member of the committee of management or the public officer of a registered funeral benefit association and a trustee of that association.

(4) The funeral benefit association shall send to the Registrar a notice, in the prescribed form and signed by such persons as may be prescribed, of every appointment, retirement or removal of a trustee.

15. (1) All property belonging to a registered funeral benefit association, whether acquired before or after the association is registered, shall vest in the trustees for the time being of the association for the use and benefit of the association and the members thereof and of all persons claiming through the member in accordance with the rules of the association. Vesting of property. cf. Ibid. s. 34.

(2) All property comprising the Benefits Trust Fund of a registered funeral benefit association shall be kept by the trustees as a separate fund.

(3) (a) Where property other than the Benefits Trust Fund vests in the trustees in accordance with the provisions of this section the rules of the funeral benefit association shall specify the purposes for or towards which such property may be applied.

(b) A registered funeral benefit association may acquire in the names of the trustees by lease, purchase, devise, bequest or otherwise any real or personal property for the purpose of transacting the business of the association and may sell, exchange, mortgage or lease such

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such property or any part thereof; and no purchaser, assignee, mortgagee or tenant shall be bound to inquire as to the authority for any sale, exchange, mortgage or lease and the receipt of the trustees shall be a valid discharge for all moneys arising from or in connection therewith:

Provided that the moneys of the Benefits Trust Fund shall not be used or applied for any purpose authorised by this paragraph.

10 **16.** Upon the death, resignation, or removal of a trustee of a registered funeral benefit association, the property vested in that trustee shall, without conveyance or assignment, and whether the property is real or personal, vest, as personal estate subject to the same trusts, in the succeeding trustee of that association either solely or together with any surviving or continuing trustees, and until the appointment of succeeding trustees, shall so vest in the surviving or continuing trustees only, or in the executors or administrators of the last surviving or continuing trustee, except that stocks and securities in the public funds shall be transferred into the names of the succeeding trustees either solely or jointly with any surviving or continuing trustees.

Devolution on death. cf. Act No. 46, 1912, s. 35.

25 **17.** (1) The proportion of each contribution by a member of a registered funeral benefit association provided in the rules to be paid to the trustees for the Benefits Trust Fund of the association shall be forthwith paid by the association to the trustees to be placed by the trustees to the credit of a trust fund (to be called the Benefits Trust Fund) of the association.

Benefits Trust Fund.

(2) The trustees may invest any moneys standing to the credit of the Benefits Trust Fund in any manner in which trustees are for the time being authorised to invest trust funds in their hands.

(3) The income received from any such investment shall be paid into the Benefits Trust Fund.

(4) Subject to this Act the Benefits Trust Fund shall be applied only for or towards the provision of funeral benefit for members or persons for whom or on whose

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whose behalf contributions have been made; and no property comprising any part of that fund shall be liable to be taken in execution under the order or process of any court at the instance of any creditor (other than a member in his capacity as member or his legal personal representative) of the association.

(5) The moneys in the Benefits Trust Fund shall be accounted for and invested separately from all other moneys or funds of the association.

(6) The costs and expenses incurred in the administration of the Benefits Trust Fund in any year may be paid out of any income earned in that year in excess of three per centum of such fund or out of any other funds of the association.

18. Where the Registrar is satisfied that any moneys belonging to any fund of a registered funeral benefit association have been used or applied for any purpose not authorised by the provisions of this Act or the rules of the association he may, in writing, direct the trustees of such association to restore such moneys to such fund within such time as he may notify in his direction.

Moneys misapplied to be restored. cf. Act No. 46, 1912, s. 38 (3).

Any trustee failing to comply with such direction shall be liable to a penalty not exceeding twenty pounds.

19. In all legal proceedings whatsoever concerning any property vested in the trustees of a registered funeral benefit association the property may be stated to be the property of the trustees in their proper names as trustees for the association without further description.

Description in legal proceedings. cf. *Ibid.* s. 37.

20. (1) Where any portion of any fund of a registered funeral benefit association has been invested upon mortgage of land, a receipt under the hands of the trustees, countersigned by the public officer in or to the effect of the form in the Schedule to this Act, if endorsed upon, or annexed to the mortgage or other assurance, shall, without reconveyance or resurrender, vacate the mortgage or assurance and vest the property therein comprised in the person entitled to the equity of redemption of that property to the uses and upon the trusts to or upon which the equity of redemption at the date of such receipt stood limited.

