

*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.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 27 February, 1974.*

## New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. , 1974.**

An Act to make further provisions with respect to the formation and administration of permanent building societies and the lending of money by them; to control excessive shareholdings in permanent building societies; to authorise, in certain circumstances, the appointment of an administrator to conduct the affairs of a permanent building society; for these and other purposes to amend the Permanent Building Societies Act, 1967; and for purposes connected therewith.

BE

*Permanent Building Societies (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 (Amendment) Act, 1974". Short title.

2. (1) This section and sections 1 and 3 commence on the date of assent to this Act. Commencement.

10 (2) Subject to subsection (1), the several provisions of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 3. The Permanent Building Societies Act, 1967, is in this Act referred to as the Principal Act. Principal Act.

4. Part II of the Principal Act is amended— Amendment of Part II of Act No. 18, 1967.

20 (a) (i) by omitting from section 5 (1) the words "twenty thousand dollars" wherever occurring and by inserting instead the words "the prescribed amount"; Sec. 5. (Approval or additional security required in certain cases.)

(ii) by omitting from section 5 (1) (b) the word "value" and by inserting instead the word "valuation";

(iii)



*Permanent Building Societies (Amendment).*

- (iii) by inserting at the end of section 5 (1) the following words :—

In this subsection "the prescribed amount" means \$25,000 or, where some other amount is prescribed by the regulations for the purposes of this subsection, the amount so prescribed.

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- (b) by omitting from section 10 (7) the words "five hundred dollars" and by inserting instead the matter "\$1,000";

Sec. 10.  
(Ordinary  
limitation  
on special  
loans.)

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- (c) (i) by omitting from section 12 the word "society" where firstly occurring and by inserting instead the words "building society, whether registered under this or any other Act or under a law of another State or of a Territory of the Commonwealth,";

Sec. 12.  
(Assistance  
by a society  
to a  
building  
society.)

20

- (ii) by omitting from section 12 the words "it may authorise any society to lend money to the firstmentioned society and the latter society shall have power to do so accordingly" and by inserting instead the words ", a society may, with the authority of the Advisory Committee, lend money to that building society";

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- (d) by inserting after section 20 (5) the following subsection :—

Sec. 20.  
(Borrowing  
powers.)

30

(5A) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, receive money on deposit upon the terms that it is not repayable before the expiration of a specified period that exceeds one month.

(e)



*Permanent Building Societies (Amendment).*

(e) by omitting section 20A (4) and by inserting instead the following subsections :—

Sec. 20A.  
(Maximum  
interest  
payable in  
respect of  
money  
received  
on deposit.)

5 (4) In this section "maximum rate" in relation to money received by a society on deposit means the same rate as the rate of dividend that would be payable by the society in respect of the deposit if—

- (a) the making of the deposit were a subscription of the same amount of share capital; and
- 10 (b) that share capital were withdrawable on the same terms and conditions as the deposit.

(5) This section does not apply to or in respect of deposits with a society that—

- 15 (a) are held by the society by reason of a transfer of engagements from, or amalgamation with, a building society registered under, or specified in the Second Schedule to, the Co-operation Acts; and
- 20 (b) were received by that building society before 1st July, 1972.

5. Part III of the Principal Act is amended—

Amendment  
of Part III  
of Act No.  
18, 1967.

25 (a) (i) by omitting from section 27 (1) the words "any fifty or more" and by inserting instead the words "not less than the prescribed number of";

Sec. 27.  
(Formation.)

(ii) by omitting from section 27 (2) the words "fifty or more such persons" and by inserting instead the words "not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)";

30

(iii)



*Permanent Building Societies (Amendment).*

5 (iii) by omitting from section 27 (4) the words  
“fifty or more such persons” and by inserting  
instead the words “not less than the prescribed  
number of persons of the age, and having the  
qualifications, required by subsection (1)”;

(iv) by inserting after section 27 (5) the following  
subsection :—

10 (6) In this section “the prescribed number”  
means one hundred or, where some other  
number is prescribed by the regulations for  
the purposes of this section, the number so  
prescribed.

15 (b) (i) by omitting section 28 (1) (c) and by inserting instead the following paragraph :—  
(Registration.)

(c) such evidence as the registrar may  
require that the society will, upon  
registration, have available to it not  
less than \$2,000,000 or such other  
amount as may be prescribed by the  
regulations, including—

20 (i) members' share capital of not  
less than \$1,000,000 or such  
other amount as may be  
prescribed by the regulations;  
and

25 (ii) other funds that amount to not  
less than \$500,000 or such  
other amount as may be  
prescribed by the regulations,  
being funds that are available  
on terms which would not  
require repayment thereof  
within a period of less than ten  
years after receipt by the  
society;

(ii)



*Permanent Building Societies (Amendment).*

- 5 (ii) by omitting from section 28 (1) (f) the words  
“name and the occupation and address of fifty  
persons” and by inserting instead the words  
“names and the occupations and addresses of  
not less than the prescribed number of  
persons referred to in section 27”;
- 10 (c) by omitting from section 30 (4) (b) the words “six  
hundred thousand dollars, of which four hundred  
thousand dollars” and by inserting instead the words  
“\$2,000,000, or such other amount as may be  
prescribed by the regulations, of which not less than  
\$1,000,000, or such other amount as may be so  
prescribed,”; Sec. 30.  
(Societies  
registered  
under  
Co-operation  
Acts, etc.)
- 15 (d) (i) by inserting in section 34 (3) after the word  
“and” where secondly occurring the words  
“, subject to subsection (3A),”; Sec. 34.  
(Name.)
- 20 (ii) by inserting in section 34 (3) after the word  
“Limited” where secondly occurring the words  
“or the word ‘Limited’ in lieu of the abbrevi-  
ation ‘Ltd.’, or the use of the symbol ‘&’ in  
lieu of the word ‘and’, or the use of the word  
‘and’ in lieu of the symbol ‘&’ ”;
- 25 (iii) by inserting after section 34 (3) the following  
subsection :—  
(3A) Where, with the approval of the  
Minister, a society includes in its name the  
words “building society” (consecutively or  
otherwise) and does not include the word  
“permanent”, the omission of the word “per-  
manent” does not constitute a contravention  
of subsection (3).
- 30 (e) by omitting from section 35 (1) (b) the word  
“other”; Sec. 35.  
(Use of  
words  
“permanent  
building  
society”.)
- (f)



