

New South Wales



ANNO UNDECIMO

ELIZABETHÆ II REGINÆ

Act No. 2, 1962.

An Act to make further provision for the indemnification of building societies against loss; the winding-up of and the registration of charges of co-operative societies; and the appointment of official managers; for these and other purposes to amend the Co-operation Act, 1923-1961; and for purposes connected therewith. [Assented to, 10th May, 1962.]

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, 1962".

Short title
and
citation.

(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, 1923-1962.

2.

Co-operation (Amendment).

Amend-
ment of
Act No. 1,
1924.

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

Sec. 16.
(Objects.)

- (a) by inserting in subsection (2A) of section sixteen after the words “not being” the words “a prescribed tenure or”;

Sec. 17A.
(Treasurer
may under-
take to
indemnify
building
societies
against loss
in certain
circum-
stances.)

- (b) (i) by inserting at the end of subsection one of section 17A the following new paragraph :—

The power to enter into an agreement under this subsection may, subject to the requirements of paragraphs (a) (b) (c) and (d) of this subsection, also be exercised in any case where a building society proposes to lend money to a member who is already the owner of a dwelling-house if the Governor is satisfied that there are special reasons why such agreement should be entered into.

- (ii) by omitting paragraph (c) of subsection (1A) of the same section and by inserting in lieu thereof the following paragraph :—

(c) the amount proposed to be lent reduced by the value of the share capital of the member or the sum of one hundred and eighty pounds, whichever is the less, does not exceed the sum of three thousand five hundred pounds; and

- (iii) by inserting at the end of the same subsection the following new paragraph :—

The power to enter into an agreement under this subsection may, subject to the requirements of paragraphs (a) (b) (c) and (d) of this subsection, also be exercised in any case where a building society proposes to lend money to a member who is already the owner of a dwelling-house if the Governor is satisfied that there are special reasons why such agreement should be entered into.

(c)

Co-operation (Amendment).

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

Sec. 38.
(Liability
and mem-
bership.)

(4) Unless otherwise provided by the rules, a person under the age of twenty-one years may be a member of the society.

A person under the age of twenty-one years who is a member of a society may execute all instruments and give all necessary acquittances but shall not be competent to hold any office in the society or to be one of the persons by whom a society may be formed.

Notwithstanding the provisions of section eighty-six of this Act, a member of a society who is under the age of eighteen years shall not be entitled to vote.

- (d) by inserting next after section 54A the following new section :—

New sec.
54B.

54B. A permanent building society registered under this Act immediately before the commencement of the Co-operation (Amendment) Act, 1962, and which has pursuant to its rules issued borrowers' shares and ordinary shares may if authorised by the rules of the society—

Permanent
building
society, can-
cellation of
borrowers'
shares.

- (a) apply the amount paid up on any such borrowers' shares—

- (i) in reduction of the member's loan liability; and
- (ii) in payment of such sum not exceeding ten pounds as may be necessary to allot fully paid ordinary shares to such member to the extent required to provide the member with the minimum share qualification in the society; and

(b)

Co-operation (Amendment).

(b) cancel any borrowers' shares in respect of which the amount paid up thereon has been dealt with under paragraph (a) of this section, and issue to such member fully paid ordinary shares to the extent required to provide him with the minimum share qualification in the society.

Sec. 72.
(Name and
address.)

- (e) (i) by inserting in subsection one of section seventy-two after the word "‘co-operative’" the words "or the abbreviation ‘co-op.’";
- (ii) by inserting in subsection two of the same section after the word "‘limited’" the words "or the abbreviation ‘ltd.’";
- (iii) by inserting in the same subsection after the word "‘unlimited’" the words "or the abbreviation ‘unltd.’";

Sec. 118.
(Special
meeting and
inquiry.)

- (f) by inserting at the end of subsection six of section one hundred and eighteen the words "The registrar or any person nominated by him may attend and address any such meeting."

Further
amend-
ment of
Act No. 1,
1924

3. (1) This section shall commence upon the first day of July, one thousand nine hundred and sixty-two.

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

Sec. 44A.
(Any
company
may
apply
to be
registered.)

- (a) by omitting from section 44A the words "Companies Act, 1936, as amended by subsequent Acts" wherever occurring and by inserting in lieu thereof the words "Companies Act, 1961";

Sec. 61.
(Use of
word co-
operative.)

