CHAPTER 55.

An Act to declare and amend the law as to the making of advances by building societies, as to the security taken for advances made by such societies, as to the payment of commissions in connection with the business of such societies and as to the liability of persons concerned in the administration of such societies; and for purposes connected with the matters aforesaid.

[4th August 1939.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Additional security in respect of advances made before commencement of Act.

1. In determining the amount of any advance made before the commencement of this Act upon the security of freehold, copyhold, or leasehold estate, a society shall be deemed always to have had power to take into account, besides the freehold, copyhold, or leasehold estate, the value of any additional security for the advance.

Additional security in respect of advances

2.—(1) The provisions of this section shall have effect with respect to advances made by societies to their members after the commencement of this Act upon the security of freehold or leasehold estate.

to members after commencement of Act.

(2) In determining the amount of any such advance as aforesaid, a society shall not have power to take into account the value of any additional security taken by the society for the advance except security of a class specified in Part I of the Schedule to this Act.

(3) Where a charge upon a policy of life assurance is taken as additional security for such an advance as aforesaid, the value of the policy shall be assessed at an amount not exceeding the surrender value thereof at the time when the advance is made.

(4) Where a guarantee given in pursuance of a continuing arrangement, not being such a guarantee as is mentioned in paragraph 3 of Part I of the Schedule to this Act, is taken as additional security for such an advance as aforesaid, the advance shall not exceed ninety-five per cent. of the amount of the purchase price for the defraying of which the advance is made, the basic advance shall not exceed seventy-five per cent. of that amount, and the excess advance shall not exceed twenty per cent. of that amount.

(5) For the purpose of those provisions of the Building Societies Acts, 1874 to 1894, which relate to the borrowing of money by societies incorporated under those Acts, money deposited with such a society as security for an advance made by the society to a member, or as security for any guarantee given in respect of such an advance, shall be deemed to be money borrowed by the society.

Power of society to add to advances to members in certain cases.

3.—(1) For the purpose of facilitating repayment to the society of an advance made or to be made by the society to a member upon the security of freehold or leasehold estate, a society shall have, and shall be deemed always to have had, power to make to the member, by way of addition to the advance aforesaid, a further advance of the whole or part of such sum as may be necessary to enable payment to be made of a single premium payable in respect of a policy of life assurance upon the life of the member or the spouse or son or daughter of the member, being a policy which provides for payment, in the event of the death of the person upon whose life the policy is effected before the advance has been repaid, of any sum not exceeding such sum as is sufficient to defray the sums which are, at and after the time of the death, payable to the society in respect of the advance as

increased by the additional advance made by the society under the power conferred by this subsection.

(2) Where, in pursuance of the power conferred by the last foregoing subsection, a society has added any sum to an advance made by the society upon the security of freehold or leasehold estate, the sum so added to the advance shall not be deemed to form part thereof for the purpose of determining whether the advance is beyond the power of the society by reason—

(*a*) of the amount of the advance being excessive, or

(*b*) of the amount of any excess advance included in the advance being greater than that which is authorised by this Act.

(3) Where a society has made an advance to a member upon the security of freehold or leasehold estate, and the advance is an advance to which the provisions of section six of this Act apply, then, if the society subsequently adds to the advance a further advance under the power conferred by this section, the said provisions shall also apply in relation to that further advance; and for the purpose of the application thereto of those provisions, the further advance shall be deemed to have been made at the time when the original advance was made.

(4) In relation to an advance made by a society before the first day of January nineteen hundred and twenty-six, the references in this section to freehold or leasehold estate shall be deemed to include references to copyhold estate.

Advances after commencement of Act to persons other than members on security of freehold or leasehold estate.

4. Where a society makes an advance after the commencement of this Act upon the security of freehold or leasehold estate to any person other than a member of the society, the society shall not have power to take any additional security for the advance.

Provisions relating to special continuing arrangements.

