

No. , 1971.

## A BILL

To make further provisions with respect to the registration and management of permanent building societies; to restrain certain persons from acting as directors of a permanent building society; for these and other purposes to amend the Permanent Building Societies Act, 1967; and for purposes connected therewith.

[MR STEPHENS—18 November, 1971.]

BE

*Permanent Building Societies (Further Amendment).*

**B**E 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. This Act may be cited as the "Permanent Building Societies (Further Amendment) Act, 1971".

2. The Permanent Building Societies Act, 1967, is amended—

Amendment  
of Act No.  
18, 1967.

- 10 (a) by omitting from paragraph (c) of subsection four of section thirty the words "as defined in section sixty-three of this Act, equal to seven and one-half per centum" and by inserting in lieu thereof the words "equal to not less than seven and one-half per centum, or, where some other proportion is prescribed for the purposes of section sixty-three of this Act, that proportion,";
- 15 (b) by inserting in paragraph (a) of subsection three of section forty-one after the word "society" where secondly occurring the words "have not been sought or, having been sought,";
- 20 (c) by omitting subsection two of section sixty-three and by inserting in lieu thereof the following subsection :—
- 25 (2) In this Act, a reference to liquid funds held by a society at a particular time is a reference to the total amount of funds held by the society at that time—
- 30 (a) as cash at the bank (after allowing for cheques or other bills of exchange drawn but not presented for payment) or in hand;
- (b)

Sec. 30.  
(Societies registered under Co-operation Acts, etc.)

Sec. 41.  
(Supplementary provisions as to amalgamation or transfer of engagements.)

Sec. 63.  
(Liquidity.)



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*Permanent Building Societies (Further Amendment).*

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- (b) as investments made in the manner authorised by paragraph (a) of subsection one of section twenty-one of this Act, as qualified by subsection two of that section; and
- 5 (c) as moneys deposited in the manner authorised by paragraph (b) of subsection one of section twenty-one of this Act,
- 10 reduced by an amount equal to the total amount of all moneys borrowed by the society (not being moneys deposited with the society) that the society is required, or may be called upon, to repay within the period of two years next succeeding that time.
- (d) by inserting next after section sixty-eight the following new section :— New sec. 68A.
- 15 68A. (1) A person who, being an undischarged bankrupt, acts as a director of, or directly or indirectly takes part in or is concerned in the management of, a society except with the leave of the Supreme Court shall be guilty of an offence against this Act and liable on summary conviction to a penalty not exceeding one thousand dollars or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment. Leave of Court required before certain persons may act as directors of society.
- 20
- (2) Where a person is convicted whether
- 25 within or without the State—
- (a) on indictment of any offence in connection with the promotion, formation or management of a society, company or other corporation;
- 30 (b) of any offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more;
- (c) of any offence and sentenced to any period of imprisonment without the option of a
- 35 fine; or
- (d)

*Permanent Building Societies (Further Amendment).*

(d) of any offence referred to in paragraph (c) of subsection one of section one hundred and twenty-two of the Companies Act, 1961,

5 and that person, within a period of five years after his conviction, or if he is sentenced to imprisonment, after his release from prison, without the leave of the Supreme Court is a director of or is  
10 in any way whether directly or indirectly concerned or takes part in the management of a society he shall be guilty of an offence against this Act and liable on summary conviction to a penalty not exceeding four hundred dollars or to imprisonment  
15 for a period not exceeding six months or to both such penalty and imprisonment.

(3) A person intending to apply for leave of the Supreme Court under this section shall give to the Minister not less than ten days' notice of his intention so to apply.

20 (4) On the hearing of any application under this section the Minister may be represented at the hearing of and may oppose the granting of the application.

25 (e) by omitting subsection five of section seventy-eight and by inserting in lieu thereof the following subsections :— Sec. 78. (Registers and accounts.)

30 (5) Except as provided in this section, no notice of any trust express, implied or constructive shall be entered in any register or account kept by a society or be received by a society or the registrar.

35 (6) Where the rules of a society so provide, an entry in a register or account kept by the society in respect of any shares in the society or moneys deposited with the society may, in the circumstances and in the manner authorised by the rules, be



*Permanent Building Societies (Further Amendment).*

be made so as to indicate that the shares or the moneys are held by or vested in a person upon trust.

- 5 (7) No liabilities shall be affected by anything done in pursuance of subsection six of this section and the society concerned shall not be affected with notice of any trust by anything so done.

