

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 December, 1958.*

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. , 1958.

An Act to amend the law relating to co-operation; for that purpose to amend the Co-operation, Community Settlement, and Credit Act, 1923, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen'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 "Co-operation (Amendment) Act, 1958".

Short title
and
citation.

Co-operation (Amendment).

(2) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923-1958.

5 **2.** (1) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, is amended— Amendment of Act No. 1, 1924.

10 (a) by inserting in section five next after the definition of "Rural industry" the following new definition:— Sec. 5. (Interpretation.)

"Share" means share in the share capital of the society, and includes stock except where a distinction between stock and shares is expressed or implied.

15 (b) by omitting subsection two of section eight and by inserting in lieu thereof the following sub-section:— Sec. 8. (Powers.)

20 (2) A rural society shall have and shall be deemed always to have had power to purchase or otherwise acquire and to sell, hire or otherwise dispose of to its members or other persons any goods or commodities.

25 (c) (i) by inserting next after paragraph (di) of section fifteen the following new paragraphs:— Sec. 15. (Powers.)

(dii) sell or let land to its members or to any other society;

30 (diii) subdivide land, make and maintain private ways, bridges, culverts, and drains, and make, open, and dedicate roads;

(ii)

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(ii) by omitting paragraph (e) of the same section and by inserting in lieu thereof the following paragraph:—

5 (e) provide and maintain buildings and grounds for education, recreation, or other community purpose, or operate, maintain or carry on any club, or promote or assist clubs, for any such purpose;

10 (d) (i) by inserting in paragraph (a) of subsection six of section 17A after the word "the" where firstly occurring the words "number of";

Sec. 17A. (Colonial Treasurer may undertake to

15 (ii) by omitting from paragraphs (b) and (c) of the same subsection the words "with each such building society";

indemnify building societies against loss in certain circumstances.)

(iii) by inserting in paragraph (i) of the same subsection after the word "the" where firstly occurring the words "number of";

20 (iv) by omitting from paragraphs (ii) and (iii) of the same subsection the words "with each such building society";

25 (e) (i) by omitting subsection one of section eighteen and by inserting in lieu thereof the following subsections:—

Sec. 18. (Second or subsequent mortgage.)

(1) A building society, other than a Starr-Bowkett society, shall not advance money on the security of any property which is subject to prior mortgage unless—

30 (a) where the advance is made by way of second mortgage, either the approval of the Co-operative Building Advisory Committee is obtained or the prior mortgage is held by the society or by another society;

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(b)

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(b) where the advance is made by way of third mortgage, the second mortgage is held by the society; or

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(c) where the advance is made by way of fourth or subsequent mortgage, all prior mortgages, other than the first, are held by the society.

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(1A) A building society, other than a Starr-Bowkett society, shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the first mortgage is held by another society, also reduced by the share capital of the member in that other society would exceed ninety per centum of the value of the property.

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(1B) A Starr-Bowkett society shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the prior mortgage or, as the case may be, one or more of the prior mortgages is or are held by another society or societies, also reduced by

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the

Co-operation (Amendment).

5 the value of the share capital of the member in that other society or in those other societies, as the case may be, would exceed ninety per centum of the value of the property.

(1c) Where the approval of the Co-operative Building Advisory Committee is required under subsection one of this section—

10 (a) the value of the share capital of a member in a society shall, for the purposes of this section, be calculated in such manner as the Co-operative Building Advisory Committee may direct;

15 (b) the value of property on the security of which money is to be advanced shall, for the purposes of this section, be determined by such person as the Co-operative Building Advisory Committee may direct.

20 (ii) by inserting in subsection two of the same section after the words “provided that” the words “in a case where the approval of the Co-operative Building Advisory Committee is not required under subsection one of this section”;

25 (iii) by omitting from paragraph (b) of the same subsection all words after the word “person” and by inserting in lieu thereof the words “approved by the registrar under section 18A of this Act”;

30 (iv) by inserting in subsection three of the same section after the words “a second” the words “or subsequent”;

35 (v)

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- 5 (v) by omitting from the same subsection the words “, or from advancing money on second mortgage, where the prior mortgage is in favour of the Commissioners of the Government Savings Bank of New South Wales” and by inserting in lieu thereof the following words “and, where the mortgage so taken by way of collateral security is a second mortgage, shall not require the society to obtain any approval to the mortgage under subsection one of this section”;
- 10 (vi) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—
- 15 (4) A building society, other than a Starr-Bowkett society, shall not, without the consent of the Co-operative Building Advisory Committee, postpone the priority of a mortgage held by the society.
- 20 (f) by omitting from subsection one of section thirty-Sec. 31. one the words “the district or is of the class specified in the rules and any rule specifying such district or class shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof the words “such district or is of such class as may be specified in the rules of the society.” (Loans to members.)
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- 30 The registrar shall not register such a rule or any alteration of such a rule unless he approves of the district or class specified in the rule or in the rule as altered, as the case may be”;
- 35 (g) by omitting from subsection eight of section 31A Sec. 31A. the words “a sum to be specified in the rules of the society. Provided that where the sum so specified exceeds one hundred pounds the rule shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof (Loans to members.)

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- 5 thereof the words "such sum as may be specified in the rules of the society: Provided that the registrar shall not register such a rule, or an alteration of such a rule, specifying the sum at a figure exceeding one hundred pounds unless he approves of the sum specified in the rule or in the rule as altered, as the case may be";
- 10 (h) by inserting in subsection one of section thirty-four after the words "building societies." the words "And a small loans society may become a component society of an association of building societies."; Sec. 34. (Association.)
- 15 (i) (i) by omitting subsection three of section thirty-eight; Sec. 38. (Liability and membership.)
- (ii) by omitting from subsection four of the same section the words "In the case of any other society, unless" and by inserting in lieu thereof the word "Unless";
- 20 (j) (i) by inserting at the end of paragraph (b) of subsection five of section thirty-nine the words "presented to the meeting signed by the chairman and secretary of the meeting"; Sec. 39. (Formation.)
- 25 (ii) by omitting subsections seven and 7A of the same section and by inserting in lieu thereof the following subsections:—
- (7) If the registrar is satisfied—
- 30 (a) that the society has complied with the provisions of this Act and the regulations;
- (b) that the proposed rules of the society are not contrary to this Act or the regulations and are such as may reasonably be approved by him;
- 35 (c) that there are reasonable grounds for believing that the society, if registered, will be able to carry out its objects successfully; and
- (d)

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(d) that there is no reasonable cause why the society and its rules should not be registered,

5 the registrar shall register the society and its rules and shall issue a certificate that the society is incorporated under this Act.

(7A) The registrar may refer any application for registration to the Advisory Council constituted under this Act.

10 If that Council is of opinion—

(a) that in the area in which the applicant society proposes to operate, the functions and services which it is designed to discharge and perform are capable of being discharged and performed by an existing society or societies;

(b) that the applicant society is not a bona fide co-operative society; or

20 (c) that the applicant society is not designed or intended to serve equitably the interests of its members and prospective members,

25 it may recommend that registration be not granted.

Upon receipt of such a recommendation the registrar shall refuse to register the applicant society.

30 The provisions of this subsection have effect notwithstanding anything contained in subsection seven of this section or in any other section of this Act.

(k) (i) by omitting subsection two of section forty- ~~Sec. 47.~~
seven and by inserting in lieu thereof the (Shares.)
35 following subsection:—

(2) (a) Shares shall be of a fixed amount which shall be specified in the rules of the society.

(b)

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(b) A society, other than a terminating building society, may, if authorised by its rules, convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares.

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The power conferred by this paragraph shall be exercised by special resolution.

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(ii) by inserting next after subsection five of the same section the following new subsection:—

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(5A) Notwithstanding anything contained in subsections three, four and five of this section, a permanent building society may, if authorised by its rules, declare a greater rate of dividend in respect of paid-up shares than in respect of shares that are not paid-up shares.

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(iii) by omitting from subsection fourteen of the same section the words “six per centum” and by inserting in lieu thereof the words “eight per centum (or such less amount per centum as may be prescribed in lieu thereof)”;

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(l) by inserting at the end of section 47A the following new subsection:—

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(8) Any such proposal approved and consented to in the manner provided in this section shall be binding on all members of the society at the date of the passing of the special resolution and on all persons who become members of the society after that date and before the total number of shares to be issued pursuant to the proposal have been issued.

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(m) by omitting from subsection four of section forty-eight the words “an amount not exceeding ten per centum of the surplus arising in any year from the business of the society may be applied

Sec. 47A.

(Issue of additional shares and making of deductions.)

Sec. 48.

(Funds of limited society.)

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5 applied to any charitable purpose or for promoting co-operation or any community advancement" and by inserting in lieu thereof the words "the society may apply part of the surplus arising in any year from the business of the society to any charitable purpose or for promoting co-operation or any community advancement, but the part to be so applied shall not, except with the approval of the Advisory Council constituted under this Act, exceed ten per centum of that surplus";

10 (n) by omitting subsection four of section fifty-eight and by inserting in lieu thereof the following subsection:— Sec. 58.
(Death of member.)

15 (4) The provisions of this section are subject to section one hundred and twenty-two of the Stamp Duties Act, 1920, as amended by subsequent Acts.

20 (o) by inserting at the end of section sixty-two the following new subsection:— Sec. 62.
(Exemption from fees and stamp duty.)

25 (4) Where a community advancement society was, before it was incorporated under this Act, an unincorporated club, association or body operating to provide sporting or recreational facilities for its members and not carried on for the pecuniary profit of its members, then any instrument or document transferring to the society any property which was, immediately before the society was so incorporated, held by or on behalf of the unincorporated club, association or body shall not be chargeable with stamp duty.

30 (p) by omitting subsection three of section sixty-five and by inserting in lieu thereof the following subsections:— Sec. 65.
(Borrowing powers.)

35 (3) The provisions of section one hundred and sixty-nine, of section one hundred and seventy-one and of Part IX of the Companies Act

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Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to any mortgage or charge created or bond issued by a society, not being a mortgage, charge, or incumbrance of specific lands duly registered under the Real Property Act, 1900, or the Registration of Deeds Act, 1897, or of a specific lease, claim or tenement under and subject to the laws relating to mining.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(4) The provisions of Part XII of the Companies Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to and in respect of the appointment of a receiver or manager of the property of a society, to and in respect of a receiver or manager so appointed and to and in respect of a society of whose property a receiver or manager has been appointed.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(q) by inserting next after subsection eight of section sixty-six the following new subsection:— Sec. 66.
(Loans and deposits.)

(8A) Notwithstanding the provisions of subsection eight of this section but subject to the provisions of subsections six, seven, (7A) and (7B) of this section, a building society, other than a permanent building society or Starr-Bowkett society, may, without the authority of a special resolution, raise money on loan so that it

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- 5 it has on loan at any time an aggregate amount not exceeding the sum set forth in the written statement referred to in subsection three of section thirty-nine of this Act as being the sum the society proposes to borrow to enable it to carry out its objects.
- (r) (i) by inserting in subsection (3A) of section Sec. 68 sixty-eight after the word "company" the (Investment.) words "or other body corporate";
- 10 (ii) by inserting in the same subsection after the figures "1936," the words "or registered or incorporated under any other Act of this State or elsewhere";
- 15 (iii) by inserting in the same subsection after the word "objects" the words "or has agreed to render special services to the members of the society";
- 20 (iv) by inserting in the same subsection after the word "companies" the words "or bodies corporate or in such companies and bodies corporate";
- (v) by omitting from the same subsection the words "either five thousand pounds or";
- 25 (s) by inserting at the end of subsection two of Sec. 74. section seventy-four the following new para- (Registers and accounts.) graph:—
- (e) a register of paid-up shares converted into stock;
- 30 (t) by inserting next after section seventy-four the following new section:— New sec. 74A.
- 35 74A. (1) A rural society whose objects comprise the transaction of business in any part of the Commonwealth of Australia outside the State, may, if authorised by its rules, cause to be kept in any such part of the Commonwealth of Australia in which it transacts business a branch register of members resident in that part and of their shares (in this section called a "branch register"). Branch registers. cf. Act No. 33, 1936, ss. 86, 87. (2)

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5 (2) The society shall file with the registrar a notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be filed within fourteen days after the opening of the office or of the change or discontinuance, as the case may be.

10 (3) A branch register shall be deemed to be part of the society's register of members and shares (in this section called "the principal register").

15 (4) The society shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register, which shall, for all the purposes of this Act, be deemed
20 to be part of the principal register.

(5) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in
25 the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

30 (6) A society may discontinue a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the society in the same part of the Commonwealth of Australia, or to the principal register.

35 (7) If default is made in complying with subsection two or four of this section, the society and every officer of the society who is in default shall be guilty of a contravention of this Act.

(8)

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5 (8) (a) The board may, by writing under
the common seal of the society, authorise any
person (in this section referred to as "the
authority") in the part of the Commonwealth
of Australia in which a branch register has been
established and not discontinued to register
transfers of shares registered on the branch
register and to exercise the powers of the board
under section fifty-eight of this Act in respect
10 of shares so registered on the death of the
member in whose name they are registered.

The board may impose such conditions as it
may think fit upon the exercise by the authority
of any of those powers.

15 (b) The board may make such pro-
visions as it may think fit respecting the keeping
of any branch register and the transfer of
shares from the principal to a branch register
or vice versa, or from a branch register to
20 another branch register.