5.—(1) Where the Minister of Health (hereafter in this section referred to as " the Minister ") is satisfied—

(*a*) that the objects of any corporate body include the improvement of standards of building,

(*b*) that the body issues certificates in respect of buildings which appear to the body to conform to such standards as, in the opinion of the Minister, justify the exercise, in relation to that

body, of the powers conferred on him by this subsection,

(*c*) that reasonable safeguards and remedies are provided with a view to securing that every building in respect of which a certificate is issued by the body conforms to those standards, and

(*d*) that the body has made reasonable arrangements for indemnification against loss suffered by reason that a building in respect of which a certificate has been issued by the body does not conform to those standards,

the Minister may, with the consent of the Treasury, by order approve that body for the purposes of this section.

(2) A building in respect of which such a certificate as aforesaid has been issued by a body with respect to which an order under the last foregoing subsection was in force at the time of the issue is in this section referred to as a certified building; and where a continuing arrangement provides that every guarantee given in pursuance thereof shall relate to an advance made upon the security of freehold or leasehold estate which comprises certified buildings and no other buildings except out-houses, that continuing arrangement is in this Act referred to as a special continuing arrangement, and the provisions of this Act relating to special continuing arrangements shall have effect accordingly.

(3) For the purpose of determining whether a special continuing arrangement conforms to the requirements of Part II of the Schedule to this Act, the said Part II shall have effect as if—

(*a*) for the references in paragraph (*a*) thereof to two-thirds of the purchase price therein mentioned there were substituted references to seventy per cent. of that purchase price,

(*b*) for the reference in paragraph (*b*) thereof to two-thirds of the purchase price therein mentioned there were substituted a reference to seventy per cent. of that purchase price,

(*c*) for the reference in paragraph (*c*) thereof to the first five guarantees there were substituted a reference to the first four guarantees,

(*d*) for the reference in paragraph (*c*) thereof to one-third of the amount of the excess advance there were substituted a reference to one-fourth of that amount,

(*e*) for the references in paragraph (*e*) thereof to the first five advances there were substituted references to the first four advances, and

(*f*) for the references in paragraph (*e*) thereof to two-thirds of the aggregates therein mentioned there were substituted references to seventy per cent. of the said aggregates.

(4) Any order made under this section may be revoked by a further order made by the Minister with the consent of the Treasury.

Period for repayment of certain advances.

6.—(1) This section applies to an advance made by a society to a member if the society takes as additional security for the advance a guarantee given in pursuance of a continuing arrangement, not being such a guarantee as is mentioned in paragraph 3 of Part I of the Schedule to this Act.

(2) After the commencement of this Act, a society shall not have power to make an advance to which this section applies upon terms providing for the payment of any sums to the society in respect of the advance after the expiration of a period of twenty-three years from the date on which the advance is made, or, after any such advance as aforesaid has been made by the society, to make any agreement which has the effect of rendering any sums payable to the society in respect of the advance after the expiration of the said period:

Provided that nothing in this section shall affect the power of a society to make any such agreement as aforesaid, in relation to any 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.

(3) In relation to any advance to which this section applies made on or after the first day of July nineteen hundred and forty, the provisions of the last foregoing subsection shall, unless the continuing arrangement in pursuance of which a guarantee is given to the society

as additional security for the advance is a special continuing arrangement, have effect as if for the reference therein to twenty-three years there were substituted a reference to twenty years.

Notice to be given where security for advance to member is taken from third party.

7.—(1) Where a society makes to a member an advance for the purpose of its being used in defraying the purchase price of freehold or leasehold estate and takes any security for the advance from another person, then, unless before any 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,—

(*a*) stating, if the said estate is taken by the society as security for the advance, the maximum amount which the society would consider proper to advance upon the security of that estate if no other security were taken by the society for the advance, and the amount, if any, by which the advance exceeds the said maximum amount, and

(*b*) containing such particulars as may be prescribed relating to any security for the advance which is taken or is to be taken from any person other than the member,

no sums shall be recoverable, either by the society or by any other person, in respect of the advance or of any security given therefor (whether by the member or otherwise), nor shall any rights be exercisable by virtue of any such security, except by leave of the court.