3. The Permanent Building Societies Act, 1967, is further amended—

Further amendment of Act No. 18, 1967.

- 10 (a) by omitting from section twenty the words "provisions to the Registrar" wherever occurring and by inserting in lieu thereof the words "provisions to the Corporate Affairs Commission";
- 15 (b) by omitting from subsection three of section thirty-five the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission";
- 20 (c) (i) by omitting from paragraph (b) of subsection seven of section forty-two the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission";
- 25 (ii) by omitting from subsection eight of the same section the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission";
- 30 (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the words "the Commission";
- (iv) by omitting from the same subsection the word "he" and by inserting in lieu thereof the words "the Commission";
- (v) by omitting from the same subsection the words "under his hand";

Sec. 20. (Borrowing powers.)

Sec. 35. (Use of words "permanent building society".)

Sec. 42. (Registration of society as a company.)

(vi)

*Permanent Building Societies (Further Amendment).*

- (vi) by inserting in subsection eleven of the same section after the word "Companies" where secondly occurring the words "or by the Corporate Affairs Commission";
- 5 (d) by omitting from subsection two of section forty- Sec. 44.  
four the words "Registrar of Companies" and by (Transfer of  
inserting in lieu thereof the words "Corporate registration.)  
Affairs Commission";
- 10 (e) by omitting from section eighty-six the words Sec. 86.  
"Registrar shall be construed as a reference to the (Official  
Registrar of Permanent Building Societies under management.)  
this Act and have the same meaning and effect as  
the word 'registrar' has under this Act" and by  
inserting in lieu thereof the words "Corporate  
15 Affairs Commission shall be construed as a  
reference to the registrar under this Act";
- (f) by omitting subparagraph (ii) of paragraph (b) Sec. 87.  
of subsection seven of section eighty-seven and (Winding  
by inserting in lieu thereof the following up.)  
20 subparagraph :—  
(ii) a reference in any of those provisions to  
the Corporate Affairs Commission shall be  
construed as a reference to the registrar  
under this Act.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

[5c]









*PROOF*

**PERMANENT BUILDING SOCIETIES (FURTHER  
AMENDMENT) BILL, 1971**

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**EXPLANATORY NOTE**

THE objects of this Bill are—

- (a) to permit the Registrar of Permanent Building Societies, upon application made to him, to approve an amalgamation of permanent building societies or a transfer of engagements between societies, notwithstanding that the required consents of the shareholders have not been sought;
- (b) to provide that the liquid funds of a permanent building society do not, for the purposes of the Principal Act, include unpresented cheques drawn by the society or certain short term borrowings made by the society;
- (c) to provide that certain societies are not eligible for registration under the Principal Act unless the proportion of liquid funds which they hold is not less than the proportion required before approving a loan;
- (d) to restrain undischarged bankrupts and certain other persons from acting as directors of or being concerned in the management of permanent building societies;
- (e) to enable a permanent building society, if its rules so provide, to make an entry in its registers or accounts in respect of shares or deposits, indicating the existence of a trust, but not so as to affect the society with notice of trust; and
- (f) to make other amendments of a minor, consequential or ancillary character.





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**B**E 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. This Act may be cited as the "Permanent Building Societies (Further Amendment) Act, 1971".

2. The Permanent Building Societies Act, 1967, is amended—

- 10 (a) by omitting from paragraph (c) of subsection four of section thirty the words "as defined in section sixty-three of this Act, equal to seven and one-half per centum" and by inserting in lieu thereof the words "equal to not less than seven and one-half per centum, or, where some other proportion is prescribed for the purposes of section sixty-three of this Act, that proportion,";
- 15 (b) by inserting in paragraph (a) of subsection three of section forty-one after the word "society" where secondly occurring the words "have not been sought or, having been sought,";
- 20 (c) by omitting subsection two of section sixty-three and by inserting in lieu thereof the following subsection :—
- 25 (2) In this Act, a reference to liquid funds held by a society at a particular time is a reference to the total amount of funds held by the society at that time—
- 30 (a) as cash at the bank (after allowing for cheques or other bills of exchange drawn but not presented for payment) or in hand;
- (b)

(Societies registered under Co-operation Acts, etc.)

(Supplementary provisions as to amalgamation or transfer of engagements.)

(Liquidity.)