- (b) by omitting from subsection (4A) of section sixty-one the word "Registrar-General" and by inserting in lieu thereof the words "Registrar of Companies";

(c)

Co-operation (Amendment).

- (c) (i) by omitting from subsection three of section sixty-five the words "section one hundred and sixty-nine, of section one hundred and seventy-one and of Part IX of the Companies Act, 1936, as amended by subsequent Acts" and by inserting in lieu thereof the words "sections seventy and seventy-three and of Division 7 of Part IV of the Companies Act, 1961"; Sec. 65.
(Borrowing powers.)
- (ii) by omitting from the same subsection the word "Registrar-General" and by inserting in lieu thereof the word "Registrar";
- (iii) by omitting from subsection four of the same section the words "Part XII of the Companies Act, 1936, as amended by subsequent Acts" and by inserting in lieu thereof the words "Part VIII of the Companies Act, 1961";
- (iv) by omitting from the same subsection the word "Registrar-General" and by inserting in lieu thereof the word "Registrar";
- (d) by omitting from subsection eight of section sixty-six the words "Companies Act, 1936, as amended by subsequent Acts" and by inserting in lieu thereof the words "Companies Act, 1961"; Sec. 66.
(Loans and deposits.)
- (e) by omitting from subsection (3A) of section sixty-eight the figures "1936" and by inserting in lieu thereof the figures "1961"; Sec. 68.
(Investment.)
- (f) (i) by omitting from section seventy the figures "1936" wherever occurring and by inserting in lieu thereof the figures "1961"; Sec. 70.
(Registration of society as company.)
- (ii) by omitting from subsections seven, eight and nine of the same section the word "Registrar-General" wherever occurring and by inserting in lieu thereof the words "Registrar of Companies";

(iii)

Co-operation (Amendment).

- (iii) by omitting from subsection twelve of the same section the words "Registrar-General or by any Deputy Registrar-General" and by inserting in lieu thereof the words "Registrar of Companies or by any Deputy Registrar of Companies";

New Part
IVA.

- (g) by inserting next after section ninety-one the following new Part :—

PART IVA.

OFFICIAL MANAGEMENT.

Official
manage-
ment.

91A. The provisions of Part IX of the Companies Act, 1961, shall, mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to a society.

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

Sec. 92.
(Winding-
up.)

- (h) (i) by omitting from subsection one of section ninety-two the words "or subject to the supervision of the court";
- (ii) by omitting from subsection two of the same section the words "or subject to the supervision of the court,";
- (iii) by omitting from the same subsection the figures "1936" and by inserting in lieu thereof the figures "1961";
- (iv) by inserting in subsection (5A) of the same section after the words "liquidator shall" the words ", within ten days after his appointment,";

(v)

Co-operation (Amendment).

- (v) by omitting from paragraph (a) of subsection six of the same section the figures "1936" and by inserting in lieu thereof the figures "1961";
- (vi) by omitting from the same paragraph the words "including the provisions as to dissolution contained in Division 6 of that Part,";
- (vii) by omitting from paragraph (b) of the same subsection the figures and words "1936 including the provisions as to dissolution contained in Division 6 of that Part" and by inserting in lieu thereof the figures "1961";
- (viii) by omitting subparagraph (ii) of the same paragraph and by inserting in lieu thereof the following subparagraph—
 - (ii) a reference in any of those provisions to the Registrar shall be construed as a reference to the registrar of co-operative societies under this Act and have the same meaning and effect as the word registrar has under this Act;
- (ix) by inserting in subparagraph (iii) of the same paragraph after the words "two hundred" the words "and eighteen";
- (x) by omitting from subparagraph (iv) of the same paragraph the words "two hundred and eight and two hundred and ten" and by inserting in lieu thereof the words "two hundred and twenty-one and two hundred and twenty-two";
- (xi) by omitting from subparagraph (v) of the same paragraph the words "two hundred and sixty-nine, two hundred and seventy and two hundred and seventy-one of the Companies

Act,

Co-operation (Amendment).

Act, 1936” and by inserting in lieu thereof the words “two hundred and seventy, two hundred and seventy-one and two hundred and seventy-two of the Companies Act, 1961”;

- (xii) by omitting from the same subparagraph the word “members”;

Sec. 92A.
(Liquidator.)

- (i) by omitting from section 92A the figures “1936” and by inserting in lieu thereof the figures “1961”;

Sec. 92B.
(Remuneration of liquidator.)