(2) Where a society makes such an advance and takes such security as aforesaid without giving notice to the member in accordance with the foregoing provisions of this section, the court may, either upon an application for such leave as aforesaid, or upon an application made by the member, re-open the transaction, and may make such orders as to the sums which may be recovered in respect of the advance and of any security given therefor, as to the exercise of any rights conferred by any such security, and otherwise, as the court considers just.

(3) In this section the expression "court" means, in relation to a transaction in which the advance has not at any time exceeded six hundred pounds, the county court, and, in relation to any other transaction, the High Court:

Provided that His Majesty may by Order in Council direct that this subsection shall have effect as if for the words "six hundred pounds" there were substituted such higher sum as may be specified in the Order; and any such Order may be revoked or varied by a subsequent Order made in like manner.

Notice to be given on sale of property in certain cases.

8. Where, at the time when a contract for the acquisition of freehold or leasehold estate is made, there is in force between a society and any person having a financial interest in the disposition of the estate an arrangement in pursuance of which, in the event of the society making an advance comprising an excess advance for the purpose of its being used in defraying the purchase price of that estate, any person will or may provide additional security in respect of the advance, then, unless before the contract was made there was given to the person by whom the estate is to be acquired (hereafter in this section referred to as "the purchaser") a notice in writing, in such form as may be prescribed, stating that the security taken by that society for any advance made by the society for the purpose aforesaid may include additional security provided in pursuance of the arrangement, the purchaser may rescind the contract and, if he has paid any deposit in respect of the contract, he may recover from the person to whom the deposit was paid an amount equal to the deposit.

Provisions relating to certain warranties and representations.

9.—(1) Where a society makes to a member an advance for the purpose of its being used in defraying the purchase price of freehold or leasehold estate, the society shall be deemed to warrant to the member that the purchase price is reasonable unless before any contract requiring the member to repay the advance is entered into the society gives to the member a notice in writing, in such form as may be prescribed, stating that the making of the advance implies no such warranty.

(2) If any person having a financial interest in the disposition of any freehold or leasehold estate or in the erection of any building thereon, or any servant or agent of such a person, makes any representation that the making of an advance by a society upon the security of that estate imports or implies any assurance to the person to whom the advance is made that the estate is sufficient security for the amount of the advance, then,

without prejudice to any other remedy in respect of the representation, he shall, unless he satisfies the court that he had reasonable grounds for believing the representation to be true, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Provisions relating to exercise of power of sale.

10. Where any freehold or leasehold estate has been mortgaged to a society as security for an advance, it shall be the duty of any person entitled by virtue of the mortgage to exercise any power, whether statutory or express, to sell the estate, to take reasonable care in exercising that power to ensure that the price at which the estate is sold is the best price which can reasonably be obtained; and any agreement, if and in so far as it relieves, or may have the effect of relieving, a society or any other person from the obligation imposed by this section, shall be void.

Restriction of payment of commissions, &c.

11.—(1) It shall not be lawful—

(*a*) for a person having a financial interest in the disposition of any freehold or leasehold estate, or any servant of such a person, to receive or agree to receive any commission or gift from a society or from any officer, servant or agent of a society, in consideration of the introduction of mortgage business to the society in connection with the disposition of the estate, or in consideration of a promise to introduce such business to the society, or

(*b*) for a society, or any officer, servant or agent of a society, to offer or give or agree to give any commission or gift to any person known to the society, officer, servant or agent, as the case may be, to have a financial interest in the disposition of any freehold or leasehold estate, or to be a servant of a person having such an interest, for any such consideration as is mentioned in the foregoing paragraph.

(2) For the purposes of this section, a person who is employed, otherwise than in pursuance of a contract of service, in connection with the disposition of any freehold or leasehold estate by a person who has a financial interest in the said disposition shall be treated,

so far as relates to the disposition of that estate, as a servant of the person having the said interest unless he carries on, independently of that person, the business of a solicitor, estate agent, surveyor, or auctioneer.