(u) by inserting at the end of section seventy-five Sec. 75.
the following new paragraph and subsection:— (Inspection.)

(f) the prescribed register of paid-up
shares converted into stock.

25 (2) Any member may inspect his own account
in the books of the society at any reasonable
time on payment of a fee not exceeding two
shillings.

30 (v) by omitting subsection (2A) of section seventy- Sec. 76.
six and by inserting in lieu thereof the following (Returns.)
subsection:—

(2A) A society shall, if directed by the regis-
trar, transmit to him within such time and in
such manner as may be prescribed a full list
of

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of the members of the society, together with such particulars with regard thereto as may be prescribed.

5 (w) (i) by inserting in subsection four of section **Sec. 83.**
eighty-three after the word "him" the (Alteration
words "and that there is no reasonable of rules.)
cause why the alteration should not be
registered";

10 (ii) by inserting next after the same subsection
the following new subsection:—

(4A) The registrar may refer any appli-
cation under this section to the Advisory
Council constituted under this Act.

15 If that Council is of opinion that the
alteration would not or is not designed or
intended to serve equitably the interests of
the members of the society it may recom-
mend that registration be not granted.

20 Upon receipt of such a recommendation
the registrar shall refuse to register the
alteration.

25 The provisions of this subsection have
effect notwithstanding anything contained
in subsection four of this section or in any
other section of this Act.

30 (x) (i) by omitting from subsection six of section **Sec. 84.**
eighty-four the words "The directors shall (Board of
be elected at a general meeting of the society directors.)
in accordance with the rules" and by insert-
ing in lieu thereof the words "The directors
shall be elected in such manner as may be
specified in the rules of the society";

(ii)

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(ii) by inserting at the end of the same subsection the words:—

5 The registrar shall not register such a rule or any alteration of such a rule unless he approves of the manner of electing directors specified in the rule or in the rule as altered, as the case may be.

(y) by inserting at the end of subsection one of section 84A the following new paragraph:—

10 (d) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Sec. 84A.
(Power to appoint director of certain societies.)

15 (z) by inserting at the end of subsection one of section 88B the following word and new paragraph:—

and

20 (e) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Sec. 88B.
(Power to dismiss director or secretary of certain societies after inquiry.)

25 (aa) by omitting section eighty-nine and by inserting in lieu thereof the following section:—

89. (1) The accounts of a society shall be audited annually or more frequently as may be prescribed by the rules of the society.

Subst. sec. 89.

Accounts and audit.

30 (2) None of the following persons shall be qualified for appointment or to act as auditor of a society:—

(a) an officer or servant of the society;

(b)

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(b) a person who is a partner of or in the employment of or the employer of an officer or servant of the society; and

(c) a body corporate.

5 References in this subsection to an officer or servant shall be construed as not including references to an auditor.

10 (3) Appointment as the public officer of a society for the purposes of any law relating to taxation shall not be a disqualification for appointment as the auditor of a society.

15 (4) The auditors shall make a report to the members on the accounts examined by them and on the register of members and other records which the society is required to keep by law or by its rules, and on every balance-sheet and every profit and loss account laid before the society in general meeting during their tenure of office, and the report shall state—

20 (a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit;

25 (b) whether, in their opinion, proper books of account have been kept by the society, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them;

30 (c) whether the society's balance-sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;

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70—B

(d)

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- 5 (d) whether, in their opinion, and to the best of their information and according to the explanations given to them, the said accounts give the information required by or under this Act in the manner so required and give a true and fair view—
- 10 (i) in the case of the balance-sheet, of the state of the society's affairs as at the end of its financial year; and
- (ii) in the case of the profit and loss account, of the profit or loss for its financial year;
- 15 (e) whether, in their opinion, the register of members and other records, which the society is required to keep by or under this Act or by its rules, have been properly kept;
- 20 (f) whether the rules relating to the administration of the funds of the society have been observed.
- 25 (5) Every auditor of a society shall have a right of access at all times to the books, accounts, vouchers, securities and documents of the society, and shall be entitled to require from the directors and other officers of the society such information and explanation as he thinks necessary for the performance of the duties of
- 30 the auditors.
- 35 (6) The auditors of a society shall be entitled to attend any general meeting of the society and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(7)

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5 (7) A copy of the balance-sheet and profit
and loss account duly audited, together with a
copy of the auditors' report to the members of
the society, shall be transmitted to each member
with the notice of the annual general meeting,
or in the alternative, if the rules of the society
so provide, the notice of the annual general
meeting may include a notice that the balance-
sheet and profit and loss account and auditors'
10 report may be inspected by members at the office
of the society for such period before the meeting
as may be prescribed by the rules.

15 (8) Subject to the provisions of this sub-
section, any provision, whether contained in the
rules of a society or in any contract with a
society or otherwise, for exempting any auditor
from, or indemnifying him against, any liability
which by virtue of any rule of law would other-
wise attach to him in respect of any negligence,
20 default or breach of duty of which he may be
guilty in relation to the society shall be void:

25 Provided however that a society may, in pur-
sueance of any such provision, indemnify any
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 or in connec-
tion with any application under subsection nine
of this section in which relief is granted to him
30 by the court.

35 (9) (a) If in any proceedings for negli-
gence, default or breach of duty against an
auditor of a society it appears to the court hear-
ing the case that that person is or may be liable
in respect of the negligence, default or breach
of duty, but that he has acted honestly and
reasonably, and that, having regard to all the
circumstances

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5 circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach of duty, that court may relieve him, either wholly or partly, from his liability on such terms as the court thinks fit.

10 (b) Where any auditor of a society has reason to apprehend that any claim will or might be made against him in respect of any negligence, default or breach of duty, he may apply to the Supreme Court in its equitable jurisdiction for relief, and that Court on any such application shall have the same power to relieve him as under this subsection it would have had if it had been a court before which
15 proceedings against that auditor for negligence, default or breach of duty had been brought.

20 (c) Where any case to which paragraph (a) of this subsection applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that paragraph to be relieved either in whole or in part from the liability sought to be enforced against
25 him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

30 (bb) by omitting section ninety and by inserting in lieu thereof the following section:— Subst. sec. 90.

90. The financial year of a society shall end Financial year. on such day in each calendar year as is provided for by the rules of the society: Provided that—

35 (a) the first financial year of a society may extend from the date of its registration to a date not later than eighteen months from the date of its registration;

(b)

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- 5 (b) on an alteration of the rules of a society altering its financial year, the alteration may provide either that the financial year current at the date of alteration shall be extended for a period not exceeding six months or that the financial year next following the financial year that is so current shall be a period exceeding twelve months but not exceeding eighteen months.
- 10 (cc) (i) by omitting from subsection four of section Sec. 91. ninety-one the word "shall" and by insert- (Settle- ment.) ing in lieu thereof the word "may";
- 15 (ii) by inserting at the end of subsection four of the same section the following new paragraphs:—
- 20 (b) Where the registrar decides not to hear or depute the hearing of the dispute, he shall, within one month of receipt of the reference, notify the parties in writing of his decision.
- 25 (c) If the registrar decides not to hear or depute the hearing of the dispute, the dispute shall be determined in the manner (other than by reference to the registrar under this section) prescribed by the rules of the society, but where the only manner prescribed by those rules for the determination of the dispute is by reference to the registrar the dispute shall be determined
- 30 by arbitration in accordance with the Arbitration Act, 1902, as amended by subsequent Acts.
- 35 (iii) by inserting in subsection five of the same section after the word "referred" the words "and the registrar decides to hear or depute the hearing of the dispute";
- .dd)

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- 5 (dd) (i) by omitting from subsection five of section Sec. 92.
 ninety-two the words "and be entitled to receive such fees as may be prescribed by regulation" and by inserting in lieu thereof the words "as may be prescribed and be entitled to receive such fees as shall be fixed by the Advisory Council constituted under this Act"; (Winding-up.)
- 10 (ii) by inserting in paragraph (a) of subsection six of the same section after the word "winding-up" wherever occurring the words "or dissolution";
- 15 (iii) by omitting from paragraph (b) of the same subsection the words "to the winding-up" and by inserting in lieu thereof the words "including the provisions as to dissolution contained in Division 6 of that Part, to the winding-up or dissolution";
- (ee) by omitting section ninety-four; Sec. 94.
(Dissolution.)
- 20 (ff) by inserting in subsection three of section ninety-six after the word "registrar" the words "or deputy registrar"; Sec. 96.
(Certificates and documents.)
- (gg) by inserting next after section one hundred and nine the following new section:— New sec.
109A.
- 25 109A. (1) If any person—
- (a) seeks, claims or receives any commission, fee or reward, whether pecuniary or otherwise, from any person as a consideration or charge for procuring or obtaining, or offering or attempting to procure or obtain, for any person a loan from any building society; or Certain acts prohibited in relation to loans from building societies.
- 30 (b)

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- (b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any person through or from any building society,
- 5 he shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds.
- (2) Any sum received in contravention of this section may be recovered by the person who paid it from the person by whom it was received in an action for debt in any court of competent jurisdiction.
- 10
- (hh) by inserting next after subsection one of section one hundred and twenty-four the following new subsection:— Sec. 124. (Regulations.)
- 15
- (1A) Without prejudice to the generality of the foregoing provisions of this section, the Governor may make regulations prescribing all matters which are by subsection three or four of section sixty-five of this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to the said subsection three or four and, in particular, for prescribing the fees to be taken in the office of the registrar for any matter or thing to be done therein under the said subsection three or four.
- 20
- 25
- (ii) by inserting in the Third Schedule after the figures "18" the figures ", 52". Sch. 3.
- 30
- (2) (a) The amendments made by paragraph (p) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
- (b) The amendments made by subparagraphs
- 35 (ii) and (iii) of paragraph (dd) of subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-seven.

Co-operation (Amendment).

3. (1) This section shall apply to every agreement which was entered into before the commencement of this section between a building society duly registered under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, and the Colonial Treasurer, and which was in force at such commencement, whereby in consideration of the execution by the Colonial Treasurer pursuant to the Government Guarantees Act, 1934-1948, of a guarantee in favour of the bank society or body of persons mentioned in the agreement (which bank society or body of persons is in this section referred to as "the lender") the building society undertakes to observe the covenants, stipulations and conditions specified in the agreement.

15 (2) Notwithstanding anything contained in any agreement to which this section applies, the agreement shall not operate to preclude the building society which is a party thereto from making, out of moneys borrowed by it from the lender, advances to a member of the society to the extent and in the circumstances contemplated by section 17A of the Co-operation Act, 1923-1954.

(3) This section shall be deemed to have commenced on the twenty-ninth day of April, one thousand nine hundred and fifty-four.

25 4. (1) All instruments registered or purporting to have been registered pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, in the office of the Registrar-General before the commencement of this section shall be deemed to have been duly registered in the manner required by that subsection and any certificate in relation thereto given by the Registrar-General and all entries made by him in the register shall be valid and effectual for all purposes.

30 (2) All instruments of whatsoever kind registered by the Registrar-General pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts,

Co-operation (Amendment).

Acts, and the register and all indexes, books, documents
and writings relating exclusively to those instruments
shall be transferred by the Registrar-General to the regis-
trar of co-operative societies under that Act, and the
5 register kept by the Registrar-General shall be incor-
porated in the register to be kept by the registrar of
co-operative societies under that Act, and particulars of
all entries in the register so incorporated shall thereupon
be deemed to have been duly made by the registrar of
10 co-operative societies under that Act.

(3) This section shall commence upon the day
appointed and notified pursuant to paragraph (a) of
subsection two of section two of this Act.

[2s. 3d.]

Sydney: V. C. N. Blight, Government Printer—1958

And that the said act and all indexes, books, documents
and other records existing in the office of the
said register shall be preserved in the office of the
said register until the expiration of the term of
office of the said register, and the said records
shall be preserved in the office of the said register
until the expiration of the term of office of the
said register, and the said records shall be preserved
in the office of the said register until the expiration
of the term of office of the said register.

The section shall commence from the day
of the passage of this act.

ENACTED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEW YORK

1888

0-07

CO-OPERATION (AMENDMENT) BILL, 1958 (No. 2).