- (j) by omitting from section 92B the figures “1936” and by inserting in lieu thereof the figures “1961”;

Sec. 124.
(Regulations.)

- (k) (i) by inserting in subsection (1A) of section one hundred and twenty-four after the word “sixty-five” the words “or by section 91A”;

- (ii) by inserting in the same subsection after the word “four” where secondly occurring the words “or section 91A”.

Variation of certain agreements.

4. (1) This section shall apply to—

- (a) every agreement which was entered into before the commencement of this Act, between a building society duly registered under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, and the Treasurer, and which is in force at such commencement, whereby in consideration of the execution by the 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; and

(b)

Co-operation (Amendment).

- (b) every agreement, being an equitable mortgage, which was entered into before the commencement of this Act between a building society duly registered as aforesaid and the Rural Bank of New South Wales (in this section referred to as "the lender") whereby in consideration of loans made by the said bank to the building society, the building society undertakes to observe the covenants, stipulations and conditions specified in the agreement.

For the purposes of paragraph (a) of this subsection "body of persons" includes the Government Insurance Office of New South Wales.

- (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, 1923-1961, as amended by this Act, and authorised by the rules of the society.

- (3) Where any agreement referred to in subsection one of this section contains a covenant to the effect that the society that is a party to the agreement will not in any case out of money borrowed by it from the lender advance to any one member of the society any greater amount than the amount specified in such agreement or in a notice in writing by the Treasurer to the society as the maximum amount which at the date of the advance is permitted to be advanced to any one member, nothing in that covenant shall preclude the society from advancing out of money borrowed by it from the lender to any one member of the society an amount which when reduced by the value of the share capital of the member or the sum of one hundred and eighty pounds, whichever is the less, does not exceed the sum of three thousand five hundred pounds.

Co-operation (Amendment).

(4) Notwithstanding the rules of any society which is a party to an agreement to which this section applies such society may—

- (a) make an advance to any member of the society up to the maximum amount which it is permitted to advance to such member under such agreement as varied by subsection three of this section; and
- (b) issue shares to any member of the society of such value as will enable the member to obtain from the society an advance up to such maximum amount.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1962

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, 2 May, 1962.*

New South Wales



ANNO UNDECIMO

ELIZABETHÆ II REGINÆ

Act No. 2, 1962.

An Act to make further provision for the indemnification of building societies against loss; the winding-up of and the registration of charges of co-operative societies; and the appointment of official managers; for these and other purposes to amend the Co-operation Act, 1923-1961; and for purposes connected therewith. [Assented to, 10th May, 1962.]

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, 1962".

Short title
and
citation.

(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, 1923-1962.

2.

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

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Co-operation (Amendment).

Amend-
ment of
Act No. 1,
1924.

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

Sec. 16.
(Objects.)

- (a) by inserting in subsection (2A) of section sixteen after the words "not being" the words "a prescribed tenure or";

Sec. 17A.
(Treasurer
may under-
take to
indemnify
building
societies
against loss
in certain
circum-
stances.)

- (b) (i) by inserting at the end of subsection one of section 17A the following new paragraph :—

The power to enter into an agreement under this subsection may, subject to the requirements of paragraphs (a) (b) (c) and (d) of this subsection, also be exercised in any case where a building society proposes to lend money to a member who is already the owner of a dwelling-house if the Governor is satisfied that there are special reasons why such agreement should be entered into.

- (ii) by omitting paragraph (c) of subsection (1A) of the same section and by inserting in lieu thereof the following paragraph :—

- (c) the amount proposed to be lent reduced by the value of the share capital of the member or the sum of one hundred and eighty pounds, whichever is the less, does not exceed the sum of three thousand five hundred pounds; and

- (iii) by inserting at the end of the same subsection the following new paragraph :—

The power to enter into an agreement under this subsection may, subject to the requirements of paragraphs (a) (b) (c) and (d) of this subsection, also be exercised in any case where a building society proposes to lend money to a member who is already the owner of a dwelling-house if the Governor is satisfied that there are special reasons why such agreement should be entered into.

(c)

Co-operation (Amendment).

- (c) by omitting subsection four of section thirty-eight and by inserting in lieu thereof the following subsection : — Sec. 38.
(Liability and membership.)

(4) Unless otherwise provided by the rules, a person under the age of twenty-one years may be a member of the society.

A person under the age of twenty-one years who is a member of a society may execute all instruments and give all necessary acquittances but shall not be competent to hold any office in the society or to be one of the persons by whom a society may be formed.