*Permanent Building Societies (Amendment).*

- (f) by inserting in section 37 (2) after the word "abbreviation" the words "or elaboration"; Sec. 37.  
(Publication of name.)
- 5 (g) (i) by inserting in section 39 (1) (a) after the word "under" where thirdly occurring the words ", or one or more societies specified in the Second Schedule to,"; Sec. 39.  
(Amalgamation.)
- 10 (ii) by inserting in section 39 (1) (a) after the word "under" where fifthly occurring the words ", or a society specified in the Second Schedule to,";
- (h) (i) by inserting in section 40A (1) after the word "under" where firstly occurring the words ", or a society specified in the Second Schedule to,"; Sec. 40A.  
(Transfer of engagements of certain building societies.)
- 15 (ii) by omitting from section 40A (1) the words "such non-terminating building society" and by inserting instead the words "the society that resolved to transfer its engagements";
- 20 (iii) by inserting in section 40A (2) after the word "under" where secondly occurring the words ", or a society specified in the Second Schedule to,";
- (i) by inserting after section 41 the following sections :— Secs. 41A  
and 41B.
- 25 41A. (1) Subject to this section, the registrar may, with the approval of the Minister, direct a society— Transfer of engagements by direction of registrar.
- 30 (a) to transfer its engagements to another society approved by the registrar; and
- (b) within a period specified by the registrar when giving the direction, or within such further period as the registrar may allow, to enter into an agreement, approved by the registrar, to give effect to the transfer of engagements directed.

(2)

*Permanent Building Societies (Amendment).*

(2) The registrar shall not give a direction under subsection (1) unless he gives such a certificate as would be provided for by sections 87 (3) and 87 (4) if section 87 were amended—

- 5 (a) by omitting from subsection (3) the words  
“In the case of a winding up upon the  
certificate of the registrar, the society may  
be wound up if” and by inserting instead  
10 the words “The registrar may not direct a  
transfer of engagements under section 41A  
(1) unless”; and
- (b) by omitting from subsection (3) (g) the  
words “the society should be wound up”  
15 and by inserting instead the words “the  
society should transfer its engagements”.

(3) Where a society fails to comply with a direction given under subsection (1), the registrar may notify the society that he has elected to treat the certificate given under subsection (2) in  
20 relation to the society as—

- (a) a certificate given under section 86A (2);  
or
- (b) a certificate given by him under section 87  
(3).

25 (4) Where the registrar notifies a society as provided by subsection (3), this Act applies to and in respect of the society as if the certificate that, pursuant to subsection (3) (a) or (b), was specified in the notice had been given by the registrar.

30 (5) The registrar may, before a society has, pursuant to a direction under subsection (1), agreed pursuant to subsection (1) (b) to transfer its engagements, revoke the direction.

(6)



*Permanent Building Societies (Amendment).*

5 (6) A society may, with the consent of the registrar and by resolution of the board, accept a transfer of engagements directed under a provision of the Co-operation Acts corresponding to this section.

(7) Section 40 (subsection (5) excepted) does not apply to a transfer of engagements under this section.

10 (8) A transfer of engagements under this section takes effect upon a day notified by the registrar in the Gazette.

(9) An officer of a society who—  
 15 (a) fails to take all reasonable steps to secure compliance by the society with a direction given under subsection (1); or  
 (b) by a wilful act or omission is the cause of a failure by the society to comply with such a direction,

is guilty of an offence.

20 Penalty : \$500.

25 41B. (1) Where a direction is given to a society under section 41A (1), the society may, not later than fourteen days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister. Certain representations may be made.

30 (2) The registrar shall exercise in relation to a society his powers under section 41A (5) if the Minister so directs after considering a report under subsection (1) with respect to the society.

*Permanent Building Societies (Amendment).*

6. Part IV of the Principal Act is amended by inserting in section 47 (2) (d) after the word "ways" the words "(including entering into arrangements under section 23)".

Amendment  
of Part IV  
of Act No.  
18, 1967.  
Sec. 47.  
(Associa-  
tions.)

7. Part V of the Principal Act is amended—

Amendment  
of Part V  
of Act No.  
18, 1967.

5 (a) by omitting from section 51 (3) the word "three" and by inserting instead the word "five";

Sec. 51.  
(Corporate  
body as  
member.)

10 (b) (i) by omitting from section 52 (1) (b) (ii) the words "its paid up share capital" and by inserting instead the words "shares of that class";

Sec. 52.  
(Share  
capital.)

(ii) by inserting after section 52 (1) the following subsections :—

15 (1A) This section does not operate to prevent a society from issuing a share subject to a condition that prevents withdrawal of the share capital before the expiration of a specified period of time.

20 (1B) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, issue a share referred to in subsection (1A).