(3) Where a society has a financial interest in the disposition of any freehold or leasehold estate, nothing in this section shall prohibit—

(*a*) the society, or any officer, servant or agent of the society, from offering or giving or agreeing to give, in relation to the disposition of that estate, any commission or gift to a servant of the society (not being a person who, to the knowledge of the society, officer, servant or agent, as the case may be, either himself has a financial interest in the disposition of the estate or is, in addition to being a servant of the society, also the servant of any person other than the society who has such an interest) for any such consideration as is mentioned in subsection (1) of this section, or

(*b*) a servant of the society (not being a person who himself has a financial interest in the disposition of the estate or who is, in addition to being a servant of the society, also the servant of any person other than the society who has such an interest) from receiving or agreeing to receive, in relation to the disposition of that estate, any commission or gift from the society, or from any officer, servant or agent of the society, for any such consideration as aforesaid.

(4) Any person who contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Valuation of security for advances.

12.—(1) The duties of every director or member of the committee of management of a society shall include the duty of satisfying himself that the arrangements made for assessing the adequacy of the security to be taken

in respect of advances to be made by the society are such as may reasonably be expected to ensure that the adequacy of any 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.

(2) Nothing in this section shall be construed as precluding a director or member of the committee of management of a society from approving such arrangements as aforesaid by reason only that the arrangements provide for the assessment of the adequacy of such security by himself or any other director or member of the committee of management of the society.

(3) Every society shall cause to be kept records showing with respect to every advance made by the society on the security of freehold or leasehold estate—

(*a*) the amount at which the estate was assessed in accordance with the arrangements mentioned in subsection (1) of this section and the name of the person by whom the assessment was made, and

(*b*) particulars of any additional security taken by the society,

and such records shall be open to inspection by the auditor, and by any accountant or actuary appointed under section four of the Building Societies Act, 1894.

57 & 58 Vict. c. 47.

Notices and returns relating to sales and transfers.

13.—(1) Where any freehold or leasehold estate has been mortgaged to a society as security for an advance, it shall be the duty of any person who sells the estate in the exercise of any power, whether statutory or express, exercisable by virtue of the mortgage, to send by registered post, within twenty-eight days from the completion of the sale, to the mortgagor at his last known address a notice containing such particulars relating to the sale as may be prescribed.

For the purposes of this subsection, the expression "mortgagor," in relation to any mortgage effected in favour of a society, includes any person to whom, to the knowledge of the person required to send the notice aforesaid, any of the rights or liabilities of the mortgagor under the mortgage have passed, whether by operation of law or otherwise.

(2) For each period for which an account and statement is prepared in relation to a society under section forty of the Building Societies Act, 1874, the society shall cause to be prepared and to be sent to the registrar, together with the copy of that account and statement which is required to be sent to the registrar under the said section forty, a return, which shall be in such form as may be prescribed and shall contain such particulars as may be prescribed with respect to— 37 & 38 Vict. c. 42.

(*a*) every property which has, during the period to which the return relates, been sold by the society in the exercise of its powers as mortgagee thereof, and

(*b*) every mortgage which has been transferred by the society during the said period.

(3) A person who has effected a mortgage in favour of a society or to whom any of the rights or liabilities of such a person under the mortgage have passed, whether by operation of law or otherwise, shall, subject to any regulations relating to fees or otherwise made under section forty-four of the Building Societies Act, 1874, be entitled to be furnished with a copy of that portion of any return made under the last foregoing subsection which relates to the mortgage; but save as aforesaid no person shall be entitled to require the registrar to permit him to inspect any such return or to furnish him with any extract therefrom.

(4) Nothing in this section affects the operation of any rule of law relating to the duty of a mortgagee to account to a mortgagor.

Application to building societies of 19 & 20 Geo. 5. c. 23, ss. 152 & 372.

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

Provided that—

(*a*) in relation to any such provision which is in force at the date of the commencement of

this Act, this subsection shall have effect only on the expiration of a period of six months from that date,

(*b*) nothing in this subsection shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force, and

(*c*) notwithstanding anything in this subsection, a society may, in pursuance of any such provision as aforesaid, indemnify any such director, member of the committee of management, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted.