Notwithstanding the provisions of section eighty-six of this Act, a member of a society who is under the age of eighteen years shall not be entitled to vote.

- (d) by inserting next after section 54A the following new section : — New sec.
54B.

54B. A permanent building society registered under this Act immediately before the commencement of the Co-operation (Amendment) Act, 1962, and which has pursuant to its rules issued borrowers' shares and ordinary shares may if authorised by the rules of the society— Permanent building society, cancellation of borrowers' shares.

- (a) apply the amount paid up on any such borrowers' shares—

- (i) in reduction of the member's loan liability; and
- (ii) in payment of such sum not exceeding ten pounds as may be necessary to allot fully paid ordinary shares to such member to the extent required to provide the member with the minimum share qualification in the society; and

(b)

Co-operation (Amendment).

(b) cancel any borrowers' shares in respect of which the amount paid up thereon has been dealt with under paragraph (a) of this section, and issue to such member fully paid ordinary shares to the extent required to provide him with the minimum share qualification in the society.

Sec. 72.
(Name and
address.)

- (e) (i) by inserting in subsection one of section seventy-two after the word "co-operative" the words "or the abbreviation 'co-op.'";
- (ii) by inserting in subsection two of the same section after the word "limited" the words "or the abbreviation 'ltd.'";
- (iii) by inserting in the same subsection after the word "unlimited" the words "or the abbreviation 'unltd.'";

Sec. 118.
(Special
meeting and
inquiry.)

- (f) by inserting at the end of subsection six of section one hundred and eighteen the words "The registrar or any person nominated by him may attend and address any such meeting."

Further
amend-
ment of
Act No. 1,
1924.

3. (1) This section shall commence upon the first day of July, one thousand nine hundred and sixty-two.

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

Sec. 44A.
(Any
company
may
apply
to be
registered.)

- (a) by omitting from section 44A the words "Companies Act, 1936, as amended by subsequent Acts" wherever occurring and by inserting in lieu thereof the words "Companies Act, 1961";

Sec. 61.
(Use of
word co-
operative.)

- (b) by omitting from subsection (4A) of section sixty-one the word "Registrar-General" and by inserting in lieu thereof the words "Registrar of Companies";

(c)

Co-operation (Amendment).

- (c) (i) by omitting from subsection three of section sixty-five the words "section one hundred and sixty-nine, of section one hundred and seventy-one and of Part IX of the Companies Act, 1936, as amended by subsequent Acts" and by inserting in lieu thereof the words "sections seventy and seventy-three and of Division 7 of Part IV of the Companies Act, 1961"; Sec. 65. (Borrowing powers.)
- (ii) by omitting from the same subsection the word "Registrar-General" and by inserting in lieu thereof the word "Registrar";
- (iii) by omitting from subsection four of the same section the words "Part XII of the Companies Act, 1936, as amended by subsequent Acts" and by inserting in lieu thereof the words "Part VIII of the Companies Act, 1961";
- (iv) by omitting from the same subsection the word "Registrar-General" and by inserting in lieu thereof the word "Registrar";
- (d) by omitting from subsection eight of section sixty-six the words "Companies Act, 1936, as amended by subsequent Acts" and by inserting in lieu thereof the words "Companies Act, 1961"; Sec. 66. (Loans and deposits.)
- (e) by omitting from subsection (3A) of section sixty-eight the figures "1936" and by inserting in lieu thereof the figures "1961"; Sec. 68. (Investment.)
- (f) (i) by omitting from section seventy the figures "1936" wherever occurring and by inserting in lieu thereof the figures "1961"; Sec. 70. (Registration of society as company.)
- (ii) by omitting from subsections seven, eight and nine of the same section the word "Registrar-General" wherever occurring and by inserting in lieu thereof the words "Registrar of Companies";
- (iii)

Co-operation (Amendment).

- (iii) by omitting from subsection twelve of the same section the words "Registrar-General or by any Deputy Registrar-General" and by inserting in lieu thereof the words "Registrar of Companies or by any Deputy Registrar of Companies";

New Part
IVA.

- (g) by inserting next after section ninety-one the following new Part :—

PART IVA.

OFFICIAL MANAGEMENT.

Official
manage-
ment.

91A. The provisions of Part IX of the Companies Act, 1961, shall, mutatis mutandis and with such modifications, if any, as may be prescribed by regulation, extend to a society.