25 (iii) by omitting from section 52 (3) (d) the words "six hundred thousand dollars of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000 or such other

amount



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*Permanent Building Societies (Amendment).*

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amount as may be prescribed, of which not less than \$1,000,000 or such other amount as may be prescribed”;

(iv) by omitting section 52 (7);

5 (c) by inserting after section 52 the following Sec. 52A.  
section :—

52A. (1) For the purposes of this section—

Limitation  
of share-  
holding.

10 (a) a person has a relevant interest in a share in a society if he has power to withdraw the share capital subscribed for that share or to exercise control over the withdrawal of that share capital;

15 (b) the provisions of section 6A of the Companies Act, 1961, apply to and in respect of a relevant interest in a share in a society in the same way as they apply to and in respect of a relevant interest under that Act in a share in any other body corporate and they so apply as if—

20 (i) subsections (1), (2) (a), (5) (a), (7) and (8) had been omitted therefrom; and

25 (ii) references in that section to the disposal of a share were references to the withdrawal of the share capital subscribed for a share;

30 (c) a relevant interest in a share in a society shall be disregarded if it is a relevant interest, or a relevant interest of a class, prescribed for the purposes of this paragraph; and

(d) the prescribed proportion for a society is one-fifth or, where a lesser proportion is specified in the rules of the society, the proportion so specified.

(2)

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*Permanent Building Societies (Amendment).*

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- 5 (2) Where a person has relevant interests in shares in a society exceeding in nominal value the prescribed proportion of the nominal value of all shares issued by the society, the society shall exercise and perform in respect of the excess shares the powers and duties that, by section 52 (2) (a), are conferred upon it in respect of shares no longer required for the purposes of the society.
- 10 (d) by omitting from section 54 (1) (a) (i) the words "one thousand dollars or" and by inserting instead the words "\$1,000 in the case of a society registered before the commencement of section 7 (d) of the Permanent Building Societies (Amendment) Act, 1974, or \$5,000 in the case of a society registered after that commencement or, in either case,";
- 15 (e) (i) by omitting section 62 (4) and by inserting instead the following subsection :—
- (4) The rate of dividend in respect of a share shall not exceed the rate fixed by the Minister in respect of the share by order published in the Gazette on the recommendation of the Advisory Committee.
- 20 (ii) by inserting after section 62 (4) the following subsections :—
- 25 (4A) An order under subsection (4) may fix rates of dividend differing according to specified circumstances.
- (4B) Subsection (4) does not apply in respect of shares that—
- 30 (a) are held in the society by reason of a transfer of engagements from, or amalgamation with, a building society

registered



*Permanent Building Societies (Amendment).*

registered under, or specified in the  
Second Schedule to, the Co-operation  
Acts;

5 (b) were issued before 1st July, 1972, by  
such a building society; and

(c) if they are withdrawable and have been  
the subject of a transfer, were last  
transferred before 1st July, 1972.

(iii) by omitting section 62 (6);

10 (f) (i) by omitting from section 63 (2) (d) the word Sec. 63.  
“and”; (Liquidity.)

(ii) by omitting from section 63 (2) (e) the words  
“this paragraph.” and by inserting instead the  
following words and paragraph :—

15 this paragraph; and

(f) as funds or investments referred to in  
paragraphs (a), (b), (c), (d) and (e)  
and deposited with an association  
pursuant to arrangements made under  
20 section 23,

except to the extent of the amount necessary  
to satisfy any lien or charge on the funds and  
investments specified in paragraphs (a), (b),  
(c), (d) and (e).

25 (iii) by inserting after section 63 (3) the following  
subsection :—

(4) Notwithstanding subsection (1), a  
society may approve the making of loans from  
a fund comprising specific moneys borrowed  
by it if—

30 (a) the moneys borrowed are not required  
to be repaid by the society before the  
expiration of ten years except to the  
extent

*Permanent Building Societies (Amendment).*

- 5 extent that the terms upon which the  
moneys are borrowed provide for the  
earlier payment to the lender by the  
society of amounts not exceeding the  
amounts from time to time payable or  
paid to the society by way of interest  
on, or in reduction or repayment of,  
loans so made; and
- 10 (b) the proceeds of the due repayment of  
each loan so made would be sufficient  
to provide for the due repayment by  
the society of the moneys borrowed by  
it.
- 15 (g) by inserting in section 64 (2) after the words "winding up" the words "or upon terms and conditions approved by the Advisory Committee".

8. Part VI of the Principal Act is amended—

Amendment  
of Part VI  
of Act No.  
18, 1967.

- (a) by omitting section 67 (5) and by inserting instead the following subsection :—
- 20 (5) Notwithstanding anything in this Act, the  
rules of a society may provide for the election by  
the members—
- (a) of not more than one employee of the  
society nominated by the directors; or
- 25 (b) where the directors number seven or more,  
of not more than two employees of the  
society so nominated,  
as a director, or as directors, of the society.
- 30 In this subsection "employee of the society"  
includes a person, or the employee of a person,  
who provides the society with secretarial and  
administrative services.
- (b)



*Permanent Building Societies (Amendment).*

- (b) (i) by omitting from section 68 (4) (j) the word "or";  
 (ii) by omitting section 68 (4) (k) and by inserting instead the following paragraphs :—
- Sec. 68.  
 (Directors—  
 qualifica-  
 tion and  
 vacation of  
 office.)

- 5 (k) if, having been elected as a director pursuant to section 67 (5), he ceases to hold the qualification by virtue of which he was elected;
- 10 (l) if an administrator of the society's affairs is appointed under section 86A; or
- (m) as provided by section 68B.