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to empower a rural society to sell goods by means of hire-purchase agreements (clause 2 (1) (b));
- (b) to authorise community advancement societies to subdivide land and to sell or let it to its members or other societies (clause 2 (1) (c));
- (c) to ensure that a community advancement society can not only promote and assist clubs for education, recreation or other community purpose but also carry on such clubs (clause 2 (1) (c));
- (d) to simplify the reports to be made to Parliament with respect to undertakings by the Colonial Treasurer to indemnify building societies against loss in certain circumstances (clause 2 (1) (d));
- (e) to clarify the provisions relating to advances by societies on second or subsequent mortgage (clause 2 (1) (e));
- (f) to alter the provisions dealing with the persons to whom a small loans society may make a loan and the total amount that may be borrowed from such a society (clause 2 (1) (f) (g));
- (g) to permit a small loans society to become a member of an association of building societies (clause 2 (1) (h));
- (h) to permit a person under 21 years of age to be a member of any society if its rules so provide (clause 2 (1) (i));
- (i) to alter the provisions relating to the formation and registration of a society (clause 2 (1) (j));
- (j) to authorise a society, other than a terminating building society, to convert all or any of its paid-up shares into stock and re-convert that stock into paid-up shares (clause 2 (1) (k));
- (k) to authorise a permanent building society to declare a greater rate of dividend in respect of paid-up shares than in respect of shares that are not paid-up (clause 2 (1) (k));
- (l) to increase the rate of dividend that may be paid by a society from 6 per cent. to 8 per cent. (clause 2 (1) (k));
- (m) to provide that a proposal by a society requiring members to take or subscribe for additional shares is binding on all persons who become members before the total number of shares to be issued under the proposal have been issued (clause 2 (1) (l));
- (n) to allow a society to apply more than 10 per cent. of the surplus arising in any year from the business of the society to any charitable purpose or for promoting co-operation or any community advancement if the Advisory Council so approves (clause 2 (1) (m));
- (o) to amend s. 58 consequentially on the amendment referred to in paragraph (u) below (clause 2 (1) (n));
- (p) where certain sporting or recreational clubs become community advancement societies, to exempt from stamp duty instruments transferring property from the clubs to the societies (clause 2 (1) (o));

- (q) to bring up to date the provisions relating to the registration of mortgages or charges created by societies, to apply to societies the provisions of Part XII of the Companies Act, 1936, relating to receivers and managers, and to ensure that references in any of those provisions to the Registrar-General shall be construed as references to the registrar of co-operative societies (clause 2 (1) (p));
- (r) to alter the provisions fixing the maximum amount that a society may raise by way of loan without the authority of a special resolution (clause 2 (1) (q));
- (s) to alter the provisions specifying the companies in whose shares a society may invest its funds (clause 2 (1) (r));
- (t) to require a society to keep a register of stock and to keep it open for inspection (clause 2 (1) (s) (u));
- (u) to authorise certain rural societies to establish branch registers (clause 2 (1) (t));
- (v) to require a society to transmit to the registrar a full list of the members of the society only where the registrar so requests (clause 2 (1) (v));
- (w) to alter the provisions relating to the registration of alterations of rules (clause 2 (1) (w));
- (x) to alter the provisions relating to the election of directors (clause 2 (1) (x));
- (y) to add to the list of societies to the boards of which the Governor may appoint a director (clause 2 (1) (y));
- (z) to add to the list of societies the directors or secretary of which may be dismissed after inquiry (clause 2 (1) (z));
- (aa) to alter the provisions relating to the accounts of societies and the auditing of those accounts (clause 2 (1) (aa));
- (bb) to extend the provisions allowing a society to specify its financial year in its rules (clause 2 (1) (bb));
- (cc) to alter the provisions relating to the settlement of disputes by the registrar (clause 2 (1) (cc));
- (dd) to alter the provisions relating to the winding-up and dissolution of societies (clause 2 (1) (dd));
- (ee) by omitting section 94 (clause 2 (1) (ee));
- (ff) by providing that judicial notice shall be taken of the signature and seal of the deputy registrar (clause 2 (1) (ff));
- (gg) to prohibit certain acts in relation to loans from building societies (clause 2 (1) (gg));
- (hh) to extend the power to make regulations (clause 2 (1) (hh));
- (ii) to extend s. 52 to societies referred to in the Second Schedule (clause 2 (1) (ii));
- (jj) to vary certain agreements, the variation being consequential on the enactment of the Co-operation (Amendment) Act, 1954;
- (kk) to validate certain matters and to transfer certain instruments from the Registrar-General to the registrar of co-operative societies, the validation and transfer arising out of the amendments referred to in paragraph (p) above.

No. , 1958.

A BILL

To amend the law relating to co-operation; for that purpose to amend the Co-operation, Community Settlement, and Credit Act, 1923, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. KELLY;—10 December, 1958.]

BE it enacted by the Queen'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 "Co-operation (Amendment) Act, 1958 (No. 2)".

Short title
and
citation.

Co-operation (Amendment).

(2) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923-1958.

5 **2.** (1) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, is amended—^{Amendment of Act No. 1, 1924.}

10 (a) by inserting in section five next after the definition of "Rural industry" the following new definition:—^{Sec. 5. (Interpretation.)}

"Share" means share in the share capital of the society, and includes stock except where a distinction between stock and shares is expressed or implied.

15 (b) by omitting subsection two of section eight and by inserting in lieu thereof the following sub-section:—^{Sec. 8. (Powers.)}

20 (2) A rural society shall have and shall be deemed always to have had power to purchase or otherwise acquire and to sell, hire or otherwise dispose of to its members or other persons any goods or commodities.

25 (c) (i) by inserting next after paragraph (di) of section fifteen the following new paragraphs:—^{Sec. 15. (Powers.)}

(dii) sell or let land to its members or to any other society;

30 (diii) subdivide land, make and maintain private ways, bridges, culverts, and drains, and make, open, and dedicate roads;

(ii)

Co-operation (Amendment).

(ii) by omitting paragraph (e) of the same section and by inserting in lieu thereof the following paragraph:—

5 (e) provide and maintain buildings and grounds for education, recreation, or other community purpose, or operate, maintain or carry on any club, or promote or assist clubs, for any such purpose;

10 (d) (i) by inserting in paragraph (a) of subsection six of section 17A after the word "the" where firstly occurring the words "number of";

Sec. 17A.
(Colonial Treasurer may undertake to

15 (ii) by omitting from paragraphs (b) and (c) of the same subsection the words "with each such building society";

indemnify building societies against loss in certain circumstances.)

(iii) by inserting in paragraph (i) of the same subsection after the word "the" where firstly occurring the words "number of";

20 (iv) by omitting from paragraphs (ii) and (iii) of the same subsection the words "with each such building society";

25 (e) (i) by omitting subsection one of section eighteen and by inserting in lieu thereof the following subsections:—

Sec. 18.
(Second or subsequent mortgage.)

(1) A building society, other than a Starr-Bowkett society, shall not advance money on the security of any property which is subject to prior mortgage unless—

30 (a) where the advance is made by way of second mortgage, either the approval of the Co-operative Building Advisory Committee is obtained or the prior mortgage is held by the society or by another society;

35

(b)

Co-operation (Amendment).

(b) where the advance is made by way of third mortgage, the second mortgage is held by the society; or

5 (c) where the advance is made by way of fourth or subsequent mortgage, all prior mortgages, other than the first, are held by the society.

10 (1A) A building society, other than a Starr-Bowkett society, shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property
15 (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the first mortgage is held by another society, also reduced by the share
20 capital of the member in that other society would exceed ninety per centum of the value of the property.

25 (1B) A Starr-Bowkett society shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest
30 or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the prior mortgage or, as the case may be, one or more of the prior mortgages is or are held by
35 another society or societies, also reduced by

the

Co-operation (Amendment).

5 the value of the share capital of the member in that other society or in those other societies, as the case may be, would exceed ninety per centum of the value of the property.

(1c) Where the approval of the Co-operative Building Advisory Committee is required under subsection one of this section—

10 (a) the value of the share capital of a member in a society shall, for the purposes of this section, be calculated in such manner as the Co-operative Building Advisory Committee may direct;

15 (b) the value of property on the security of which money is to be advanced shall, for the purposes of this section, be determined by such person as the Co-operative Building Advisory Committee may direct.

20 (ii) by inserting in subsection two of the same section after the words "provided that" the words "in a case where the approval of the Co-operative Building Advisory Committee is not required under subsection one of this section";

25 (iii) by omitting from paragraph (b) of the same subsection all words after the word "person" and by inserting in lieu thereof the words "approved by the registrar under section 18A of this Act";

30 (iv) by inserting in subsection three of the same section after the words "a second" the words "or subsequent";

(v)

Co-operation (Amendment).

- 5 (v) by omitting from the same subsection the words “, or from advancing money on second mortgage, where the prior mortgage is in favour of the Commissioners of the Government Savings Bank of New South Wales” and by inserting in lieu thereof the following words “and, where the mortgage so taken by way of collateral security is a second mortgage, shall not require the society to obtain any approval to the mortgage under subsection one of this section”;
- 10 (vi) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—
- 15 (4) A building society, other than a Starr-Bowkett society, shall not, without the consent of the Co-operative Building Advisory Committee, postpone the priority of a mortgage held by the society.
- 20 (f) by omitting from subsection one of section thirty-^{Sec. 31.} one the words “the district or is of the class ^(Loans to members.) specified in the rules and any rule specifying such district or class shall be approved by the Registrar before the society is registered” and
- 25 by inserting in lieu thereof the words “such district or is of such class as may be specified in the rules of the society.
- 30 The registrar shall not register such a rule or any alteration of such a rule unless he approves of the district or class specified in the rule or in the rule as altered, as the case may be”;
- 35 (g) by omitting from subsection eight of section 31A^{Sec. 31A.} the words “a sum to be specified in the rules of ^(Loans to members.) the society. Provided that where the sum so specified exceeds one hundred pounds the rule shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof

Co-operation (Amendment).

- thereof the words "such sum as may be specified in the rules of the society: Provided that the registrar shall not register such a rule, or an alteration of such a rule, specifying the sum at a figure exceeding one hundred pounds unless he approves of the sum specified in the rule or in the rule as altered, as the case may be";
- 5
- (h) by inserting in subsection one of section thirty-four after the words "building societies." the words "And a small loans society may become a component society of an association of building societies."; Sec. 34. (Association.)
- 10
- (i) (i) by omitting subsection three of section thirty-eight; Sec. 38. (Liability and membership.)
- 15
- (ii) by omitting from subsection four of the same section the words "In the case of any other society, unless" and by inserting in lieu thereof the word "Unless";
- (j) (i) by inserting at the end of paragraph (b) of subsection five of section thirty-nine the words "presented to the meeting signed by the chairman and secretary of the meeting"; Sec. 39. (Formation.)
- 20
- (ii) by omitting subsections seven and 7A of the same section and by inserting in lieu thereof the following subsections:—
- 25
- (7) If the registrar is satisfied—
- (a) that the society has complied with the provisions of this Act and the regulations;
- 30
- (b) that the proposed rules of the society are not contrary to this Act or the regulations and are such as may reasonably be approved by him;
- 35
- (c) that there are reasonable grounds for believing that the society, if registered, will be able to carry out its objects successfully; and
- (d)

Co-operation (Amendment).

5 (d) that there is no reasonable cause why the society and its rules should not be registered, the registrar shall register the society and its rules and shall issue a certificate that the society is incorporated under this Act.

10 (7A) The registrar may refer any application for registration to the Advisory Council constituted under this Act.

10 If that Council is of opinion—

15 (a) that in the area in which the applicant society proposes to operate, the functions and services which it is designed to discharge and perform are capable of being discharged and performed by an existing society or societies;

20 (b) that the applicant society is not a bona fide co-operative society; or

20 (c) that the applicant society is not designed or intended to serve equitably the interests of its members and prospective members,

25 it may recommend that registration be not granted.

Upon receipt of such a recommendation the registrar shall refuse to register the applicant society.

30 The provisions of this subsection have effect notwithstanding anything contained in subsection seven of this section or in any other section of this Act.

35 (k) (i) by omitting subsection two of section forty- Sec. 47. seven and by inserting in lieu thereof the (Shares.) following subsection:—

(2) (a) Shares shall be of a fixed amount which shall be specified in the rules of the society.

(b)

Co-operation (Amendment).

5 (b) A society, other than a terminating building society, may, if authorised by its rules, convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares.

The power conferred by this paragraph shall be exercised by special resolution.

10 (ii) by inserting next after subsection five of the same section the following new subsection:—

15 (5A) Notwithstanding anything contained in subsections three, four and five of this section, a permanent building society may, if authorised by its rules, declare a greater rate of dividend in respect of paid-up shares than in respect of shares that are not paid-up shares.

20 (iii) by omitting from subsection fourteen of the same section the words “six per centum” and by inserting in lieu thereof the words “eight per centum (or such less amount per centum as may be prescribed in lieu thereof)”;

25 (l) by inserting at the end of section 47A the following new subsection:—

30 (8) Any such proposal approved and consented to in the manner provided in this section shall be binding on all members of the society at the date of the passing of the special resolution and on all persons who become members of the society after that date and before the total number of shares to be issued pursuant to the proposal have been issued.

35 (m) by omitting from subsection four of section forty-eight the words “an amount not exceeding ten per centum of the surplus arising in any year from the business of the society may be applied

Sec. 47A.

(Issue of additional shares and making of deductions.)

Sec. 48.

(Funds of limited society.)

Co-operation (Amendment).

5 applied to any charitable purpose or for promoting co-operation or any community advancement" and by inserting in lieu thereof the words "the society may apply part of the surplus arising in any year from the business of the society to any charitable purpose or for promoting co-operation or any community advancement, but the part to be so applied shall not, except with the approval of the Advisory Council constituted under this Act, exceed ten per centum of that surplus";

(n) by omitting subsection four of section fifty-eight and by inserting in lieu thereof the following subsection:— Sec. 58.
(Death of member.)

15 (4) The provisions of this section are subject to section one hundred and twenty-two of the Stamp Duties Act, 1920, as amended by subsequent Acts.

20 (o) by inserting at the end of section sixty-two the following new subsection:— Sec. 62.
(Exemption from fees and stamp duty.)

25 (4) Where a community advancement society was, before it was incorporated under this Act, an unincorporated club, association or body operating to provide sporting or recreational facilities for its members and not carried on for the pecuniary profit of its members, then any instrument or document transferring to the society any property which was, immediately before the society was so incorporated, held by or on behalf of the unincorporated club, association or body shall not be chargeable with stamp duty.