Receipt of trustees to act as reconveyance. cf. *Ibid.* s. 40.

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(2) Subsection one of this section shall extend to mortgages of land under the Real Property Act, 1900; but in such case the receipt shall be in or to the effect of such form and be registered in such manner as  
 5 may be prescribed by regulations made under the Conveyancing Act, 1919-1939, as amended by subsequent Acts, and the Registrar-General shall make such entries in the register and upon the memorandum of mortgage as may be necessary.

10 **21.** Before the first day of August in each year the public officer of every registered funeral benefit association shall furnish to the Registrar— Returns.

(a) a general statement of the receipts and expenditure, funds, properties and effects of the  
 15 association as audited by a person approved by the Registrar which statement shall—

(i) be made out for the period of twelve months ending on the thirtieth day of June immediately preceding, or, in the  
 20 case of the first statement so furnished in respect of an association, to the thirtieth day of June following the registration of the association;

(ii) show separately the receipts and expenditure in respect of the funeral  
 25 benefit business of the association and in respect of other purposes;

(iii) be verified by statutory declaration of such public officer;

30 (b) duplicates of all balance-sheets and any other financial statements and any reports issued by the association during or in respect of the period ending on the said thirtieth day of June;

35 (c) particulars with respect to—

(i) persons who have become members during the period ending on the said  
 thirtieth day of June;

(ii) persons who have ceased to be members during such period and the reasons  
 40 therefor; and

(iii)

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(iii) such other matters relating to the affairs of the association as the Registrar may from time to time require.

- 5 **22.** (1) Once at least in every five years, as and when Valuations.  
determined by the Registrar, the assets and liabilities  
of the Benefits Trust Fund of every registered funeral  
benefit association shall be valued by the Government  
Actuary:
- 10 Provided that the Registrar, on the recommendation  
of the Government Actuary, may dispense with such a  
valuation in respect of any association to whose pur-  
poses or to the nature of whose operations the Govern-  
ment Actuary deems such a valuation to be inapplicable.
- 15 (2) The committee of management of the associa-  
tion and the trustees of the said fund shall furnish to or  
make available to the Government Actuary all such  
books, accounts, documents and information as the Gov-  
ernment Actuary may require for the purposes of the  
20 valuation.
- (3) On the completion of the valuation the Gov-  
ernment Actuary shall send to the Registrar an abstract  
of the results of the valuation and a report thereon, and  
the Registrar shall furnish a copy of same to the associa-  
25 tion.
- (4) If from his valuation it appears to the Gov-  
ernment Actuary that the assets of the said fund are  
insufficient to meet its liabilities he shall notify the Regis-  
trar in writing, pointing out—
- 30 (a) the apparent cause and the nature and extent  
of the deficiency; and
- (b) the nature and extent of the changes in the con-  
tributions or benefits or the manner of conduct-  
ing the business of the association that will be  
35 necessary in order that the assets of the said  
fund will be sufficient to meet its liabilities.
- (5) The Registrar shall furnish the association  
with a copy of such notification upon receipt of which it  
shall be the duty of the association to alter its rules so as  
to



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to effect such changes in its contributions or benefits or to make such changes in the manner of conducting its business as may be necessary in order that the assets of the said fund will be sufficient to meet its liabilities.

5 (6) If from his valuation it appears to the Government Actuary that the assets of the said fund are more than sufficient to meet its liabilities he shall notify the Registrar in writing pointing out—

- 10 (a) the apparent cause and the nature and extent of the surplus;
- (b) the nature and extent of the changes in the contributions or benefits that will be necessary to enable the surplus to be reduced or eliminated.

15 (7) The Registrar shall furnish the association with a copy of such notification upon receipt of which it shall be the duty of the association to alter its rules so as to effect such changes in its contributions or benefits: Provided that—

- 20 (a) the association may formulate a scheme for the reduction or elimination of such surplus by a distribution of portion thereof among its members but so that the remaining portion of such surplus not so distributed does not exceed ten per centum of the total amount to be so distributed; and
- 25 (b) if the scheme is approved by the Government Actuary—
- (i) the association shall be deemed to have complied with the foregoing provisions of this subsection; and
- 30 (ii) the said trustees shall distribute among the members the portion of the surplus as approved for distribution.