- (c) by inserting after section 68A the following section :—
- Sec. 68B.

15 68B. (1) Where a person is, at the same time, a director of a society and a director of another corporation (not being an association) the Advisory Committee may, subject to this section, determine that, in its opinion, the activities and operations in which the corporation is engaged are, or are likely to be, such that that person should not be a director of the society while he is a director of that corporation.

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25 (2) The Advisory Committee shall not make a determination under subsection (1) in relation to a director unless the director—

- 30 (a) has, by notice given to him in writing by the registrar at the direction of the Advisory Committee, been informed that the Advisory Committee proposes to consider whether a determination should be made under subsection (1) with respect to a specified corporation, or specified corporations; and

(b)

*Permanent Building Societies (Amendment).*

(b) has been given an opportunity to be heard by the Advisory Committee.

5 (3) The registrar shall, at the direction of the Advisory Committee, give notice in writing of a determination under subsection (1) to the director to whom it relates and, where the registrar gives such a notice, the director may appeal to the Minister against the determination within fourteen days after the giving of the notice.

10 (4) Where a director of a society appeals as provided by subsection (3), the Minister may—

(a) uphold the appeal;

(b) dismiss the appeal; or

15 (c) where the determination relates to more than one corporation, uphold or dismiss the appeal in so far as the determination relates to a corporation or corporations specified by the Minister and dismiss or uphold it in relation to the other or others.

20 (5) A director of a society given a notice referred to in subsection (3) vacates his office as such a director—

25 (a) where he does not appeal against the determination to which the notice relates—at the expiration of the period within which he might have appealed against that determination; or

(b) where he so appeals and the appeal—

(i) is dismissed; or

(ii)



*Permanent Building Societies (Amendment).*

(ii) is dismissed in respect of one or more corporations and upheld in relation to another corporation or other corporations—

5 at the expiration of the period of seven days that next succeeds the giving to him of notice of dismissal of the appeal,

10 unless before the expiration of that period he ceases to be a director of any corporation in respect of which he failed to appeal or in respect of which an appeal was dismissed.

(d) by inserting after section 69 the following Sec. 69A.  
section :—

15 69A. (1) A society shall, not later than three months after the end of its financial year, lodge with the registrar in the prescribed form a return specifying any declaration made to its board under section 69 during that financial year. Return showing certain declarations.

20 (2) Where a society fails to comply with subsection (1), the society and any officer in default are each guilty of an offence.

Penalty : \$500. Default penalty.

(e) by inserting in section 70 (1) after the word "officer," the words "or his spouse,"; Sec. 70. (Certain prohibited dealings.)

25 (f) by inserting after section 70 the following Sec. 70A.  
section :—

70A. (1) For the purposes of this section— Certain borrowings prohibited.

(a) a person is associated with a director or other officer of a society if that person is—

30 (i) the spouse of that director or other officer;

80—B

(ii)

*Permanent Building Societies (Amendment).*

- 5 (ii) a member, or the spouse of a member, of a partnership of which that director or other officer, or the spouse of that director or other officer, is a member; or
- (iii) a corporation of which that director or other officer, or the spouse of that director or other officer, is a director; and
- 10 (b) the prescribed amount is \$50,000 or, where some other amount is prescribed by the regulations, that other amount.
- (2) Where a society makes a loan to a director or other officer of the society, or to a person associated with a director or other officer of the society, the total of the amount lent and—
- 15 (a) where the loan is to a director or other officer of the society—the amount of any existing indebtedness to the society of—
- 20 (i) that director or other officer; and
- (ii) any person associated with that director or other officer; or
- 25 (b) where the loan is to a person associated with a director or other officer of the society—the amount of any existing indebtedness to the society of—
- (i) that person;
- (ii) any other person associated with that director or other officer; and
- 30 (iii) that director or other officer,
- shall not exceed the prescribed amount.

(3)



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*Permanent Building Societies (Amendment).*

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5 (3) Where a director or other officer of a society is a director of another corporation (not being an association registered under this Act, the Co-operation Acts or the Credit Union Act, 1969) the society shall not lend to another director of that corporation or to the spouse of such a director an amount that, if added to any indebtedness of that other director, or of his spouse, to the society at the time the loan to him is made, would exceed  
10 the prescribed amount.

15 (4) For the purposes of this section, anything done by a proprietary company of which a director or other officer of a society or his spouse is a member shall be deemed to have been done by that director or other officer, as the case may be.

20 (5) Notwithstanding anything in this section, the Advisory Committee may, in a particular case, approve the making of a loan where, but for this subsection, the making thereof would be a contravention of subsection (2) or (3) and, where such an approval is given, the making of the loan is not such a contravention.

25 (6) Where a loan is made by a society in contravention of subsection (2) or (3)—

- (a) the society;
- (b) any officer in default;
- (c) in the case of a loan made in contravention of subsection (2) to a director or other officer—the person to whom the loan was made;

(d)



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- (d) in the case of a loan made in contravention of subsection (2) to a person associated with a director or other officer—that director or other officer; and
- 5 (e) in the case of a loan made to a director of another corporation or his spouse in contravention of subsection (3)—any director or other officer of the society who is a director of that other corporation,
- 10 are each guilty of an offence unless, in the cases referred to in paragraphs (d) and (e), it is proved that the defendant used all due diligence to prevent the contravention.
- Penalty : \$500.
- 15 (g) by omitting from section 75 (2) the words “section Sec. 75. fifty of this Act” and by inserting instead the words (Voting.) “sections 50 and 76”;
- (h) (i) by inserting in section 76 (1) after the words Sec. 76. “a majority” the words “of votes”; (Voting at association meeting.)
- 20 (ii) by omitting from section 76 (1) the word “representatives” where secondly occurring and by inserting instead the words “societies represented at the meeting”;
- 25 (iii) by inserting after section 76 (1) the following subsection :—
- (1A) Where the rules of an association so provide, the representative or representatives of a component society who is or are present at a meeting of the association may, on a poll, cast on behalf of the society such total number of votes, not exceeding five, as is specified in the rules of the association.
- 30 (i)



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- (i) by inserting after section 78 (3) the following subsection :—
- Sec. 78.  
(Registers  
and  
accounts.)