30 (p) by omitting subsection three of section sixty-five and by inserting in lieu thereof the following subsections:— Sec. 65.
(Borrowing powers.)

35 (3) The provisions of section one hundred and sixty-nine, of section one hundred and seventy-one and of Part IX of the Companies Act

Co-operation (Amendment).

Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to any mortgage or charge created or bond issued by a society, not being a mortgage, charge, or incumbrance of specific lands duly registered under the Real Property Act, 1900, or the Registration of Deeds Act, 1897, or of a specific lease, claim or tenement under and subject to the laws relating to mining.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(4) The provisions of Part XII of the Companies Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to and in respect of the appointment of a receiver or manager of the property of a society, to and in respect of a receiver or manager so appointed and to and in respect of a society of whose property a receiver or manager has been appointed.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(q) by inserting next after subsection eight of section sixty-six the following new subsection:—

(8A) Notwithstanding the provisions of subsection eight of this section but subject to the provisions of subsections six, seven, (7A) and (7B) of this section, a building society, other than a permanent building society or Starr-Bowkett society, may, without the authority of a special resolution, raise money on loan so that

it

Sec. 66.
(Loans and deposits.)

Co-operation (Amendment).

5 it has on loan at any time an aggregate amount not exceeding the sum set forth in the written statement referred to in subsection three of section thirty-nine of this Act as being the sum the society proposes to borrow to enable it to carry out its objects.

(r) (i) by inserting in subsection (3A) of section Sec. 68 (Investment.) sixty-eight after the word "company" the words "or other body corporate";

10 (ii) by inserting in the same subsection after the figures "1936," the words "or registered or incorporated under any other Act of this State or elsewhere";

15 (iii) by inserting in the same subsection after the word "objects" the words "or has agreed to render special services to the members of the society";

20 (iv) by inserting in the same subsection after the word "companies" the words "or bodies corporate or in such companies and bodies corporate";

(v) by omitting from the same subsection the words "either five thousand pounds or";

25 (s) by inserting at the end of subsection two of section seventy-four the following new paragraph:— Sec. 74. (Registers and accounts.)

(e) a register of paid-up shares converted into stock;

30 (t) by inserting next after section seventy-four the following new section:— New sec. 74A.

35 74A. (1) A rural society whose objects comprise the transaction of business in any part of the Commonwealth of Australia outside the State, may, if authorised by its rules, cause to be kept in any such part of the Commonwealth of Australia in which it transacts business a branch register of members resident in that part and of their shares (in this section called a "branch register"). Branch registers. cf. Act No. 33, 1936, ss. 86, 87. (2)

Co-operation (Amendment).

5 (2) The society shall file with the registrar a notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be filed within fourteen days after the opening of the office or of the change or discontinuance, as the case may be.

10 (3) A branch register shall be deemed to be part of the society's register of members and shares (in this section called "the principal register").

15 (4) The society shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register, which shall, for all the purposes of this Act, be deemed
20 to be part of the principal register.

(5) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in
25 the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

30 (6) A society may discontinue a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the society in the same part of the Commonwealth of Australia, or to the principal register.

35 (7) If default is made in complying with subsection two or four of this section, the society and every officer of the society who is in default shall be guilty of a contravention of this Act.

(8)

Co-operation (Amendment).

5 (8) (a) The board may, by writing under
the common seal of the society, authorise any
person (in this section referred to as "the
authority") in the part of the Commonwealth
of Australia in which a branch register has been
established and not discontinued to register
transfers of shares registered on the branch
register and to exercise the powers of the board
under section fifty-eight of this Act in respect
10 of shares so registered on the death of the
member in whose name they are registered.

The board may impose such conditions as it
may think fit upon the exercise by the authority
of any of those powers.

15 (b) The board may make such pro-
visions as it may think fit respecting the keeping
of any branch register and the transfer of
shares from the principal to a branch register
or vice versa, or from a branch register to
20 another branch register.

(u) by inserting at the end of section seventy-five Sec. 75.
the following new paragraph and subsection:— (Inspection.)

(f) the prescribed register of paid-up
shares converted into stock.

25 (2) Any member may inspect his own account
in the books of the society at any reasonable
time on payment of a fee not exceeding two
shillings.

30 (v) by omitting subsection (2A) of section seventy- Sec. 76.
six and by inserting in lieu thereof the following (Returns.)
subsection:—

(2A) A society shall, if directed by the regis-
trar, transmit to him within such time and in
such manner as may be prescribed a full list

of

Co-operation (Amendment).

of the members of the society, together with such particulars with regard thereto as may be prescribed.

- 5 (w) (i) by inserting in subsection four of section ^{Sec. 83.} eighty-three after the word "him" the ^(Alteration of rules.) words "and that there is no reasonable cause why the alteration should not be registered";
- 10 (ii) by inserting next after the same subsection the following new subsection:—
- (4A) The registrar may refer any application under this section to the Advisory Council constituted under this Act.
- 15 If that Council is of opinion that the alteration would not or is not designed or intended to serve equitably the interests of the members of the society it may recommend that registration be not granted.
- 20 Upon receipt of such a recommendation the registrar shall refuse to register the alteration.
- 25 The provisions of this subsection have effect notwithstanding anything contained in subsection four of this section or in any other section of this Act.
- 30 (x) (i) by omitting from subsection six of section ^{Sec. 84.} eighty-four the words "The directors shall ^(Board of directors.) be elected at a general meeting of the society in accordance with the rules" and by inserting in lieu thereof the words "The directors shall be elected in such manner as may be specified in the rules of the society";
- (ii)

Co-operation (Amendment).

(ii) by inserting at the end of the same subsection the words:—

5 The registrar shall not register such a rule or any alteration of such a rule unless he approves of the manner of electing directors specified in the rule or in the rule as altered, as the case may be.

(y) by inserting at the end of subsection one of section 84A the following new paragraph:—

10 (d) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Sec. 84A.
(Power to appoint director of certain societies.)

15 (z) by inserting at the end of subsection one of section 88B the following word and new paragraph:—

and

20 (c) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Sec. 88B.
(Power to dismiss director or secretary of certain societies after inquiry.)

25 (aa) by omitting section eighty-nine and by inserting in lieu thereof the following section:—

89. (1) The accounts of a society shall be audited annually or more frequently as may be prescribed by the rules of the society.

Accounts and audit.

30 (2) None of the following persons shall be qualified for appointment or to act as auditor of a society:—

(a) an officer or servant of the society;

(b)

Co-operation (Amendment).

(b) a person who is a partner of or in the employment of or the employer of an officer or servant of the society; and

(c) a body corporate.

5 References in this subsection to an officer or servant shall be construed as not including references to an auditor.

10 (3) Appointment as the public officer of a society for the purposes of any law relating to taxation shall not be a disqualification for appointment as the auditor of a society.

15 (4) The auditors shall make a report to the members on the accounts examined by them and on the register of members and other records which the society is required to keep by law or by its rules, and on every balance-sheet and every profit and loss account laid before the society in general meeting during their tenure of office, and the report shall state—

20 (a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit;

25 (b) whether, in their opinion, proper books of account have been kept by the society, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them;

30 (c) whether the society's balance-sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;

35

Co-operation (Amendment).

5 (d) whether, in their opinion, and to the best of their information and according to the explanations given to them, the said accounts give the information required by or under this Act in the manner so required and give a true and fair view—

10 (i) in the case of the balance-sheet, of the state of the society's affairs as at the end of its financial year; and

(ii) in the case of the profit and loss account, of the profit or loss for its financial year;

15 (e) whether, in their opinion, the register of members and other records, which the society is required to keep by or under this Act or by its rules, have been properly kept;

20 (f) whether the rules relating to the administration of the funds of the society have been observed.

25 (5) Every auditor of a society shall have a right of access at all times to the books, accounts, vouchers, securities and documents of the society, and shall be entitled to require from the directors and other officers of the society such information and explanation as he thinks necessary for the performance of the duties of
30 the auditors.

35 (6) The auditors of a society shall be entitled to attend any general meeting of the society and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(7)

Co-operation (Amendment).

5 (7) A copy of the balance-sheet and profit
and loss account duly audited, together with a
copy of the auditors' report to the members of
the society, shall be transmitted to each member
with the notice of the annual general meeting,
or in the alternative, if the rules of the society
so provide, the notice of the annual general
meeting may include a notice that the balance-
sheet and profit and loss account and auditors'
10 report may be inspected by members at the office
of the society for such period before the meeting
as may be prescribed by the rules.

15 (8) Subject to the provisions of this sub-
section, any provision, whether contained in the
rules of a society or in any contract with a
society or otherwise, for exempting any auditor
from, or indemnifying him against, any liability
which by virtue of any rule of law would other-
wise attach to him in respect of any negligence,
20 default or breach of duty of which he may be
guilty in relation to the society shall be void:

25 Provided however that a society may, in pur-
suance of any such provision, indemnify any
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 or in connec-
tion with any application under subsection nine
of this section in which relief is granted to him
30 by the court.

35 (9) (a) If in any proceedings for negli-
gence, default or breach of duty against an
auditor of a society it appears to the court hear-
ing the case that that person is or may be liable
in respect of the negligence, default or breach
of duty, but that he has acted honestly and
reasonably, and that, having regard to all the
circumstances

Co-operation (Amendment).

circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach of duty, that court may relieve him, either wholly or partly, from his liability on such terms as the court thinks fit.

5

(b) Where any auditor of a society has reason to apprehend that any claim will or might be made against him in respect of any negligence, default or breach of duty, he may apply to the Supreme Court in its equitable jurisdiction for relief, and that Court on any such application shall have the same power to relieve him as under this subsection it would have had if it had been a court before which proceedings against that auditor for negligence, default or breach of duty had been brought.

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(c) Where any case to which paragraph (a) of this subsection applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that paragraph to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

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30 (bb) by omitting section ninety and by inserting in lieu thereof the following section:— Subst.
sec. 90.

90. The financial year of a society shall end on such day in each calendar year as is provided for by the rules of the society: Provided that—

35

(a) the first financial year of a society may extend from the date of its registration to a date not later than eighteen months from the date of its registration;

(b)

Co-operation (Amendment).

- 5 (b) on an alteration of the rules of a society altering its financial year, the alteration may provide either that the financial year current at the date of alteration shall be extended for a period not exceeding six months or that the financial year next following the financial year that is so current shall be a period exceeding twelve months but not exceeding eighteen months.
- 10 (cc) (i) by omitting from subsection four of section Sec. 91. ninety-one the word "shall" and by insert- (Settle- ment.) ing in lieu thereof the word "may";
- 15 (ii) by inserting at the end of subsection four of the same section the following new paragraphs:—
- 20 (b) Where the registrar decides not to hear or depute the hearing of the dispute, he shall, within one month of receipt of the reference, notify the parties in writing of his decision.
- 25 (c) If the registrar decides not to hear or depute the hearing of the dispute, the dispute shall be determined in the manner (other than by reference to the registrar under this section) prescribed by the rules of the society, but where the only manner prescribed by those rules for the determination of the dispute is by reference to the registrar the dispute shall be determined
- 30 by arbitration in accordance with the Arbitration Act, 1902, as amended by subsequent Acts.
- 35 (iii) by inserting in subsection five of the same section after the word "referred" the words "and the registrar decides to hear or depute the hearing of the dispute";
- .dd)

Co-operation (Amendment).

- 5 (dd) (i) by omitting from subsection five of section Sec. 92. ninety-two the words "and be entitled to receive such fees as may be prescribed by regulation" and by inserting in lieu thereof the words "as may be prescribed and be entitled to receive such fees as shall be fixed by the Advisory Council constituted under this Act";
- 10 (ii) by inserting in paragraph (a) of subsection six of the same section after the word "winding-up" wherever occurring the words "or dissolution";
- 15 (iii) by omitting from paragraph (b) of the same subsection the words "to the winding-up" and by inserting in lieu thereof the words "including the provisions as to dissolution contained in Division 6 of that Part, to the winding-up or dissolution";
- (ee) by omitting section ninety-four; Sec. 94. (Dissolution.)
- 20 (ff) by inserting in subsection three of section ninety-six after the word "registrar" the words "or deputy registrar"; (Certificates and documents.)
- (gg) by inserting next after section one hundred and nine the following new section:— New sec. 109A.
- 25 109A. (1) If any person—
- (a) seeks, claims or receives any commission, fee or reward, whether pecuniary or otherwise, from any person as a consideration or charge for procuring or obtaining, or offering or attempting to procure or obtain, for any person a loan from any building society; or Certain acts prohibited in relation to loans from building societies.
- 30 (b)

Co-operation (Amendment).

(b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any person through or from any building society,

5 he shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds.

(2) Any sum received in contravention of this section may be recovered by the person who paid it from the person by whom it was received in an action for debt in any court of competent jurisdiction.

(hh) by inserting next after subsection one of section one hundred and twenty-four the following new subsection:—

15 (1A) Without prejudice to the generality of the foregoing provisions of this section, the Governor may make regulations prescribing all matters which are by subsection three or four of section sixty-five of this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to the said subsection three or four and, in particular, for prescribing the fees to be taken in the office of the registrar for any matter or thing to be done therein under the said subsection three or four.

(ii) by inserting in the Third Schedule after the figures "18" the figures " , 52".