23. (1) The Registrar may by writing under his hand cancel the registration of a registered funeral benefit association—

- (a) if he thinks fit at the request of the association which request shall be evidenced in such manner as he may from time to time direct; or

(b)

Cancellation  
of registra-  
tion.  
cf. Act No.  
46, 1912,  
s. 25.

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5 (b) upon proof to his satisfaction that the registration of the association has been obtained by fraud or mistake or that the association exists for an illegal purpose or has wilfully and after notice from the Registrar violated any of the provisions of this Act or the regulations or the rules of the association or has ceased to exist; or

10 (c) if within three months after receipt of a notification under section twenty-two of this Act or within such further time as the Registrar may allow, the association does not so alter its rules or make such changes in the manner of conducting its business or formulate such a scheme (as the case may be) the Registrar may cancel the registration of the association under this Act.

20 (2) Before cancelling the registration of an association on any of the grounds referred to in paragraph (b) or paragraph (c) of subsection one of this section the Registrar shall give to the association not less than two months notice in writing of his intention to cancel such registration and shall, in such notice, specify briefly the grounds of such proposed cancellation.

25 **24.** (1) The following provisions shall have effect with regard to the cancellation of the registration of a registered funeral benefit association:—

Consequence of cancellation.

30 (a) Cancellation of the registration of an association shall be notified by the Registrar by writing under his hand to the public officer of the association, and such notice shall specify briefly the ground of the cancellation of the registration;

35 (b) the association whose registration under this Act has been cancelled shall thereupon absolutely cease to enjoy as such the privileges of a registered association but without prejudice to any liability actually incurred by such association which may be enforced against the same as if such cancellation had not taken place; and

(c)

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(c) save as aforesaid an association whose registration has been cancelled shall not undertake or carry on funeral benefit business after the date of such cancellation.

5 (2) Upon the cancellation of the registration of an association under this Act the Registrar shall order the trustees of the Benefits Trust Fund of the association to realise upon any securities held by them, and, after meeting any claims in respect of benefits accrued before  
10 such cancellation and providing for the costs and expenses of such realisation and distribution to members, to distribute the moneys standing to the credit of such fund rateably among members according to the amounts of their interests in the fund as determined by  
15 the Government Actuary.

25. (1) The Registrar shall, on the application of a majority of the committee of management or of not less than one-fifth of the members of a registered funeral benefit association—

Special meetings and inquiries.

20 (a) call a special meeting of the association; or  
(b) hold an inquiry into the affairs of the association.

(2) The application shall be supported by evidence to the satisfaction of the Registrar that the  
25 applicants have good reason for requiring the meeting or inquiry, and that the application is made without malicious motive.

(3) Such notice of the application shall be given to the association as the Registrar directs.

30 (4) The applicants shall give such security for the expenses of the meeting or inquiry as the Registrar directs.

(5) The Registrar may direct at what time and place the meeting is to be held, and what matters are  
35 to be discussed and determined at the meeting and shall give such notice to members of the holding of such meeting as he deems fit notwithstanding any provision in the association's rules as to the giving of such notice.

(6) The meeting shall have all the powers of a  
40 meeting called in accordance with the rules of the association, and shall have power to appoint its own chairman

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chairman, any rule of the association to the contrary notwithstanding.

(7) The Registrar may appoint an inspector for the purpose of the inquiry.

5 (8) All expenses of and incidental to the meeting or inquiry shall be defrayed by the applicants or out of the funds of the association, or by any officer or member or former officer or member, in such proportion as the Registrar directs, and may be recovered as a debt in any  
10 competent court.

(9) The Registrar may without any application hold an inquiry into the working and financial condition of the association, and for that purpose may appoint an inspector to examine into and report to him upon the  
15 affairs of the association.

(10) The Registrar or any inspector appointed by him may for the purposes of any inquiry under this section require the production of all or any of the books or documents of the association, and may examine on  
20 oath any officer, member, agent or employee in relation to the business of the association, and may administer an oath accordingly.