5 (3A) In relation to each person who is a director of a society, there shall, upon receipt of the necessary particulars under section 78A, be incorporated as part of the register of directors of the society a list specifying every corporation (other than the society) of which that person is from time to time a director.

- 10 (j) by inserting after section 78 the following sections :—
- Secs. 78A and  
78B.

15 78A. (1) A director of a society shall give notice in writing to the society of such matters relating to himself as are necessary to enable the society to keep up to date its register of directors (including the list referred to in section 78 (3A)).

Directors  
to furnish  
certain  
information.

(2) A director required to give a notice under subsection (1) shall give the notice not later than fourteen days after—

- 20 (a) the commencement of section 8 (j) of the Permanent Building Societies (Amendment) Act, 1974;
- (b) the day on which he became a director of the society; or
- 25 (c) the day on which he first became aware of the matter of which he is required to give notice,

whichever last occurs.

30 (3) A director who fails to give the notice required by subsection (1) within the time specified by subsection (2) is guilty of an offence.

Penalty : \$500. Default penalty.

78B.



*Permanent Building Societies (Amendment).*

78B. A society shall, not later than three months after the end of its financial year, submit a return in the prescribed form to the registrar specifying, in respect of each person who during that financial year was a director of the society, any corporations of which, according to any notice or notices given to the society under section 78A during that financial year, that person was at any time a director.

Return  
to be  
submitted  
by society.

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(k) by inserting in section 82 (1) after the word "change" where secondly occurring the words "and of any corporations of which, according to any notice or notices given to the society under section 78A, any new member of the board is a director";

Sec. 82.  
(Returns.)

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(1) by inserting after section 84 the following section :—

Sec. 84A.

15

84A. (1) Where a society is directed by the registrar so to do, the society shall submit to the registrar a special return in the form, within the time, and relating to the subject-matter, specified by the registrar when giving the direction.

Special  
returns.

20

(2) A return submitted pursuant to subsection (1) is not a document to which section 108 (1) applies.

9. Part VII of the Principal Act is amended by inserting in section 85 (4) (a) after the word "hearing" the words "and such costs of the parties as he specifies".

Amendment  
of Part VII  
of Act No.  
18, 1967.  
Sec. 85.  
(Disputes.)

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*Permanent Building Societies (Amendment).*

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**10. Part VIII of the Principal Act is amended—**

Amendment  
of Part  
VIII of  
Act No. 18,  
1967.

- (a) by inserting after section 86 the following sections :—

Secs.  
86A and 86B.

5

86A. (1) Subject to this section, the registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a society and may revoke any such appointment.

Appoint-  
ment of  
administra-  
tor of  
society.

10

(2) The registrar shall not appoint an administrator unless he certifies as would be provided by sections 87 (3) and 87 (4) if section 87 were amended—

15

- (a) by omitting from subsection (3) the words “In the case of a winding up upon the certificate of the registrar, the society may be wound up if” and by inserting instead the words “An administrator may not be appointed under section 86A (1) unless”; and

20

- (b) by omitting from subsection (3) (g) the words “the society should be wound up” and by inserting instead the words “an administrator should be appointed to conduct the affairs of the society”.

25

(3) Upon the appointment of an administrator of a society—

30

- (a) the directors of the society cease to hold office;  
(b) all contracts of employment with the society are terminated; and  
(c) all contracts for the provision of secretarial or administrative services for the society are terminated.

(4)

*Permanent Building Societies (Amendment).*

5 (4) An administrator of a society has the powers, authorities, duties and functions of the board of the society and, except as provided by subsection (5), no appointment of a director of the society may be made while the administrator is in office.

10 (5) Before revoking the appointment of an administrator of a society, the registrar shall, except in the case of a revocation under section 86B (2)—

15 (a) ensure that directors of the society have been elected in accordance with the rules of the society at a meeting convened by the administrator in accordance with those rules; or

(b) appoint directors of the society.

(6) Directors elected under subsection (5) (a) or appointed under subsection (5) (b)—

20 (a) take office upon revocation of the appointment of the administrator; and

(b) in the case of appointed directors, hold office until the annual general meeting of the society that next succeeds revocation of that appointment.

25 (7) The expenses of and incidental to the conduct of the affairs of a society by an administrator are payable from the funds of the society.

30 (8) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subsection (7) and shall be fixed by the registrar.

35 (9) Where an administrator appointed under this section is a servant of the Crown, the reimbursement of the Crown in an amount certified by the registrar in respect of the remuneration of its servant is an expense referred to in subsection (7) and is recoverable as a debt due to the Crown.

(10)



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*Permanent Building Societies (Amendment).*

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5 (10) An administrator of a society is not liable for any loss sustained by the society during his term of office unless the loss was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the regulations or the rules of the society.

10 (11) The registrar is not liable for any loss sustained by a society during the term of office of an administrator, whether or not the administrator is so liable.

15 86B. (1) Where an administrator of a society is appointed, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than fourteen days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

20 (2) The registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a society, revoke the appointment of an administrator of the society, and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment.