30 (2) (a) The amendments made by paragraph (p) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

35 (b) The amendments made by subparagraphs (ii) and (iii) of paragraph (dd) of subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-seven.

Co-operation (Amendment).

3. (1) This section shall apply to every agreement which was entered into before the commencement of this section between a building society duly registered under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, and the Colonial Treasurer, and which was in force at such commencement, whereby in consideration of the execution by the Colonial Treasurer pursuant to the Government Guarantees Act, 1934-1948, of a guarantee in favour of the bank society or body of persons mentioned in the agreement (which bank society or body of persons is in this section referred to as "the lender") the building society undertakes to observe the covenants, stipulations and conditions specified in the agreement.
- 5
- 10
- 15 (2) Notwithstanding anything contained in any agreement to which this section applies, the agreement shall not operate to preclude the building society which is a party thereto from making, out of moneys borrowed by it from the lender, advances to a member of the society to the extent and in the circumstances contemplated by section 17A of the Co-operation Act, 1923-1954.
- 20
- (3) This section shall be deemed to have commenced on the twenty-ninth day of April, one thousand nine hundred and fifty-four.
- 25 4. (1) All instruments registered or purporting to have been registered pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, in the office of the Registrar-General before the commencement of this section shall be deemed to have been duly registered in the manner required by that subsection and any certificate in relation thereto given by the Registrar-General and all entries made by him in the register shall be valid and effectual for all purposes.
- 30
- 35 (2) All instruments of whatsoever kind registered by the Registrar-General pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts,

Variation
of certain
agreements.

Validation
of certain
matters and
transfer of
certain in-
struments,
&c.

Co-operation (Amendment).

Acts, and the register and all indexes, books, documents
and writings relating exclusively to those instruments
shall be transferred by the Registrar-General to the regis-
trar of co-operative societies under that Act, and the
5 register kept by the Registrar-General shall be incor-
porated in the register to be kept by the registrar of
co-operative societies under that Act, and particulars of
all entries in the register so incorporated shall thereupon
be deemed to have been duly made by the registrar of
10 co-operative societies under that Act.

(3) This section shall commence upon the day
appointed and notified pursuant to paragraph (a) of
subsection two of section two of this Act.

[2s. 3d.]

Sydney: V. C. N. Blight, Government Printer—1958

Co-operative (Amendment)

Acts and the register and all books, books, documents and writings relating exclusively to the business of the co-operative shall be transferred by the Registrar to the Registrar of co-operative societies under Act No. 1038, and the register kept by the Registrar-General shall be incorporated in the register to be kept by the Registrar of co-operative societies under Act No. 1038 and the Registrar of co-operative societies shall be responsible for the maintenance of the register so far as respects the Registrar of co-operative societies under Act No. 1038.

(3) This section shall come into operation on the day appointed and notified pursuant to section two of this Act.

Section 1038 of the Act No. 1038

[1038]

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 38, 1958.

An Act to amend the law relating to co-operation; for that purpose to amend the Co-operation, Community Settlement, and Credit Act, 1923, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 31st December, 1958.]

BE it enacted by the Queen'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 "Co-operation (Amendment) Act, 1958".

Short title and citation.

2283 A [1s. 4d.]

(2)

Co-operation (Amendment).

(2) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923-1958.

Amendment
of Act No.
1, 1924.

2. (1) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, is amended—

Sec. 5.
(Inter-
pretation.)

(a) by inserting in section five next after the definition of "Rural industry" the following new definition:—

"Share" means share in the share capital of the society, and includes stock except where a distinction between stock and shares is expressed or implied.

Sec. 8.
(Powers.)

(b) by omitting subsection two of section eight and by inserting in lieu thereof the following subsection:—

(2) A rural society shall have and shall be deemed always to have had power to purchase or otherwise acquire and to sell, hire or otherwise dispose of to its members or other persons any goods or commodities.

Sec. 15.
(Powers.)

(c) (i) by inserting next after paragraph (di) of section fifteen the following new paragraphs:—

(dii) sell or let land to its members or to any other society;

(diii) subdivide land, make and maintain private ways, bridges, culverts, and drains, and make, open, and dedicate roads;

(ii)

Co-operation (Amendment).

- (ii) by omitting paragraph (e) of the same section and by inserting in lieu thereof the following paragraph:—
- (e) provide and maintain buildings and grounds for education, recreation, or other community purpose, or operate, maintain or carry on any club, or promote or assist clubs, for any such purpose;
- (d) (i) by inserting in paragraph (a) of subsection six of section 17A after the word “the” where firstly occurring the words “number of”; Sec. 17A. (Colonial Treasurer may undertake to indemnify building societies against loss in certain circumstances.)
- (ii) by omitting from paragraphs (b) and (c) of the same subsection the words “with each such building society”;
- (iii) by inserting in paragraph (i) of the same subsection after the word “the” where firstly occurring the words “number of”;
- (iv) by omitting from paragraphs (ii) and (iii) of the same subsection the words “with each such building society”;
- (e) (i) by omitting subsection one of section eighteen and by inserting in lieu thereof the following subsections:— Sec. 18. (Second or subsequent mortgage.)
- (1) A building society, other than a Starr-Bowkett society, shall not advance money on the security of any property which is subject to prior mortgage unless—
- (a) where the advance is made by way of second mortgage, either the approval of the Co-operative Building Advisory Committee is obtained or the prior mortgage is held by the society or by another society;
- (b)

Co-operation (Amendment).

- (b) where the advance is made by way of third mortgage, the second mortgage is held by the society; or
- (c) where the advance is made by way of fourth or subsequent mortgage, all prior mortgages, other than the first, are held by the society.

(1A) A building society, other than a Starr-Bowkett society, shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the first mortgage is held by another society, also reduced by the share capital of the member in that other society would exceed ninety per centum of the value of the property.

(1B) A Starr-Bowkett society shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the prior mortgage or, as the case may be, one or more of the prior mortgages is or are held by another society or societies, also reduced by

the

Co-operation (Amendment).

the value of the share capital of the member in that other society or in those other societies, as the case may be, would exceed ninety per centum of the value of the property.

(1c) Where the approval of the Co-operative Building Advisory Committee is required under subsection one of this section—

- (a) the value of the share capital of a member in a society shall, for the purposes of this section, be calculated in such manner as the Co-operative Building Advisory Committee may direct;
 - (b) the value of property on the security of which money is to be advanced shall, for the purposes of this section, be determined by such person as the Co-operative Building Advisory Committee may direct.
- (ii) by inserting in subsection two of the same section after the words “provided that” the words “in a case where the approval of the Co-operative Building Advisory Committee is not required under subsection one of this section”;
 - (iii) by omitting from paragraph (b) of the same subsection all words after the word “person” and by inserting in lieu thereof the words “approved by the registrar under section 18A of this Act”;
 - (iv) by inserting in subsection three of the same section after the words “a second” the words “or subsequent”;

(v)

Co-operation (Amendment).

- (v) by omitting from the same subsection the words “, or from advancing money on second mortgage, where the prior mortgage is in favour of the Commissioners of the Government Savings Bank of New South Wales” and by inserting in lieu thereof the following words “and, where the mortgage so taken by way of collateral security is a second mortgage, shall not require the society to obtain any approval to the mortgage under subsection one of this section”;
- (vi) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—

(4) A building society, other than a Starr-Bowkett society, shall not, without the consent of the Co-operative Building Advisory Committee, postpone the priority of a mortgage held by the society.

Sec. 31.
(Loans to
members.)

- (f) by omitting from subsection one of section thirty-one the words “the district or is of the class specified in the rules and any rule specifying such district or class shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof the words “such district or is of such class as may be specified in the rules of the society.

The registrar shall not register such a rule or any alteration of such a rule unless he approves of the district or class specified in the rule or in the rule as altered, as the case may be”;

Sec. 31A.
(Loans to
members.)

- (g) by omitting from subsection eight of section 31A the words “a sum to be specified in the rules of the society. Provided that where the sum so specified exceeds one hundred pounds the rule shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof

Co-operation (Amendment).

thereof the words "such sum as may be specified in the rules of the society: Provided that the registrar shall not register such a rule, or an alteration of such a rule, specifying the sum at a figure exceeding one hundred pounds unless he approves of the sum specified in the rule or in the rule as altered, as the case may be";

- (h) by inserting in subsection one of section thirty-four after the words "building societies." the words "And a small loans society may become a component society of an association of building societies.";
- (i) (i) by omitting subsection three of section thirty-eight; Sec. 34.
(Association.)
- (ii) by omitting from subsection four of the same section the words "In the case of any other society, unless" and by inserting in lieu thereof the word "Unless"; Sec. 38.
(Liability and membership.)
- (j) (i) by inserting at the end of paragraph (b) of subsection five of section thirty-nine the words "presented to the meeting signed by the chairman and secretary of the meeting"; Sec. 39.
(Formation.)
- (ii) by omitting subsections seven and 7A of the same section and by inserting in lieu thereof the following subsections:—
- (7) If the registrar is satisfied—
- (a) that the society has complied with the provisions of this Act and the regulations;
- (b) that the proposed rules of the society are not contrary to this Act or the regulations and are such as may reasonably be approved by him;
- (c) that there are reasonable grounds for believing that the society, if registered, will be able to carry out its objects successfully; and
- (d)

Co-operation (Amendment).

- (d) that there is no reasonable cause why the society and its rules should not be registered,

the registrar shall register the society and its rules and shall issue a certificate that the society is incorporated under this Act.

(7A) The registrar may refer any application for registration to the Advisory Council constituted under this Act.

If that Council is of opinion—

- (a) that in the area in which the applicant society proposes to operate, the functions and services which it is designed to discharge and perform are capable of being discharged and performed by an existing society or societies;
- (b) that the applicant society is not a bona fide co-operative society; or
- (c) that the applicant society is not designed or intended to serve equitably the interests of its members and prospective members,

it may recommend that registration be not granted.

Upon receipt of such a recommendation the registrar shall refuse to register the applicant society.

The provisions of this subsection have effect notwithstanding anything contained in subsection seven of this section or in any other section of this Act.

Sec. 47.
(Shares.)

- (k) (i) by omitting subsection two of section forty-seven and by inserting in lieu thereof the following subsection:—

(2) (a) Shares shall be of a fixed amount which shall be specified in the rules of the society.

(b)

Co-operation (Amendment).

(b) A society, other than a terminating building society, may, if authorised by its rules, convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares.

The power conferred by this paragraph shall be exercised by special resolution.

- (ii) by inserting next after subsection five of the same section the following new subsection:—

(5A) Notwithstanding anything contained in subsections three, four and five of this section, a permanent building society may, if authorised by its rules, declare a greater rate of dividend in respect of paid-up shares than in respect of shares that are not paid-up shares.

- (iii) by omitting from subsection fourteen of the same section the words “six per centum” and by inserting in lieu thereof the words “eight per centum (or such less amount per centum as may be prescribed in lieu thereof)”;

- (l) by inserting at the end of section 47A the following new subsection:—

(8) Any such proposal approved and consented to in the manner provided in this section shall be binding on all members of the society at the date of the passing of the special resolution and on all persons who become members of the society after that date and before the total number of shares to be issued pursuant to the proposal have been issued.

Sec. 47A.

(Issue of additional shares and making of deductions.)

- (m) by omitting from subsection four of section forty-eight the words “an amount not exceeding ten per centum of the surplus arising in any year from the business of the society may be

Sec. 48.

(Funds of limited society.)

applied

Co-operation (Amendment).

applied to any charitable purpose or for promoting co-operation or any community advancement” and by inserting in lieu thereof the words “the society may apply part of the surplus arising in any year from the business of the society to any charitable purpose or for promoting co-operation or any community advancement, but the part to be so applied shall not, except with the approval of the Advisory Council constituted under this Act, exceed ten per centum of that surplus”;

Sec. 58.
(Death of member.)

- (n) by omitting subsection four of section fifty-eight and by inserting in lieu thereof the following subsection:—

(4) The provisions of this section are subject to section one hundred and twenty-two of the Stamp Duties Act, 1920, as amended by subsequent Acts.

Sec. 62.
(Exemption from fees and stamp duty.)

- (o) by inserting at the end of section sixty-two the following new subsection:—

(4) Where a community advancement society was, before it was incorporated under this Act, an unincorporated club, association or body operating to provide sporting or recreational facilities for its members and not carried on for the pecuniary profit of its members, then any instrument or document transferring to the society any property which was, immediately before the society was so incorporated, held by or on behalf of the unincorporated club, association or body shall not be chargeable with stamp duty.

Sec. 65.
(Borrowing powers.)

- (p) by omitting subsection three of section sixty-five and by inserting in lieu thereof the following subsections:—

(3) The provisions of section one hundred and sixty-nine, of section one hundred and seventy-one and of Part IX of the Companies Act,

Co-operation (Amendment).

Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to any mortgage or charge created or bond issued by a society, not being a mortgage, charge, or incumbrance of specific lands duly registered under the Real Property Act, 1900, or the Registration of Deeds Act, 1897, or of a specific lease, claim or tenement under and subject to the laws relating to mining.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(4) The provisions of Part XII of the Companies Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to and in respect of the appointment of a receiver or manager of the property of a society, to and in respect of a receiver or manager so appointed and to and in respect of a society of whose property a receiver or manager has been appointed.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(q) by inserting next after subsection eight of section sixty-six the following new subsection:—

Sec. 66.