19 & 20 Geo. 5. c. 23.

(2) Section three hundred and seventy-two of the Companies Act, 1929 (which empowers the court to grant relief in certain cases of negligence, default, breach of duty, or breach of trust) shall apply to directors, members of the committee of management, managers and officers of a society, and to persons employed by a society as auditors, whether they are or are not officers of the society, in like manner as that section applies to the persons specified in subsection (4) thereof.

Legal proceedings.

15.—(1) If any society incorporated under the Building Societies Acts, 1874 to 1894, fails without reasonable excuse to comply with the provisions of subsection (3) of section twelve of this Act or with any provision of subsections (1) or (2) of section thirteen of this Act, the society and also every officer thereof bound by the rules of the society to fulfil the duty in relation to which the default has occurred, and, if there is no such officer, then every director or member of the committee of management of the society, unless it appears that he was ignorant of or attempted to prevent the default, shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding twenty pounds and to an additional fine not exceeding five pounds for each week during which the offence continues.

(2) If any such unincorporated society as is mentioned in section seven of the Building Societies Act, 1874, fails without reasonable excuse to comply with any such provision as aforesaid, every officer of the society bound by the rules of the society to fulfil the duty in relation to which the default has occurred, and, if there is no such officer, every director or member of the committee of management of the society, unless it appears that he was ignorant of or attempted to prevent the default, shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding twenty pounds and to an additional fine not exceeding five pounds for each week during which the offence continues.

(3) Where any person other than a society fails without reasonable excuse to comply with subsection (1) of section thirteen of this Act, he shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding twenty pounds and to an additional fine not exceeding five pounds for each week during which the offence continues.

(4) For the purpose of the enforcement of any such provision as is mentioned in subsection (1) of this section in relation to a society incorporated under the Building Societies Acts, 1874 to 1894, this section shall have effect in lieu of section twenty-one of the Building Societies Act, 1894.

Interpretation.

16.—(1) For the purposes of this Act, the following expressions shall, except where the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say :—

" Assurance company " means an assurance company within the meaning of the Assurance Companies Act, 1909 : 9 Edw. 7. c. 49.

" Basic advance," in relation to any advance made or to be made for the purpose of its being used in defraying the purchase price of freehold or leasehold estate, means the maximum amount which the society would consider proper to advance upon the security of that estate if no other security were taken by the society :

" Continuing arrangement " means any arrangement made between a society and another

person whereby, in contemplation of a series of advances comprising excess advances being made by the society to members for the purpose of their being used in defraying the purchase prices of freehold or leasehold estates, that person undertakes to give to the society a series of guarantees, each of which is to secure sums payable to the society in respect of such an advance:

"Excess advance" means, in relation to any advance, the amount by which the advance exceeds the basic advance:

"Policy of life assurance" means a policy of life assurance issued by an assurance company or by a friendly society which is a registered society for the purposes of the Friendly Societies Act, 1896:

59 & 60 Vict. c. 25.

"Prescribed" means prescribed by rules made under this Act by the Chief Registrar of Friendly Societies:

"Public utility undertaking" means any company or other body or person authorised by or under any Act, or under any order having the force of an Act, to construct, work, or carry on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, or other public undertaking:

"Purchase price" means, in relation to a leasehold estate, any sum payable as the consideration, or as part of the consideration, for the grant or assignment of the lease:

"Society" means a society incorporated under the Building Societies Acts, 1874 to 1894, and any such unincorporated society as is mentioned in section seven of the Building Societies Act, 1874, but does not, except for the purposes of sections seven, eight, nine, ten and eleven of this Act, include a society which is, or, for the purposes of the Building Societies Acts, 1874 to 1894, is deemed to be, registered in Northern Ireland, or any such unincorporated society as aforesaid whose chief office or principal place of business is in Northern Ireland.