25 (b) by omitting from section 87 (3) (a) the word "fifty" and by inserting instead the words "one hundred or, where some other number is prescribed by the regulations, that other number";



*Permanent Building Societies (Amendment).*

(c) by inserting after section 90 the following section :—

5           90A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of a society, and its officers and former officers, in the same way as they apply to a company and its officers and former officers.

Certain offences under Companies Act, 1961, to apply equally in respect of society.

10                   (2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

- (a) a reference therein to a company were a reference to a society;
- 15           (b) a reference therein to the Commission were a reference to the registrar;
- 20           (c) the reference in section 374B to the provisions of section 161A or any corresponding previous enactment for the time being in force were a reference to the provisions of this Act relating to the keeping of accounts by a society;

- (d) paragraph (c) were omitted from—
  - 25           (i) the definition of “company to which this section applies” in section 374E (1);
  - (ii) the definition of “appropriate officer” in section 374E (1); and
  - 30           (iii) the definition of “the relevant day” in section 374E (1); and

(e)



*Permanent Building Societies (Amendment).*

(e) the return referred to in paragraph (f) of the definition of "the relevant day" in section 374E (1) were a reference to a return under section 82 (2) of this Act.

5    **11.** Part IX of the Principal Act is amended—

Amendment  
of Part IX  
of Act No.  
18, 1967.  
Sec. 105.

(a) by inserting in section 105 (2) after the word "offence" the words "referred to therein or any contravention of that section or part";

10    (b) by inserting after section 105 (3) the following subsection :—

15    (4) Where a penalty is imposed on a society under this Act, the society shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

**12.** An order made under section 62 (4) of the Principal Act and in force immediately before the commencement of section 7 (e) of this Act shall be deemed to have been made under section 62 (4) of the Principal Act, as amended by section 7 (e) of this Act.

Transitional  
provision.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974  
[25c]

(1) The return referred to in paragraph (1) of the definition of "the relevant day" in section 274A (1) shall be a reference to a return under section 274A (2) of this Act.

41. Part IX of the Principal Act is amended—

Section 274A  
Section 274B  
Section 274C  
Section 274D  
Section 274E

by inserting in section 274A (1) the words "and the words 'the words' referred to in paragraph (1) of the definition of 'the relevant day' in section 274A (1) shall be a reference to a return under section 274A (2) of this Act."

(2) By inserting after section 274A (1) the following subsection:—

(3) Where a return is required to be made under this Act, the return shall, not later than fifteen months after the date on which the return is required to be made, be made in accordance with the provisions of the Act and the regulations made thereunder.

42. An amendment to the Principal Act shall be made by inserting in section 274A (1) of the Principal Act the words "and the words 'the words' referred to in paragraph (1) of the definition of 'the relevant day' in section 274A (1) shall be a reference to a return under section 274A (2) of this Act."



No. , 1974.

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## A BILL

To make further provisions with respect to the formation and administration of permanent building societies and the lending of money by them; to control excessive shareholdings in permanent building societies; to authorise, in certain circumstances, the appointment of an administrator to conduct the affairs of a permanent building society; for these and other purposes to amend the Permanent Building Societies Act, 1967; and for purposes connected therewith.

[MR MCGINTY—19 February, 1974.]

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BE

*Permanent Building Societies (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 (Amendment) Act, 1974". Short title.

2. (1) This section and sections 1 and 3 commence on the date of assent to this Act. Commencement.

10 (2) Subject to subsection (1), the several provisions of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 3. The Permanent Building Societies Act, 1967, is in this Act referred to as the Principal Act. Principal Act.

4. Part II of the Principal Act is amended— Amendment of Part II of Act No. 18, 1967.

20 (a) (i) by omitting from section 5 (1) the words "twenty thousand dollars" wherever occurring and by inserting instead the words "the prescribed amount"; Sec. 5. (Approval or additional security required in certain cases.)

(ii) by omitting from section 5 (1) (b) the word "value" and by inserting instead the word "valuation";

(iii)



*Permanent Building Societies (Amendment).*

- (iii) by inserting at the end of section 5 (1) the following words :—

5 In this subsection "the prescribed amount" means \$25,000 or, where some other amount is prescribed by the regulations for the purposes of this subsection, the amount so prescribed.

- 10 (b) by omitting from section 10 (7) the words "five hundred dollars" and by inserting instead the matter "\$1,000";
- Sec. 10.  
(Ordinary limitation on special loans.)

- 15 (c) (i) by omitting from section 12 the word "society" where firstly occurring and by inserting instead the words "building society, whether registered under this or any other Act or under a law of another State or of a Territory of the Commonwealth,";
- Sec. 12.  
(Assistance by a society to a building society.)

- 20 (ii) by omitting from section 12 the words "it may authorise any society to lend money to the firstmentioned society and the latter society shall have power to do so accordingly" and by inserting instead the words ", a society may, with the authority of the Advisory Committee, lend money to that building society";

- 25 (d) by inserting after section 20 (5) the following subsection :—
- Sec. 20.  
(Borrowing powers.)

30 (5A) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, receive money on deposit upon the terms that it is not repayable before the expiration of a specified period that exceeds one month.

(e)



*Permanent Building Societies (Amendment).*

- (e) by omitting section 20A (4) and by inserting Sec. 20A.  
instead the following subsections :— (Maximum interest payable in respect of money received on deposit.)

5 (4) In this section "maximum rate" in relation to money received by a society on deposit means the same rate as the rate of dividend that would be payable by the society in respect of the deposit if—

- (a) the making of the deposit were a subscription of the same amount of share capital; and  
10 (b) that share capital were withdrawable on the same terms and conditions as the deposit.