(11) (a) Upon the completion of any inquiry under this section the Registrar may if he thinks fit call  
25 a special general meeting of the association.

(b) The provisions of subsections five, six, and eight of this section shall apply to such meeting.

26. (1) If any dispute arises between a registered <sup>Disputes.</sup>  
30 funeral benefit association or the trustees thereof and—

(a) any member of the association or his legal personal representative; or

(b) any person aggrieved who has ceased to be a member or his legal personal representative—  
35 in respect of any claim made by any such member, person aggrieved or legal personal representative the Registrar may settle such dispute and make such award as he thinks proper and such award shall be final and conclusive and binding upon the parties to the dispute.

Where

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Where the dispute is so referred, the Registrar may administer an oath, and may require the attendance of any party or witness, and the production of any book or document relating to the matter in question.

5 (2) Any such award may be enforced as if it were an award on a submission under the Arbitration Act, 1902, as amended by subsequent Acts.

10 (3) If any association or trustee fails to comply with the requirements of any award made by the Registrar pursuant to this section the association or trustee (as the case may be) shall (without affecting any other liability) be liable to a penalty of not more than one hundred pounds.

15 **27.** Every registered funeral benefit association shall have a registered office to which all communications and notices may be addressed, and shall send to the Registrar notice of the situation of that office, and of every change therein. Registered office.

20 **28.** Notice in the prescribed form of every change in the person for the time being holding the office of public officer of a registered funeral benefit association shall be lodged by the association with the Registrar within seven days after such change takes place. Public officer.

25 **29.** (1) The trustees of a registered funeral benefit association or any other officers authorised by the rules thereof, may bring or defend, or cause to be brought or defended, any action or other legal proceeding in any court whatsoever, touching or concerning any property, right, or claim of the association and may sue and be sued in their proper names, without other description than the title of their office. Trustees or other officers may represent association in legal proceedings.

30 (2) In legal proceedings brought under this Act by a member, or person claiming through a member, an association may also be sued in the name, as defendant, or any officer or person who receives contributions on behalf of the association within the jurisdiction of the court in which the legal proceeding is brought, with the addition of the words "on behalf of the association" (naming the same).

(3)

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(3) A legal proceeding shall not abate or be discontinued by the death, resignation, or removal from office of any officer, or by any act of any such officer after the commencement of the proceedings.

5 (4) The summons, writ, process, or other proceeding to be issued to or against the officer or other person sued on behalf of an association shall be sufficiently served by personally serving that officer or other person, or by leaving a true copy thereof at the  
10 registered office of the association, or at any place of business of the association within the jurisdiction of the court in which the proceeding is brought, or, if that office or place of business is closed, by posting the copy on the outer door of that office or place of business.

15 (5) In all cases where the said summons, writ, process, or other proceeding is not served by means of such personal service or by leaving a true copy thereof at the registered office of the association as aforesaid, a copy thereof shall be sent in a registered letter addressed  
20 to the committee of management at the registered office of the association, and posted at least fourteen days before any further step is taken on the proceeding.

**30.** (1) A registered funeral benefit association which contravenes or fails to comply with any of the  
25 provisions of this Act shall be guilty of an offence against this Act. Penalty.

(2) A registered funeral benefit association which is guilty of an offence against this Act (for which no penalty is specially provided) shall be liable to a  
30 penalty of not more than fifty pounds and in the case of a continuing offence to a further penalty of not more than two pounds for every day on which the offence is continued after conviction.

**31.** Where any funeral benefit association (whether  
35 or not registered under this Act) is convicted of an offence against this Act is a body of persons (corporate or unincorporate) every member of the committee of management and every director, manager, secretary or public officer of such association shall be deemed to have  
40 committed the like offence unless he proves that the act

Penalty for offence by bodies corporate and by unincorporate bodies of persons.

or

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or omission which constituted the offence took place without his knowledge.

**32.** (1) (a) Where any funeral benefit association is at the commencement of this Act carrying on funeral benefit business and that association has not made application to be registered under this Act within a period of six months after the commencement of this Act or an application so made has been refused the Registrar shall order such association to be wound up and thereupon—

Winding-up of un-registered associations.