(2) References in this Act to additional security—

(*a*) in relation to an advance made before the commencement of this Act upon the security of freehold, copyhold or leasehold estate by a society incorporated under the Building Societies Acts, 1874 to 1894, shall be construed solely as references to any security for the advance other than a mortgage, whether legal or equitable, of freehold, copyhold or leasehold estate, whether the mortgage was effected by the person to whom the advance was made or by any other person,

(*b*) in relation to an advance made after the commencement of this Act upon the security of freehold or leasehold estate by such a society as aforesaid, shall be construed solely as references to any security for the advance other than a mortgage, whether legal or equitable, of freehold or leasehold estate, whether the mortgage be effected by the person to whom the advance is made or by any other person,

(*c*) in relation to an advance made before the commencement of this Act upon the security of freehold, copyhold or leasehold estate by any such unincorporated society as is mentioned in section seven of the Building Societies Act, 1874, shall be construed solely as references to any security for the advance other than such security by way of mortgage of freehold, copyhold or leasehold estate as the society was authorised to take into account in determining the amount of the advance by virtue of the Act of the sixth and seventh years of the reign of William the Fourth, chapter thirty-two, intituled "An Act for the Regulation of Benefit Building Societies," and

(*d*) in relation to an advance made after the commencement of this Act upon the security of freehold or leasehold estate by such an unincorporated society as aforesaid, shall be construed solely as references to any security for the advance other than such security

by way of mortgage of freehold or leasehold estate as the society is authorised to take into account in determining the amount of the advance by virtue of the Act aforesaid.

(3) References in this Act to a member of a society—

(*a*) include references to a person who has succeeded to any of the rights or liabilities of such a member, and

(*b*) in relation to anything done or to be done before the making of an advance, include references to a person who is a member of the society when the advance is made.

(4) An advance made by a society after the commencement of this Act for the purpose of its being used in defraying sums due to another society in respect of an advance made by that other society before the commencement of this Act shall, if—

(*a*) that other society is, at the time of the making of the advance made after the commencement of this Act, in the course of termination, dissolution or winding-up, and

(*b*) the amount of the said advance does not exceed such amount as is necessary to repay such sums as are due to the last mentioned society in respect of the advance made by it before the commencement of this Act,

be deemed for the purposes of this Act to have been made before the commencement of this Act.

(5) In this Act the expression "disposition," in relation to freehold or leasehold estate, means any disposition of such estate inter vivos, and includes both the grant and the assignment of a lease or underlease, and "acquisition" has a corresponding meaning; and for the purposes of this Act a person has a financial interest in the disposition of freehold or leasehold estate if, and only if, he would, on a disposition of that estate, be entitled, whether directly or indirectly, and whether in possession or remainder, to the whole or part of the proceeds of the disposition.

(6) Rules made by the Chief Registrar of Friendly Societies for prescribing the form in which any notice is to be given under this Act may further provide that the

notice shall be deemed not to have been validly given unless, within such time from the giving of the notice as may be prescribed in the rules, the person to whom the notice was given signed a duplicate thereof and delivered it to the person by whom, or on whose behalf, the notice was given.

(7) In the application of this Act to Scotland—

(*a*) for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State;

(*b*) for subsection (3) of section seven of this Act the following subsection shall be substituted:—

"(3) In this section the expression 'court' means the Court of Session or the sheriff court."

Transitory provision.

17. Nothing in this Act shall deprive a party to any proceedings which were instituted in any court before the twenty-first day of February nineteen hundred and thirty-nine of any relief to which that party would have been entitled in those proceedings if this Act had not been passed.

Short title, citation, construction and extent.

18.—(1) This Act may be cited as the Building Societies Act, 1939.

(2) This Act shall be construed as one with the Building Societies Acts, 1874 to 1894, and those Acts and this Act may be cited together as the Building Societies Acts, 1874 to 1939.

(3) This Act shall come into operation on the first day of November nineteen hundred and thirty-nine.

(4) This Act shall not extend to Northern Ireland.

SCHEDULE

PART I.

Sections 2, 5, 6.