(Loans and deposits.)

(8A) Notwithstanding the provisions of subsection eight of this section but subject to the provisions of subsections six, seven, (7A) and (7B) of this section, a building society, other than a permanent building society or Starr-Bowkett society, may, without the authority of a special resolution, raise money on loan so that

it

Co-operation (Amendment).

it has on loan at any time an aggregate amount not exceeding the sum set forth in the written statement referred to in subsection three of section thirty-nine of this Act as being the sum the society proposes to borrow to enable it to carry out its objects.

Sec. 68.
(Investment.)

- (r) (i) by inserting in subsection (3A) of section sixty-eight after the word "company" the words "or other body corporate";
- (ii) by inserting in the same subsection after the figures "1936," the words "or registered or incorporated under any other Act of this State or elsewhere";
- (iii) by inserting in the same subsection after the word "objects" the words "or has agreed to render special services to the members of the society";
- (iv) by inserting in the same subsection after the word "companies" the words "or bodies corporate or in such companies and bodies corporate";
- (v) by omitting from the same subsection the words "either five thousand pounds or";

Sec. 74.
(Registers and accounts.)

- (s) by inserting at the end of subsection two of section seventy-four the following new paragraph:—
- (e) a register of paid-up shares converted into stock;

New sec.
74A.
Branch registers.
cf. Act No.
33, 1936,
ss. 86, 87.

- (t) by inserting next after section seventy-four the following new section:—

74A. (1) A rural society whose objects comprise the transaction of business in any part of the Commonwealth of Australia outside the State, may, if authorised by its rules, cause to be kept in any such part of the Commonwealth of Australia in which it transacts business a branch register of members resident in that part and of their shares (in this section called a "branch register"). (2)

Co-operation (Amendment).

(2) The society shall file with the registrar a notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be filed within fourteen days after the opening of the office or of the change or discontinuance, as the case may be.

(3) A branch register shall be deemed to be part of the society's register of members and shares (in this section called "the principal register").

(4) The society shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register, which shall, for all the purposes of this Act, be deemed to be part of the principal register.

(5) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

(6) A society may discontinue a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the society in the same part of the Commonwealth of Australia, or to the principal register.

(7) If default is made in complying with subsection two or four of this section, the society and every officer of the society who is in default shall be guilty of a contravention of this Act.

(8)

Co-operation (Amendment).

(8) (a) The board may, by writing under the common seal of the society, authorise any person (in this section referred to as "the authority") in the part of the Commonwealth of Australia in which a branch register has been established and not discontinued to register transfers of shares registered on the branch register and to exercise the powers of the board under section fifty-eight of this Act in respect of shares so registered on the death of the member in whose name they are registered.

The board may impose such conditions as it may think fit upon the exercise by the authority of any of those powers.

(b) The board may make such provisions as it may think fit respecting the keeping of any branch register and the transfer of shares from the principal to a branch register or vice versa, or from a branch register to another branch register.

Sec. 75.
(Inspection.)

(u) by inserting at the end of section seventy-five the following new paragraph and subsection:—

(f) the prescribed register of paid-up shares converted into stock.

(2) Any member may inspect his own account in the books of the society at any reasonable time on payment of a fee not exceeding two shillings.

Sec. 76.
(Returns.)

(v) by omitting subsection (2A) of section seventy-six and by inserting in lieu thereof the following subsection:—

(2A) A society shall, if directed by the registrar, transmit to him within such time and in such manner as may be prescribed a full list

of

Co-operation (Amendment).

of the members of the society, together with such particulars with regard thereto as may be prescribed.

- (w) (i) by inserting in subsection four of section Sec. 83. eighty-three after the word "him" the (Alteration of rules.) words "and that there is no reasonable cause why the alteration should not be registered";

- (ii) by inserting next after the same subsection the following new subsection:—

(4A) The registrar may refer any application under this section to the Advisory Council constituted under this Act.

If that Council is of opinion that the alteration would not or is not designed or intended to serve equitably the interests of the members of the society it may recommend that registration be not granted.

Upon receipt of such a recommendation the registrar shall refuse to register the alteration.

The provisions of this subsection have effect notwithstanding anything contained in subsection four of this section or in any other section of this Act.

- (x) (i) by omitting from subsection six of section Sec. 84. eighty-four the words "The directors shall (Board of directors.) be elected at a general meeting of the society in accordance with the rules" and by inserting in lieu thereof the words "The directors shall be elected in such manner as may be specified in the rules of the society";

(ii)

Co-operation (Amendment).

- (ii) by inserting at the end of the same subsection the words:—

The registrar shall not register such a rule or any alteration of such a rule unless he approves of the manner of electing directors specified in the rule or in the rule as altered, as the case may be.

Sec. 84A.
(Power to appoint director of certain societies.)

- (y) by inserting at the end of subsection one of section 84A the following new paragraph:—

(d) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Sec. 88B.
(Power to dismiss director or secretary of certain societies after inquiry.)

- (z) by inserting at the end of subsection one of section 88B the following word and new paragraph:—

and

(c) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Subst. sec. 89.

- (aa) by omitting section eighty-nine and by inserting in lieu thereof the following section:—

Accounts and audit.

89. (1) The accounts of a society shall be audited annually or more frequently as may be prescribed by the rules of the society.

(2) None of the following persons shall be qualified for appointment or to act as auditor of a society:—

- (a) an officer or servant of the society;
(b)

Co-operation (Amendment).

- (b) a person who is a partner of or in the employment of or the employer of an officer or servant of the society; and
- (c) a body corporate.

References in this subsection to an officer or servant shall be construed as not including references to an auditor.

(3) Appointment as the public officer of a society for the purposes of any law relating to taxation shall not be a disqualification for appointment as the auditor of a society.

(4) The auditors shall make a report to the members on the accounts examined by them and on the register of members and other records which the society is required to keep by law or by its rules, and on every balance-sheet and every profit and loss account laid before the society in general meeting during their tenure of office, and the report shall state—

- (a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit;
- (b) whether, in their opinion, proper books of account have been kept by the society, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them;
- (c) whether the society's balance-sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;

Co-operation (Amendment).

(d) whether, in their opinion, and to the best of their information and according to the explanations given to them, the said accounts give the information required by or under this Act in the manner so required and give a true and fair view—

(i) in the case of the balance-sheet, of the state of the society's affairs as at the end of its financial year; and

(ii) in the case of the profit and loss account, of the profit or loss for its financial year;

(e) whether, in their opinion, the register of members and other records, which the society is required to keep by or under this Act or by its rules, have been properly kept;

(f) whether the rules relating to the administration of the funds of the society have been observed.

(5) Every auditor of a society shall have a right of access at all times to the books, accounts, vouchers, securities and documents of the society, and shall be entitled to require from the directors and other officers of the society such information and explanation as he thinks necessary for the performance of the duties of the auditors.

(6) The auditors of a society shall be entitled to attend any general meeting of the society and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(7)

Co-operation (Amendment).

(7) A copy of the balance-sheet and profit and loss account duly audited, together with a copy of the auditors' report to the members of the society, shall be transmitted to each member with the notice of the annual general meeting, or in the alternative, if the rules of the society so provide, the notice of the annual general meeting may include a notice that the balance-sheet and profit and loss account and auditors' report may be inspected by members at the office of the society for such period before the meeting as may be prescribed by the rules.

(8) Subject to the provisions of this subsection, any provision, whether contained in the rules of a society or in any contract with a society or otherwise, for exempting any 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 or breach of duty of which he may be guilty in relation to the society shall be void:

Provided however that a society may, in pursuance of any such provision, indemnify any 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 or in connection with any application under subsection nine of this section in which relief is granted to him by the court.

(9) (a) If in any proceedings for negligence, default or breach of duty against an auditor of a society it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default or breach of duty, but that he has acted honestly and reasonably, and that, having regard to all the circumstances

Co-operation (Amendment).

circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach of duty, that court may relieve him, either wholly or partly, from his liability on such terms as the court thinks fit.

(b) Where any auditor of a society has reason to apprehend that any claim will or might be made against him in respect of any negligence, default or breach of duty, he may apply to the Supreme Court in its equitable jurisdiction for relief, and that Court on any such application shall have the same power to relieve him as under this subsection it would have had if it had been a court before which proceedings against that auditor for negligence, default or breach of duty had been brought.

(c) Where any case to which paragraph (a) of this subsection applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that paragraph to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

Subst.
sec. 90.

(bb) by omitting section ninety and by inserting in lieu thereof the following section:—

Financial
year.

90. The financial year of a society shall end on such day in each calendar year as is provided for by the rules of the society: Provided that—

(a) the first financial year of a society may extend from the date of its registration to a date not later than eighteen months from the date of its registration;

(b)

Co-operation (Amendment).

(b) on an alteration of the rules of a society altering its financial year, the alteration may provide either that the financial year current at the date of alteration shall be extended for a period not exceeding six months or that the financial year next following the financial year that is so current shall be a period exceeding twelve months but not exceeding eighteen months.

(cc) (i) by omitting from subsection four of section Sec. 91. ninety-one the word "shall" and by insert- (Settle- ment.) in lieu thereof the word "may";

(ii) by inserting at the end of subsection four of the same section the following new paragraphs:—

(b) Where the registrar decides not to hear or depute the hearing of the dispute, he shall, within one month of receipt of the reference, notify the parties in writing of his decision.

(c) If the registrar decides not to hear or depute the hearing of the dispute, the dispute shall be determined in the manner (other than by reference to the registrar under this section) prescribed by the rules of the society, but where the only manner prescribed by those rules for the determination of the dispute is by reference to the registrar the dispute shall be determined by arbitration in accordance with the Arbitration Act, 1902, as amended by subsequent Acts.

(iii) by inserting in subsection five of the same section after the word "referred" the words "and the registrar decides to hear or depute the hearing of the dispute";

(dd)

Co-operation (Amendment).

Sec. 92.
(Winding-up.)

(dd) (i) by omitting from subsection five of section ninety-two the words "and be entitled to receive such fees as may be prescribed by regulation" and by inserting in lieu thereof the words "as may be prescribed and be entitled to receive such fees as shall be fixed by the Advisory Council constituted under this Act";

(ii) by inserting in paragraph (a) of subsection six of the same section after the word "winding-up" wherever occurring the words "or dissolution";

(iii) by omitting from paragraph (b) of the same subsection the words "to the winding-up" and by inserting in lieu thereof the words "including the provisions as to dissolution contained in Division 6 of that Part, to the winding-up or dissolution";

Sec. 94.
(Dissolution.)

(ee) by omitting section ninety-four;

Sec. 96.
(Certificates and documents.)

(ff) by inserting in subsection three of section ninety-six after the word "registrar" the words "or deputy registrar";

New sec.
109A.

(gg) by inserting next after section one hundred and nine the following new section:—

Certain acts prohibited in relation to loans from building societies.

109A. (1) If any person—

(a) seeks, claims or receives any commission, fee or reward, whether pecuniary or otherwise, from any person as a consideration or charge for procuring or obtaining, or offering or attempting to procure or obtain, for any person a loan from any building society; or

(b)

Co-operation (Amendment).

(b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any person through or from any building society,

he shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds.

(2) Any sum received in contravention of this section may be recovered by the person who paid it from the person by whom it was received in an action for debt in any court of competent jurisdiction.

(hh) by inserting next after subsection one of section one hundred and twenty-four the following new subsection:—

Sec. 124.
(Regulations.)

(1A) Without prejudice to the generality of the foregoing provisions of this section, the Governor may make regulations prescribing all matters which are by subsection three or four of section sixty-five of this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to the said subsection three or four and, in particular, for prescribing the fees to be taken in the office of the registrar for any matter or thing to be done therein under the said subsection three or four.

(ii) by inserting in the Third Schedule after the figures "18" the figures " , 52".

Sch. 3.

(2) (a) The amendments made by paragraph (p) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(b) The amendments made by subparagraphs (ii) and (iii) of paragraph (dd) of subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-seven.

Co-operation (Amendment).

Variation
of certain
agreements.

3. (1) This section shall apply to every agreement which was entered into before the commencement of this section between a building society duly registered under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, and the Colonial Treasurer, and which was in force at such commencement, whereby in consideration of the execution by the Colonial Treasurer pursuant to the Government Guarantees Act, 1934-1948, of a guarantee in favour of the bank society or body of persons mentioned in the agreement (which bank society or body of persons is in this section referred to as "the lender") the building society undertakes to observe the covenants, stipulations and conditions specified in the agreement.

(2) Notwithstanding anything contained in any agreement to which this section applies, the agreement shall not operate to preclude the building society which is a party thereto from making, out of moneys borrowed by it from the lender, advances to a member of the society to the extent and in the circumstances contemplated by section 17A of the Co-operation Act, 1923-1954.

(3) This section shall be deemed to have commenced on the twenty-ninth day of April, one thousand nine hundred and fifty-four.

Validation
of certain
matters and
transfer of
certain in-
struments,
&c.

4. (1) All instruments registered or purporting to have been registered pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, in the office of the Registrar-General before the commencement of this section shall be deemed to have been duly registered in the manner required by that subsection and any certificate in relation thereto given by the Registrar-General and all entries made by him in the register shall be valid and effectual for all purposes.

(2) All instruments of whatsoever kind registered by the Registrar-General pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent

Acts,

Co-operation (Amendment).