(5) This section does not apply to or in respect of deposits with a society that—

- 15 (a) are held by the society by reason of a transfer of engagements from, or amalgamation with, a building society registered under, or specified in the Second Schedule to, the Co-operation Acts; and  
20 (b) were received by that building society before 1st July, 1972.

5. Part III of the Principal Act is amended—

Amendment  
of Part III  
of Act No.  
18, 1967.

- 25 (a) (i) by omitting from section 27 (1) the words "any fifty or more" and by inserting instead the words "not less than the prescribed number of";

- (ii) by omitting from section 27 (2) the words "fifty or more such persons" and by inserting instead the words "not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)";

(iii)

Sec. 27.  
(Formation.)



*Permanent Building Societies (Amendment).*

(iii) by omitting from section 27 (4) the words  
 “fifty or more such persons” and by inserting  
 instead the words “not less than the prescribed  
 number of persons of the age, and having the  
 qualifications, required by subsection (1)”;

(iv) by inserting after section 27 (5) the following  
 subsection :—

(6) In this section “the prescribed number”  
 means one hundred or, where some other  
 number is prescribed by the regulations for  
 the purposes of this section, the number so  
 prescribed.

(b) (i) by omitting section 28 (1) (c) and by Sec. 28.  
 inserting instead the following paragraph :— (Registra-  
 tion.)

(c) such evidence as the registrar may  
 require that the society will, upon  
 registration, have available to it not  
 less than \$2,000,000 or such other  
 amount as may be prescribed by the  
 regulations, including—

(i) members’ share capital of not  
 less than \$1,000,000 or such  
 other amount as may be  
 prescribed by the regulations;  
 and

(ii) other funds that amount to not  
 less than \$500,000 or such  
 other amount as may be  
 prescribed by the regulations,  
 being funds that are available  
 on terms which would not  
 require repayment thereof  
 within a period of less than ten  
 years after receipt by the  
 society;

(ii)

*Permanent Building Societies (Amendment).*

- 5 (ii) by omitting from section 28 (1) (f) the words  
 "name and the occupation and address of fifty  
 persons" and by inserting instead the words  
 "names and the occupations and addresses of  
 not less than the prescribed number of  
 persons referred to in section 27";
- 10 (c) by omitting from section 30 (4) (b) the words "six  
 hundred thousand dollars, of which four hundred  
 thousand dollars" and by inserting instead the words  
 "\$2,000,000, or such other amount as may be  
 prescribed by the regulations, of which not less than  
 \$1,000,000, or such other amount as may be so  
 prescribed,"; Sec. 30.  
 (Societies  
 registered  
 under  
 Co-operation  
 Acts, etc.)
- 15 (d) (i) by inserting in section 34 (3) after the word  
 "and" where secondly occurring the words  
 ", subject to subsection (3A)," ; Sec. 34.  
 (Name.)
- 20 (ii) by inserting in section 34 (3) after the word  
 "Limited" where secondly occurring the words  
 "or the word 'Limited' in lieu of the abbrevi-  
 ation 'Ltd.', or the use of the symbol '&' in  
 lieu of the word 'and', or the use of the word  
 'and' in lieu of the symbol '&'";
- 25 (iii) by inserting after section 34 (3) the following  
 subsection :—
- 30 (3A) Where, with the approval of the  
 Minister, a society includes in its name the  
 words "building society" (consecutively or  
 otherwise) and does not include the word  
 "permanent", the omission of the word "per-  
 manent" does not constitute a contravention  
 of subsection (3).
- (e) by omitting from section 35 (1) (b) the word  
 "other"; Sec. 35.  
 (Use of  
 words  
 "permanent  
 building  
 society".)
- (f)



*Permanent Building Societies (Amendment).*

- (f) by inserting in section 37 (2) after the word "abbreviation" the words "or elaboration"; Sec. 37.  
(Publication of name.)
- 5 (g) (i) by inserting in section 39 (1) (a) after the word "under" where thirdly occurring the words ", or one or more societies specified in the Second Schedule to,"; Sec. 39.  
(Amalgamation.)
- 10 (ii) by inserting in section 39 (1) (a) after the word "under" where fifthly occurring the words ", or a society specified in the Second Schedule to,";
- (h) (i) by inserting in section 40A (1) after the word "under" where firstly occurring the words ", or a society specified in the Second Schedule to,"; Sec. 40A.  
(Transfer of engagements of certain building societies.)
- 15 (ii) by omitting from section 40A (1) the words "such non-terminating building society" and by inserting instead the words "the society that resolved to transfer its engagements";
- 20 (iii) by inserting in section 40A (2) after the word "under" where secondly occurring the words ", or a society specified in the Second Schedule to,";
- (i) by inserting after section 41 the following sections :— Secs. 41A  
and 41B.
- 25 41A. (1) Subject to this section, the registrar may, with the approval of the Minister, direct a society— Transfer of engagements by direction of registrar.
- 30 (a) to transfer its engagements to another society approved by the registrar; and
- (b) within a period specified by the registrar when giving the direction, or within such further period as the registrar may allow, to enter into an agreement, approved by the registrar, to give effect to the transfer of engagements directed.