(i) all property real or personal and all powers, authorities, immunities, rights, obligations and duties which immediately before the date of such order were vested in, exercisable by or imposed upon the association or the committee of management of such association or any other body or person on behalf of the association shall by virtue of and without further or other authority than this Act be transferred to, vested in, exercisable by, imposed upon and executed by the Registrar;

(ii) the Registrar shall realise upon such property and after discharging the debts and obligations of the association (other than debts and obligations to members) and making provision for the costs and expenses of the winding up of the association distribute the moneys remaining in his hands among the members.

(b) When an order is made by the Registrar as aforesaid the several members of the committee of management of the association and every other body or person referred to in subparagraph one of paragraph (a) of this subsection shall forthwith do such acts and things as in the opinion of the Registrar are necessary in order to carry the order of the Registrar into effect; and every such member, body or person who fails to comply with the provisions of this paragraph shall be guilty of an offence against this Act.

(2) (a) No association which on the of , one thousand nine hundred and forty-one, was carrying on funeral benefit business shall during the period

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period commencing on that day and ending with the registration of the association or on the expiration of the period of six months after the commencement of this Act (as the case may be) make any payment out of its  
5 funds except with the approval in writing of the Registrar or for the purpose of providing benefits which have actually accrued due for members or persons for whom or on whose behalf contributions have been made.

(b) If any payment is made by any association  
10 in contravention of this subsection that association shall be liable to a penalty of not more than one hundred pounds and the Registrar may order the winding up of the association and the provisions of the last preceding subsection shall with such adaptations as are necessary  
15 extend and apply to such winding up.

**33.** Every document bearing the seal or stamp of the Registrar shall be received in evidence without further proof and every document purporting to be signed by the Registrar or by the Government Actuary  
20 or by any inspector exercising any powers under this Act shall in the absence of any evidence to the contrary be received in evidence without proof of signature. Evidence.

**34.** (1) The Registrar shall in every year make to the Minister a report upon— Annual report.

- 25 (a) the principal matters transacted by him under this Act;
- (b) the position and affairs of associations registered under this Act.

(2) Such report shall include a statement by the  
30 Government Actuary of the principal matters transacted by him under this Act and in particular of the valuations made during the period elapsed since the date of the last report made by him to the Minister.

(3) The Minister shall cause all such reports to  
35 be laid before both Houses of Parliament.

**35.** (1) The Governor may make regulations, not inconsistent with this Act prescribing all matters which, by this Act, are required or permitted to be prescribed or which are necessary or convenient to be prescribed for  
40 carrying out or giving effect to this Act. Regulations.



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(2) Without prejudice to the generality of subsection one of this section regulations may be made for or with respect to—

- 5 (a) the registration of funeral benefit associations under this Act;
- (b) the payment of proportions of contributions into Benefits Trust Funds of associations;
- (c) the administration of Benefits Trust Funds by trustees;
- 10 (d) prescribing fees to be paid upon the registration of associations, alterations to rules, the winding up of existing associations by the Registrar and valuations by the Government Actuary under this Act;
- 15 (e) the manner in which and the conditions under which associations may amalgamate or transfer their liabilities to other associations; and
- (f) prescribing forms to be used under this Act (and such form or forms to the like effect shall be valid in law).
- 20 (3) Any such regulation may prescribe—
  - (a) a penalty for any breach thereof and also distinct penalties in cases of successive breaches thereof provided that no such penalty shall exceed fifty pounds;
  - 25 (b) a daily or weekly penalty not exceeding two pounds a day or five pounds a week for any continuing breach thereof.
- (4) All regulations made under this Act shall—
  - 30 (a) be published in the Gazette;
  - (b) take effect from the date of publication or from a later date to be specified in the regulations;
  - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
  - 35

If

68

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If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, 5 the regulation or part shall thereupon cease to have effect.

SCHEDULE.

Sec. 20.

*Form of receipt to be endorsed on Mortgage.*

10 THE trustees of the Funeral Benefit Association hereby acknowledge to have received all moneys intended to be secured by the within (or above) written deed.

Signed (*Signatures of trustees.*)

Trustees.

Countersigned (*Signature of Public Officer.*)

15

Public Officer.