Acts, and the register and all indexes, books, documents and writings relating exclusively to those instruments shall be transferred by the Registrar-General to the registrar of co-operative societies under that Act, and the register kept by the Registrar-General shall be incorporated in the register to be kept by the registrar of co-operative societies under that Act, and particulars of all entries in the register so incorporated shall thereupon be deemed to have been duly made by the registrar of co-operative societies under that Act.

(3) This section shall commence upon the day appointed and notified pursuant to paragraph (a) of subsection two of section two of this Act.

By Authority:

V. C. N. BLIGHT, Government Printer, Sydney, 1959

Co-operative (Amendment).

Acts and the register and all indexes, books, documents and writings relating exclusively to those co-operatives shall be transferred by the Registrar-General to the Registrar of co-operative societies under that Act, and the register kept by the Registrar-General shall be incorporated in the register to be kept by the Registrar of co-operative societies under that Act, and wherever all entries in the register so incorporated shall hereupon be deemed to have been duly made by the Registrar of co-operative societies under that Act.

(3) This section shall commence upon the day appointed and notified pursuant to paragraph (b) of subsection (2) of section 20 of this Act.

By Appointment,
J. C. DE BARRER, Government Printer, Sydney, N.S.W.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 10 December, 1958.

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 38, 1958.

An Act to amend the law relating to co-operation; for that purpose to amend the Co-operation, Community Settlement, and Credit Act, 1923, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 31st December, 1958.]

BE it enacted by the Queen'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 "Co-operation (Amendment) Act, 1958".

(2)

Short title
and
citation.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Co-operation (Amendment).

(2) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923-1958.

Amendment
of Act No.
1, 1924.

2. (1) The Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, is amended—

Sec. 5.
(Inter-
pretation.)

(a) by inserting in section five next after the definition of "Rural industry" the following new definition:—

"Share" means share in the share capital of the society, and includes stock except where a distinction between stock and shares is expressed or implied.

Sec. 8.
(Powers.)

(b) by omitting subsection two of section eight and by inserting in lieu thereof the following subsection:—

(2) A rural society shall have and shall be deemed always to have had power to purchase or otherwise acquire and to sell, hire or otherwise dispose of to its members or other persons any goods or commodities.

Sec. 15.
(Powers.)

(c) (i) by inserting next after paragraph (di) of section fifteen the following new paragraphs:—

(dii) sell or let land to its members or to any other society;

(diii) subdivide land, make and maintain private ways, bridges, culverts, and drains, and make, open, and dedicate roads;

(ii)

Co-operation (Amendment).

- (ii) by omitting paragraph (e) of the same section and by inserting in lieu thereof the following paragraph:—
- (e) provide and maintain buildings and grounds for education, recreation, or other community purpose, or operate, maintain or carry on any club, or promote or assist clubs, for any such purpose;
- (d) (i) by inserting in paragraph (a) of subsection six of section 17A after the word “the” where firstly occurring the words “number of”;
Sec. 17A. (Colonial Treasurer may undertake to indemnify building societies against loss in certain circumstances.)
- (ii) by omitting from paragraphs (b) and (c) of the same subsection the words “with each such building society”;
- (iii) by inserting in paragraph (i) of the same subsection after the word “the” where firstly occurring the words “number of”;
- (iv) by omitting from paragraphs (ii) and (iii) of the same subsection the words “with each such building society”;
- (e) (i) by omitting subsection one of section eighteen and by inserting in lieu thereof the following subsections:—
Sec. 18. (Second or subsequent mortgage.)
- (1) A building society, other than a Starr-Bowkett society, shall not advance money on the security of any property which is subject to prior mortgage unless—
- (a) where the advance is made by way of second mortgage, either the approval of the Co-operative Building Advisory Committee is obtained or the prior mortgage is held by the society or by another society;
- (b)

Co-operation (Amendment).

- (b) where the advance is made by way of third mortgage, the second mortgage is held by the society; or
- (c) where the advance is made by way of fourth or subsequent mortgage, all prior mortgages, other than the first, are held by the society.

(1A) A building society, other than a Starr-Bowkett society, shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the first mortgage is held by another society, also reduced by the share capital of the member in that other society would exceed ninety per centum of the value of the property.

(1B) A Starr-Bowkett society shall not advance by way of second or subsequent mortgage of any property such a sum as when added to the principal sum or sums, as the case may be, owing under the prior mortgage or mortgages, as the case may be, of the property (together with any interest or charges then due thereunder) reduced by the value of the share capital of the member in the society and, where the prior mortgage or, as the case may be, one or more of the prior mortgages is or are held by another society or societies, also reduced by

the

Co-operation (Amendment).

the value of the share capital of the member in that other society or in those other societies, as the case may be, would exceed ninety per centum of the value of the property.

(1c) Where the approval of the Co-operative Building Advisory Committee is required under subsection one of this section—

- (a) the value of the share capital of a member in a society shall, for the purposes of this section, be calculated in such manner as the Co-operative Building Advisory Committee may direct;
 - (b) the value of property on the security of which money is to be advanced shall, for the purposes of this section, be determined by such person as the Co-operative Building Advisory Committee may direct.
- (ii) by inserting in subsection two of the same section after the words "provided that" the words "in a case where the approval of the Co-operative Building Advisory Committee is not required under subsection one of this section";
 - (iii) by omitting from paragraph (b) of the same subsection all words after the word "person" and by inserting in lieu thereof the words "approved by the registrar under section 18A of this Act";
 - (iv) by inserting in subsection three of the same section after the words "a second" the words "or subsequent";

(v)

Co-operation (Amendment).

- (v) by omitting from the same subsection the words “, or from advancing money on second mortgage, where the prior mortgage is in favour of the Commissioners of the Government Savings Bank of New South Wales” and by inserting in lieu thereof the following words “and, where the mortgage so taken by way of collateral security is a second mortgage, shall not require the society to obtain any approval to the mortgage under subsection one of this section”;
- (vi) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—

(4) A building society, other than a Starr-Bowkett society, shall not, without the consent of the Co-operative Building Advisory Committee, postpone the priority of a mortgage held by the society.

Sec. 31.
(Loans to members.)

- (f) by omitting from subsection one of section thirty-one the words “the district or is of the class specified in the rules and any rule specifying such district or class shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof the words “such district or is of such class as may be specified in the rules of the society.

The registrar shall not register such a rule or any alteration of such a rule unless he approves of the district or class specified in the rule or in the rule as altered, as the case may be”;

Sec. 31A.
(Loans to members.)

- (g) by omitting from subsection eight of section 31A the words “a sum to be specified in the rules of the society. Provided that where the sum so specified exceeds one hundred pounds the rule shall be approved by the Registrar before the society is registered” and by inserting in lieu thereof

Co-operation (Amendment).

thereof the words "such sum as may be specified in the rules of the society: Provided that the registrar shall not register such a rule, or an alteration of such a rule, specifying the sum at a figure exceeding one hundred pounds unless he approves of the sum specified in the rule or in the rule as altered, as the case may be";

- (h) by inserting in subsection one of section thirty-four after the words "building societies." the words "And a small loans society may become a component society of an association of building societies."; Sec. 34. (Association.)
- (i) (i) by omitting subsection three of section thirty-eight; Sec. 38. (Liability and membership.)
- (ii) by omitting from subsection four of the same section the words "In the case of any other society, unless" and by inserting in lieu thereof the word "Unless";
- (j) (i) by inserting at the end of paragraph (b) of subsection five of section thirty-nine the words "presented to the meeting signed by the chairman and secretary of the meeting"; Sec. 39. (Formation.)
- (ii) by omitting subsections seven and 7A of the same section and by inserting in lieu thereof the following subsections:—
- (7) If the registrar is satisfied—
- (a) that the society has complied with the provisions of this Act and the regulations;
- (b) that the proposed rules of the society are not contrary to this Act or the regulations and are such as may reasonably be approved by him;
- (c) that there are reasonable grounds for believing that the society, if registered, will be able to carry out its objects successfully; and
- (d)

Co-operation (Amendment).

- (d) that there is no reasonable cause why the society and its rules should not be registered,

the registrar shall register the society and its rules and shall issue a certificate that the society is incorporated under this Act.

(7A) The registrar may refer any application for registration to the Advisory Council constituted under this Act.

If that Council is of opinion—

- (a) that in the area in which the applicant society proposes to operate, the functions and services which it is designed to discharge and perform are capable of being discharged and performed by an existing society or societies;
- (b) that the applicant society is not a bona fide co-operative society; or
- (c) that the applicant society is not designed or intended to serve equitably the interests of its members and prospective members,

it may recommend that registration be not granted.

Upon receipt of such a recommendation the registrar shall refuse to register the applicant society.

The provisions of this subsection have effect notwithstanding anything contained in subsection seven of this section or in any other section of this Act.

Sec. 47.
(Shares.)

- (k) (i) by omitting subsection two of section forty-seven and by inserting in lieu thereof the following subsection:—

(2) (a) Shares shall be of a fixed amount which shall be specified in the rules of the society.

(b)

Co-operation (Amendment).

(b) A society, other than a terminating building society, may, if authorised by its rules, convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares.

The power conferred by this paragraph shall be exercised by special resolution.

- (ii) by inserting next after subsection five of the same section the following new subsection:—

(5A) Notwithstanding anything contained in subsections three, four and five of this section, a permanent building society may, if authorised by its rules, declare a greater rate of dividend in respect of paid-up shares than in respect of shares that are not paid-up shares.

- (iii) by omitting from subsection fourteen of the same section the words “six per centum” and by inserting in lieu thereof the words “eight per centum (or such less amount per centum as may be prescribed in lieu thereof)”;

- (l) by inserting at the end of section 47A the following new subsection:—

(8) Any such proposal approved and consented to in the manner provided in this section shall be binding on all members of the society at the date of the passing of the special resolution and on all persons who become members of the society after that date and before the total number of shares to be issued pursuant to the proposal have been issued.

Sec. 47A.
(Issue of additional shares and making of deductions.)

- (m) by omitting from subsection four of section forty-eight the words “an amount not exceeding ten per centum of the surplus arising in any year from the business of the society may be applied

Sec. 48.
(Funds of limited society.)

Co-operation (Amendment).

applied to any charitable purpose or for promoting co-operation or any community advancement” and by inserting in lieu thereof the words “the society may apply part of the surplus arising in any year from the business of the society to any charitable purpose or for promoting co-operation or any community advancement, but the part to be so applied shall not, except with the approval of the Advisory Council constituted under this Act, exceed ten per centum of that surplus”;

Sec. 58.
(Death of member.)

- (n) by omitting subsection four of section fifty-eight and by inserting in lieu thereof the following subsection:—

(4) The provisions of this section are subject to section one hundred and twenty-two of the Stamp Duties Act, 1920, as amended by subsequent Acts.

Sec. 62.
(Exemption from fees and stamp duty.)

- (o) by inserting at the end of section sixty-two the following new subsection:—

(4) Where a community advancement society was, before it was incorporated under this Act, an unincorporated club, association or body operating to provide sporting or recreational facilities for its members and not carried on for the pecuniary profit of its members, then any instrument or document transferring to the society any property which was, immediately before the society was so incorporated, held by or on behalf of the unincorporated club, association or body shall not be chargeable with stamp duty.

Sec. 65.
(Borrowing powers.)

- (p) by omitting subsection three of section sixty-five and by inserting in lieu thereof the following subsections:—

(3) The provisions of section one hundred and sixty-nine, of section one hundred and seventy-one and of Part IX of the Companies Act,

Co-operation (Amendment).

Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to any mortgage or charge created or bond issued by a society, not being a mortgage, charge, or incumbrance of specific lands duly registered under the Real Property Act, 1900, or the Registration of Deeds Act, 1897, or of a specific lease, claim or tenement under and subject to the laws relating to mining.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

(4) The provisions of Part XII of the Companies Act, 1936, as amended by subsequent Acts, shall mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to and in respect of the appointment of a receiver or manager of the property of a society, to and in respect of a receiver or manager so appointed and to and in respect of a society of whose property a receiver or manager has been appointed.

For the purposes of that extension, a reference in any of those provisions to the Registrar-General shall be construed as a reference to the registrar of co-operative societies under this Act.

- (q) by inserting next after subsection eight of section sixty-six the following new subsection:—

(8A) Notwithstanding the provisions of subsection eight of this section but subject to the provisions of subsections six, seven, (7A) and (7B) of this section, a building society, other than a permanent building society or Starr-Bowkett society, may, without the authority of a special resolution, raise money on loan so that
it

Sec. 66.
(Loans and
deposits.)

Co-operation (Amendment).

it has on loan at any time an aggregate amount not exceeding the sum set forth in the written statement referred to in subsection three of section thirty-nine of this Act as being the sum the society proposes to borrow to enable it to carry out its objects.

Sec. 68.
(Investment.)

- (r) (i) by inserting in subsection (3A) of section sixty-eight after the word "company" the words "or other body corporate";
- (ii) by inserting in the same subsection after the figures "1936," the words "or registered or incorporated under any other Act of this State or elsewhere";
- (iii) by inserting in the same subsection after the word "objects" the words "or has agreed to render special services to the members of the society";
- (iv) by inserting in the same subsection after the word "companies" the words "or bodies corporate or in such companies and bodies corporate";
- (v) by omitting from the same subsection the words "either five thousand pounds or";

Sec. 74.
(Registers and accounts.)