*Permanent Building Societies (Further Amendment).*

- (b) as investments made in the manner authorised by paragraph (a) of subsection one of section twenty-one of this Act, as qualified by subsection two of that section; and
- 5 (c) as moneys deposited in the manner authorised by paragraph (b) of subsection one of section twenty-one of this Act,

reduced by an amount equal to the total amount of all moneys borrowed by the society (not being moneys deposited with the society) that the society is required, or may be called upon, to repay within the period of two years next succeeding that time.

- (d) by inserting next after section sixty-eight the following new section :—

15 68A. (1) A person who, being an undischarged bankrupt, acts as a director of, or directly or indirectly takes part in or is concerned in the management of, a society except with the leave of the Supreme Court shall be guilty of an offence against this Act and liable on summary conviction to a penalty not exceeding one thousand dollars or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

25 (2) Where a person is convicted whether within or without the State—

- (a) on indictment of any offence in connection with the promotion, formation or management of a society, company or other corporation;
- 30 (b) of any offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more;
- (c) of any offence and sentenced to any period of imprisonment without the option of a fine; or
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*Permanent Building Societies (Further Amendment).*

(d) of any offence referred to in paragraph (c) of subsection one of section one hundred and twenty-two of the Companies Act, 1961,

5 and that person, within a period of five years after his conviction, or if he is sentenced to imprisonment, after his release from prison, without the leave of the Supreme Court is a director of or is  
10 in any way whether directly or indirectly concerned or takes part in the management of a society he shall be guilty of an offence against this Act and liable on summary conviction to a penalty not exceeding four hundred dollars or to imprisonment  
15 for a period not exceeding six months or to both such penalty and imprisonment.

(3) A person intending to apply for leave of the Supreme Court under this section shall give to the Minister not less than ten days' notice of his intention so to apply.

20 (4) On the hearing of any application under this section the Minister may be represented at the hearing of and may oppose the granting of the application.

25 (e) by omitting subsection five of section seventy-eight and by inserting in lieu thereof the following subsections :— Sec. 78.  
(Registers  
and  
accounts.)

(5) Except as provided in this section, no notice of any trust express, implied or constructive shall be entered in any register or account kept by  
30 a society or be received by a society or the registrar.

(6) Where the rules of a society so provide, an entry in a register or account kept by the society in respect of any shares in the society or moneys deposited with the society may, in the circumstances and in the manner authorised by the rules,  
35 be



*Permanent Building Societies (Further Amendment).*

be made so as to indicate that the shares or the moneys are held by or vested in a person upon trust.

- 5 (7) No liabilities shall be affected by anything done in pursuance of subsection six of this section and the society concerned shall not be affected with notice of any trust by anything so done.

3. The Permanent Building Societies Act, 1967, is further amended—

Further amendment of Act No. 18, 1967.

- 10 (a) by omitting from section twenty the words "provisions to the Registrar" wherever occurring and by inserting in lieu thereof the words "provisions to the Corporate Affairs Commission";
- 15 (b) by omitting from subsection three of section thirty-five the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission";
- 20 (c) (i) by omitting from paragraph (b) of subsection seven of section forty-two the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission";
- 25 (ii) by omitting from subsection eight of the same section the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission";
- 30 (iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the words "the Commission";
- (iv) by omitting from the same subsection the word "he" and by inserting in lieu thereof the words "the Commission";
- (v) by omitting from the same subsection the words "under his hand";

Sec. 20. (Borrowing powers.)

Sec. 35. (Use of words "permanent building society".)

Sec. 42. (Registration of society as a company.)

(vi)

*Permanent Building Societies (Further Amendment).*

- (vi) by inserting in subsection eleven of the same section after the word "Companies" where secondly occurring the words "or by the Corporate Affairs Commission";
- 5 (d) by omitting from subsection two of section forty-four the words "Registrar of Companies" and by inserting in lieu thereof the words "Corporate Affairs Commission"; Sec. 44. (Transfer of registration.)
- 10 (e) by omitting from section eighty-six the words "Registrar shall be construed as a reference to the Registrar of Permanent Building Societies under this Act and have the same meaning and effect as the word 'registrar' has under this Act" and by inserting in lieu thereof the words "Corporate Affairs Commission shall be construed as a reference to the registrar under this Act"; Sec. 86. (Official management.)
- 15 (f) by omitting subparagraph (ii) of paragraph (b) of subsection seven of section eighty-seven and by inserting in lieu thereof the following Sec. 87. (Winding up.)
- 20 subparagraph :—
- (ii) a reference in any of those provisions to the Corporate Affairs Commission shall be construed as a reference to the registrar under this Act.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971