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

1. A charge upon a policy of life assurance.

2. A guarantee given, whether in pursuance of a continuing arrangement or not, by an assurance company.

3. A guarantee given, whether in pursuance of a continuing arrangement or not, by a local authority or a county council under paragraph (*b*) of subsection (1) of section ninety-one of the Housing Act, 1936, or paragraph (*b*) of subsection (1) of section seventy-five of the Housing (Scotland) Act, 1925.

26 Geo. 5. & 1 Edw. 8. c. 51.
15 & 16 Geo. 5. c. 15.

4. A charge given by the member upon money deposited with the society or upon any stocks, funds or shares in which trustees are for the time being authorised by any enactment in force in England or Scotland to invest trust money.

5. A charge given by the member upon the stock, shares or other securities of a public utility undertaking by which the member is or has been employed, being a charge effected in favour of a society which carries on business wholly or mainly for the purpose of facilitating the acquisition of houses by persons who are or have been employed by that undertaking.

6. A guarantee, not being a guarantee given in pursuance of a continuing arrangement, accepted by the society with the written consent of the member, and supported by a charge upon money deposited with the society or upon any such stocks, funds or shares as aforesaid.

7. A charge upon money deposited with the society, being a charge which is given in accordance with arrangements which are approved by the Chief Registrar of Friendly Societies and

which provide that the society shall also take, as further security for each advance in respect of which such a charge is given to the society, a guarantee given by an assurance company.

8. A guarantee given in pursuance of a continuing arrangement which conforms to the requirements of Part II of this Schedule, being, except as otherwise provided in that Part, a guarantee supported by deposits of money made in pursuance of such an arrangement.

PART II.

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 person (hereinafter referred to as " 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 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 all sums which may accrue due to the society in respect of the advance (otherwise than on account of the principal thereof) before the sums repayable to the society on account of the said principal have been reduced to two-thirds of the said purchase price;

(*b*) that the guarantor will not be released from his liability in respect of any such guarantee until the sum 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 his 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, and in the case of each subsequent guarantee shall be at least equal to one-third of that amount;

(*d*) that, subject to any right of withdrawal which may be given by the arrangement in conformity with the next following paragraph, each sum deposited as aforesaid will be held by the society, not only as security for the liability of the guarantor in respect of the guarantee in connection with which it was deposited, but also as security for such sums as may become due to the society in respect of all such advances made (whether before or after the deposit) in pursuance of the arrangement as are, for the time being, advances of which the sums repayable in respect of principal have not been reduced to the amount mentioned in paragraph (*b*) of this Part of this Schedule;

(*e*) that no withdrawal of or from the sums deposited with the society as aforesaid may be made by the guarantor unless the sums held by the society in accordance with the last foregoing paragraph as security in respect of the advances therein mentioned will, after the withdrawal, be of an amount at least equal to the sum of :—

(i) the amount by which the aggregate of the sums then repayable to the society in respect of the principal of such of the said advances as 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 such of the said advances as were so included were made, and

(ii) one-third of the amount by which the aggregate of the sums then repayable to the society in respect of the principal of such of the said 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 such of the said advances as were not so included were made :

Provided that, where a society proposes to make any such arrangement with a government department, a public utility undertaking or any recognised housing society, the Chief Registrar of Friendly Societies, if upon the application of the society he is satisfied that compliance with the foregoing requirements relating to the making or withdrawal of deposits by the guarantor is wholly or partly unnecessary, may, with the approval of the Treasury, direct that all or any of those requirements shall be dispensed with, and where any such direction is so given, the foregoing provisions of this Part of this Schedule shall in relation to any such arrangement have effect subject to the direction.

In this Part of this Schedule the expression "recognised housing society" means any body of persons, whether incorporated or not, which, in the opinion of the Chief Registrar of Friendly Societies, was, at the commencement of this Act, carrying on business mainly for the purpose of facilitating the acquisition of houses by persons engaged or employed in any particular occupation or employment, or, in the case of a body formed after the commencement of this Act, is a body which has succeeded to the business carried on at the commencement of this Act by such a body as aforesaid.

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