- (s) by inserting at the end of subsection two of section seventy-four the following new paragraph:—
- (e) a register of paid-up shares converted into stock;

New sec.
74A.
Branch registers.
cf. Act No.
33, 1936,
ss. 86, 87.

- (t) by inserting next after section seventy-four the following new section:—

74A. (1) A rural society whose objects comprise the transaction of business in any part of the Commonwealth of Australia outside the State, may, if authorised by its rules, cause to be kept in any such part of the Commonwealth of Australia in which it transacts business a branch register of members resident in that part and of their shares (in this section called a "branch register").

(2)

Co-operation (Amendment).

(2) The society shall file with the registrar a notice of the situation of the office where any branch register is kept and of any change in its situation, and if it is discontinued of its discontinuance, and any such notice shall be filed within fourteen days after the opening of the office or of the change or discontinuance, as the case may be.

(3) A branch register shall be deemed to be part of the society's register of members and shares (in this section called "the principal register").

(4) The society shall transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made, and shall cause to be kept at its registered office, duly entered up from time to time, a duplicate of its branch register, which shall, for all the purposes of this Act, be deemed to be part of the principal register.

(5) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.

(6) A society may discontinue a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the society in the same part of the Commonwealth of Australia, or to the principal register.

(7) If default is made in complying with subsection two or four of this section, the society and every officer of the society who is in default shall be guilty of a contravention of this Act.

(8)

Co-operation (Amendment).

(8) (a) The board may, by writing under the common seal of the society, authorise any person (in this section referred to as "the authority") in the part of the Commonwealth of Australia in which a branch register has been established and not discontinued to register transfers of shares registered on the branch register and to exercise the powers of the board under section fifty-eight of this Act in respect of shares so registered on the death of the member in whose name they are registered.

The board may impose such conditions as it may think fit upon the exercise by the authority of any of those powers.

(b) The board may make such provisions as it may think fit respecting the keeping of any branch register and the transfer of shares from the principal to a branch register or vice versa, or from a branch register to another branch register.

Sec. 75.
(Inspection.)

(u) by inserting at the end of section seventy-five the following new paragraph and subsection:—

(f) the prescribed register of paid-up shares converted into stock.

(2) Any member may inspect his own account in the books of the society at any reasonable time on payment of a fee not exceeding two shillings.

Sec. 76.
(Returns.)

(v) by omitting subsection (2A) of section seventy-six and by inserting in lieu thereof the following subsection:—

(2A) A society shall, if directed by the registrar, transmit to him within such time and in such manner as may be prescribed a full list

of

Co-operation (Amendment).

of the members of the society, together with such particulars with regard thereto as may be prescribed.

(w) (i) by inserting in subsection four of section **Sec. 83.** eighty-three after the word "him" the (Alteration of rules.) words "and that there is no reasonable cause why the alteration should not be registered";

(ii) by inserting next after the same subsection the following new subsection:—

(4A) The registrar may refer any application under this section to the Advisory Council constituted under this Act.

If that Council is of opinion that the alteration would not or is not designed or intended to serve equitably the interests of the members of the society it may recommend that registration be not granted.

Upon receipt of such a recommendation the registrar shall refuse to register the alteration.

The provisions of this subsection have effect notwithstanding anything contained in subsection four of this section or in any other section of this Act.

(x) (i) by omitting from subsection six of section **Sec. 84.** eighty-four the words "The directors shall (Board of directors.) be elected at a general meeting of the society in accordance with the rules" and by inserting in lieu thereof the words "The directors shall be elected in such manner as may be specified in the rules of the society";

(ii)

Co-operation (Amendment).

- (ii) by inserting at the end of the same subsection the words:—

The registrar shall not register such a rule or any alteration of such a rule unless he approves of the manner of electing directors specified in the rule or in the rule as altered, as the case may be.

Sec. 84A.
(Power to appoint director of certain societies.)

- (y) by inserting at the end of subsection one of section 84A the following new paragraph:—

(d) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Sec. 88B.
(Power to dismiss director or secretary of certain societies after inquiry.)

- (z) by inserting at the end of subsection one of section 88B the following word and new paragraph:—

and

(c) every building society which has executed a mortgage to the Rural Bank of New South Wales in consideration of which that Bank has agreed to make loans to the society.

Subst. sec. 89.

- (aa) by omitting section eighty-nine and by inserting in lieu thereof the following section:—

Accounts and audit.

89. (1) The accounts of a society shall be audited annually or more frequently as may be prescribed by the rules of the society.

(2) None of the following persons shall be qualified for appointment or to act as auditor of a society:—

- (a) an officer or servant of the society;
(b)

Co-operation (Amendment).

(b) a person who is a partner of or in the employment of or the employer of an officer or servant of the society; and

(c) a body corporate.

References in this subsection to an officer or servant shall be construed as not including references to an auditor.

(3) Appointment as the public officer of a society for the purposes of any law relating to taxation shall not be a disqualification for appointment as the auditor of a society.

(4) The auditors shall make a report to the members on the accounts examined by them and on the register of members and other records which the society is required to keep by law or by its rules, and on every balance-sheet and every profit and loss account laid before the society in general meeting during their tenure of office, and the report shall state—

(a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purposes of their audit;

(b) whether, in their opinion, proper books of account have been kept by the society, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them;

(c) whether the society's balance-sheet and profit and loss account dealt with by the report are in agreement with the books of account and returns;

(d)

Co-operation (Amendment).

- (d) whether, in their opinion, and to the best of their information and according to the explanations given to them, the said accounts give the information required by or under this Act in the manner so required and give a true and fair view—
- (i) in the case of the balance-sheet, of the state of the society's affairs as at the end of its financial year; and
 - (ii) in the case of the profit and loss account, of the profit or loss for its financial year;
- (e) whether, in their opinion, the register of members and other records, which the society is required to keep by or under this Act or by its rules, have been properly kept;
- (f) whether the rules relating to the administration of the funds of the society have been observed.

(5) Every auditor of a society shall have a right of access at all times to the books, accounts, vouchers, securities and documents of the society, and shall be entitled to require from the directors and other officers of the society such information and explanation as he thinks necessary for the performance of the duties of the auditors.

(6) The auditors of a society shall be entitled to attend any general meeting of the society and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(7)

Co-operation (Amendment).

(7) A copy of the balance-sheet and profit and loss account duly audited, together with a copy of the auditors' report to the members of the society, shall be transmitted to each member with the notice of the annual general meeting, or in the alternative, if the rules of the society so provide, the notice of the annual general meeting may include a notice that the balance-sheet and profit and loss account and auditors' report may be inspected by members at the office of the society for such period before the meeting as may be prescribed by the rules.

(8) Subject to the provisions of this subsection, any provision, whether contained in the rules of a society or in any contract with a society or otherwise, for exempting any 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 or breach of duty of which he may be guilty in relation to the society shall be void:

Provided however that a society may, in pursuance of any such provision, indemnify any 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 or in connection with any application under subsection nine of this section in which relief is granted to him by the court.

(9) (a) If in any proceedings for negligence, default or breach of duty against an auditor of a society it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default or breach of duty, but that he has acted honestly and reasonably, and that, having regard to all the circumstances

Co-operation (Amendment).

circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach of duty, that court may relieve him, either wholly or partly, from his liability on such terms as the court thinks fit.

(b) Where any auditor of a society has reason to apprehend that any claim will or might be made against him in respect of any negligence, default or breach of duty, he may apply to the Supreme Court in its equitable jurisdiction for relief, and that Court on any such application shall have the same power to relieve him as under this subsection it would have had if it had been a court before which proceedings against that auditor for negligence, default or breach of duty had been brought.

(c) Where any case to which paragraph (a) of this subsection applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that paragraph to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

Subst.
sec. 90.

Financial
year.

(bb) by omitting section ninety and by inserting in lieu thereof the following section:—

90. The financial year of a society shall end on such day in each calendar year as is provided for by the rules of the society: Provided that—

(a) the first financial year of a society may extend from the date of its registration to a date not later than eighteen months from the date of its registration;

(b)

Co-operation (Amendment).

- (b) on an alteration of the rules of a society altering its financial year, the alteration may provide either that the financial year current at the date of alteration shall be extended for a period not exceeding six months or that the financial year next following the financial year that is so current shall be a period exceeding twelve months but not exceeding eighteen months.
- (cc) (i) by omitting from subsection four of section Sec. 91. ninety-one the word "shall" and by insert- (Settle- ment.) ing in lieu thereof the word "may";
- (ii) by inserting at the end of subsection four of the same section the following new paragraphs:—
- (b) Where the registrar decides not to hear or depute the hearing of the dispute, he shall, within one month of receipt of the reference, notify the parties in writing of his decision.
- (c) If the registrar decides not to hear or depute the hearing of the dispute, the dispute shall be determined in the manner (other than by reference to the registrar under this section) prescribed by the rules of the society, but where the only manner prescribed by those rules for the determination of the dispute is by reference to the registrar the dispute shall be determined by arbitration in accordance with the Arbitration Act, 1902, as amended by subsequent Acts.
- (iii) by inserting in subsection five of the same section after the word "referred" the words "and the registrar decides to hear or depute the hearing of the dispute";
- (dd)

Co-operation (Amendment).

Sec. 92.
(Winding-up.)

(dd) (i) by omitting from subsection five of section ninety-two the words "and be entitled to receive such fees as may be prescribed by regulation" and by inserting in lieu thereof the words "as may be prescribed and be entitled to receive such fees as shall be fixed by the Advisory Council constituted under this Act";

(ii) by inserting in paragraph (a) of subsection six of the same section after the word "winding-up" wherever occurring the words "or dissolution";

(iii) by omitting from paragraph (b) of the same subsection the words "to the winding-up" and by inserting in lieu thereof the words "including the provisions as to dissolution contained in Division 6 of that Part, to the winding-up or dissolution";

Sec. 94.
(Dissolution.)

(ee) by omitting section ninety-four;

Sec. 96.
(Certificates and documents.)

(ff) by inserting in subsection three of section ninety-six after the word "registrar" the words "or deputy registrar";

New sec.
109A.

(gg) by inserting next after section one hundred and nine the following new section:—

Certain acts prohibited in relation to loans from building societies.

109A. (1) If any person—

(a) seeks, claims or receives any commission, fee or reward, whether pecuniary or otherwise, from any person as a consideration or charge for procuring or obtaining, or offering or attempting to procure or obtain, for any person a loan from any building society; or

(b)

Co-operation (Amendment).

(b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any person through or from any building society,

he shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred pounds.

(2) Any sum received in contravention of this section may be recovered by the person who paid it from the person by whom it was received in an action for debt in any court of competent jurisdiction.

(hh) by inserting next after subsection one of section one hundred and twenty-four the following new subsection:—

Sec. 124.
(Regulations.)

(1A) Without prejudice to the generality of the foregoing provisions of this section, the Governor may make regulations prescribing all matters which are by subsection three or four of section sixty-five of this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to the said subsection three or four and, in particular, for prescribing the fees to be taken in the office of the registrar for any matter or thing to be done therein under the said subsection three or four.

(ii) by inserting in the Third Schedule after the figures "18" the figures " , 52".

Sch. 3.

(2) (a) The amendments made by paragraph (p) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(b) The amendments made by subparagraphs (ii) and (iii) of paragraph (dd) of subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-seven.

Co-operation (Amendment).

Variation
of certain
agreements.

3. (1) This section shall apply to every agreement which was entered into before the commencement of this section between a building society duly registered under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, and the Colonial Treasurer, and which was in force at such commencement, whereby in consideration of the execution by the Colonial Treasurer pursuant to the Government Guarantees Act, 1934-1948, of a guarantee in favour of the bank society or body of persons mentioned in the agreement (which bank society or body of persons is in this section referred to as "the lender") the building society undertakes to observe the covenants, stipulations and conditions specified in the agreement.

(2) Notwithstanding anything contained in any agreement to which this section applies, the agreement shall not operate to preclude the building society which is a party thereto from making, out of moneys borrowed by it from the lender, advances to a member of the society to the extent and in the circumstances contemplated by section 17A of the Co-operation Act, 1923-1954.

(3) This section shall be deemed to have commenced on the twenty-ninth day of April, one thousand nine hundred and fifty-four.

Validation
of certain
matters and
transfer of
certain in-
struments,
&c.

4. (1) All instruments registered or purporting to have been registered pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, in the office of the Registrar-General before the commencement of this section shall be deemed to have been duly registered in the manner required by that subsection and any certificate in relation thereto given by the Registrar-General and all entries made by him in the register shall be valid and effectual for all purposes.

(2) All instruments of whatsoever kind registered by the Registrar-General pursuant to subsection three of section sixty-five of the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent
Acts,

Co-operation (Amendment).

Acts, and the register and all indexes, books, documents and writings relating exclusively to those instruments shall be transferred by the Registrar-General to the registrar of co-operative societies under that Act, and the register kept by the Registrar-General shall be incorporated in the register to be kept by the registrar of co-operative societies under that Act, and particulars of all entries in the register so incorporated shall thereupon be deemed to have been duly made by the registrar of co-operative societies under that Act.

(3) This section shall commence upon the day appointed and notified pursuant to paragraph (a) of subsection two of section two of this Act.

In the name and on behalf of Her Majesty I assent to this Act.

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 31st December, 1958.*