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

Sec. 92.
(Winding-
up.)

- (h) (i) by omitting from subsection one of section ninety-two the words "or subject to the supervision of the court";
- (ii) by omitting from subsection two of the same section the words "or subject to the supervision of the court,";
- (iii) by omitting from the same subsection the figures "1936" and by inserting in lieu thereof the figures "1961";
- (iv) by inserting in subsection (5A) of the same section after the words "liquidator shall" the words " , within ten days after his appointment,";

(v)

Co-operation (Amendment).

- (v) by omitting from paragraph (a) of subsection six of the same section the figures "1936" and by inserting in lieu thereof the figures "1961";
- (vi) by omitting from the same paragraph the words "including the provisions as to dissolution contained in Division 6 of that Part,";
- (vii) by omitting from paragraph (b) of the same subsection the figures and words "1936 including the provisions as to dissolution contained in Division 6 of that Part" and by inserting in lieu thereof the figures "1961";
- (viii) by omitting subparagraph (ii) of the same paragraph and by inserting in lieu thereof the following subparagraph—
 - (ii) a reference in any of those provisions to the Registrar shall be construed as a reference to the registrar of co-operative societies under this Act and have the same meaning and effect as the word registrar has under this Act;
- (ix) by inserting in subparagraph (iii) of the same paragraph after the words "two hundred" the words "and eighteen";
- (x) by omitting from subparagraph (iv) of the same paragraph the words "two hundred and eight and two hundred and ten" and by inserting in lieu thereof the words "two hundred and twenty-one and two hundred and twenty-two";
- (xi) by omitting from subparagraph (v) of the same paragraph the words "two hundred and sixty-nine, two hundred and seventy and two hundred and seventy-one of the Companies

Act,

Co-operation (Amendment).

Act, 1936" and by inserting in lieu thereof the words "two hundred and seventy, two hundred and seventy-one and two hundred and seventy-two of the Companies Act, 1961";

(xii) by omitting from the same subparagraph the word "members'";

Sec. 92A.
(Liquidator.)

(i) by omitting from section 92A the figures "1936" and by inserting in lieu thereof the figures "1961";

Sec. 92B.
(Remuneration of liquidator.)

(j) by omitting from section 92B the figures "1936" and by inserting in lieu thereof the figures "1961";

Sec. 124.
(Regulations.)

(k) (i) by inserting in subsection (1A) of section one hundred and twenty-four after the word "sixty-five" the words "or by section 91A";

(ii) by inserting in the same subsection after the word "four" where secondly occurring the words "or section 91A".

Variation of certain agreements.

4. (1) This section shall apply to—

(a) every agreement which was entered into before the commencement of this Act, between a building society duly registered under the Co-operation, Community Settlement, and Credit Act, 1923, as amended by subsequent Acts, and the Treasurer, and which is in force at such commencement, whereby in consideration of the execution by the 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; and

(b)

Co-operation (Amendment).

- (b) every agreement, being an equitable mortgage, which was entered into before the commencement of this Act between a building society duly registered as aforesaid and the Rural Bank of New South Wales (in this section referred to as "the lender") whereby in consideration of loans made by the said bank to the building society, the building society undertakes to observe the covenants, stipulations and conditions specified in the agreement.

For the purposes of paragraph (a) of this subsection "body of persons" includes the Government Insurance Office of New South Wales.

(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, 1923-1961, as amended by this Act, and authorised by the rules of the society.

(3) Where any agreement referred to in subsection one of this section contains a covenant to the effect that the society that is a party to the agreement will not in any case out of money borrowed by it from the lender advance to any one member of the society any greater amount than the amount specified in such agreement or in a notice in writing by the Treasurer to the society as the maximum amount which at the date of the advance is permitted to be advanced to any one member, nothing in that covenant shall preclude the society from advancing out of money borrowed by it from the lender to any one member of the society an amount which when reduced by the value of the share capital of the member or the sum of one hundred and eighty pounds, whichever is the less, does not exceed the sum of three thousand five hundred pounds.

(4)

Co-operation (Amendment).

(4) Notwithstanding the rules of any society which is a party to an agreement to which this section applies such society may—

- (a) make an advance to any member of the society up to the maximum amount which it is permitted to advance to such member under such agreement as varied by subsection three of this section; and
- (b) issue shares to any member of the society of such value as will enable the member to obtain from the society an advance up to such maximum amount.

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

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 10th May, 1962.*