(2)

*Permanent Building Societies (Amendment).*

(2) The registrar shall not give a direction under subsection (1) unless he gives such a certificate as would be provided for by sections 87 (3) and 87 (4) if section 87 were amended—

- 5 (a) by omitting from subsection (3) the words  
“In the case of a winding up upon the  
certificate of the registrar, the society may  
be wound up if” and by inserting instead  
10 the words “The registrar may not direct a  
transfer of engagements under section 41A  
(1) unless”; and
- (b) by omitting from subsection (3) (g) the  
words “the society should be wound up”  
15 and by inserting instead the words “the  
society should transfer its engagements”.

(3) Where a society fails to comply with a direction given under subsection (1), the registrar may notify the society that he has elected to treat the certificate given under subsection (2) in  
20 relation to the society as—

- (a) a certificate given under section 86A (2);  
or
- (b) a certificate given by him under section 87  
(3).

25 (4) Where the registrar notifies a society as provided by subsection (3), this Act applies to and in respect of the society as if the certificate that, pursuant to subsection (3) (a) or (b), was specified in the notice had been given by the registrar.

30 (5) The registrar may, before a society has, pursuant to a direction under subsection (1), agreed pursuant to subsection (1) (b) to transfer its engagements, revoke the direction.

(6)



*Permanent Building Societies (Amendment).*

5 (6) A society may, with the consent of the registrar and by resolution of the board, accept a transfer of engagements directed under a provision of the Co-operation Acts corresponding to this section.

(7) Section 40 (subsection (5) excepted) does not apply to a transfer of engagements under this section.

10 (8) A transfer of engagements under this section takes effect upon a day notified by the registrar in the Gazette.

(9) An officer of a society who—

- 15 (a) fails to take all reasonable steps to secure compliance by the society with a direction given under subsection (1); or
- (b) by a wilful act or omission is the cause of a failure by the society to comply with such a direction,

is guilty of an offence.

20 Penalty : \$500.

25 41B. (1) Where a direction is given to a society under section 41A (1), the society may, not later than fourteen days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister. Certain representations may be made.

30 (2) The registrar shall exercise in relation to a society his powers under section 41A (5) if the Minister so directs after considering a report under subsection (1) with respect to the society.

*Permanent Building Societies (Amendment).*

6. Part IV of the Principal Act is amended by inserting in section 47 (2) (d) after the word "ways" the words "(including entering into arrangements under section 23)".

Amendment of Part IV of Act No. 18, 1967.  
Sec. 47.  
(Associations.)

7. Part V of the Principal Act is amended—

Amendment of Part V of Act No. 18, 1967.

5 (a) by omitting from section 51 (3) the word "three" and by inserting instead the word "five";

Sec. 51.  
(Corporate body as member.)

10 (b) (i) by omitting from section 52 (1) (b) (ii) the words "its paid up share capital" and by inserting instead the words "shares of that class";

Sec. 52.  
(Share capital.)

(ii) by inserting after section 52 (1) the following subsections :—

15 (1A) This section does not operate to prevent a society from issuing a share subject to a condition that prevents withdrawal of the share capital before the expiration of a specified period of time.

20 (1B) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, issue a share referred to in subsection (1A).

25 (iii) by omitting from section 52 (3) (d) the words "six hundred thousand dollars of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000 or such other

amount



*Permanent Building Societies (Amendment).*

amount as may be prescribed, of which not less than \$1,000,000 or such other amount as may be prescribed”;

(iv) by omitting section 52 (7);

5 (c) by inserting after section 52 the following Sec. 52A.  
section :—

52A. (1) For the purposes of this section— Limitation  
of share-  
holding.

10 (a) a person has a relevant interest in a share in a society if he has power to withdraw the share capital subscribed for that share or to exercise control over the withdrawal of that share capital;

15 (b) the provisions of section 6A of the Companies Act, 1961, apply to and in respect of a relevant interest in a share in a society in the same way as they apply to and in respect of a relevant interest under that Act in a share in any other body corporate and they so apply as if—

20 (i) subsections (1), (2) (a), (5) (a), (7) and (8) had been omitted therefrom; and

25 (ii) references in that section to the disposal of a share were references to the withdrawal of the share capital subscribed for a share;

30 (c) a relevant interest in a share in a society shall be disregarded if it is a relevant interest, or a relevant interest of a class, prescribed for the purposes of this paragraph; and

(d) the prescribed proportion for a society is one-fifth or, where a lesser proportion is specified in the rules of the society, the proportion so specified.

(2)

*Permanent Building Societies (Amendment).*

- 5 (2) Where a person has relevant interests in shares in a society exceeding in nominal value the prescribed proportion of the nominal value of all shares issued by the society, the society shall exercise and perform in respect of the excess shares the powers and duties that, by section 52 (2) (a), are conferred upon it in respect of shares no longer required for the purposes of the society.
- 10 (d) by omitting from section 54 (1) (a) (i) the words Sec. 54.  
 "one thousand dollars or" and by inserting instead (Minimum subscription by founding members of societies.)  
 the words "\$1,000 in the case of a society registered before the commencement of section 7 (d) of the Permanent Building Societies (Amendment) Act, 1974, or \$5,000 in the case of a society registered after that commencement or, in either case,";
- 15 (e) (i) by omitting section 62 (4) and by inserting Sec. 62.  
 instead the following subsection :— (Surplus from operations.)
- 20 (4) The rate of dividend in respect of a share shall not exceed the rate fixed by the Minister in respect of the share by order published in the Gazette on the recommendation of the Advisory Committee.
- (ii) by inserting after section 62 (4) the following subsections :—
- 25 (4A) An order under subsection (4) may fix rates of dividend differing according to specified circumstances.
- (4B) Subsection (4) does not apply in respect of shares that—
- 30 (a) are held in the society by reason of a transfer of engagements from, or amalgamation with, a building society
- registered



*Permanent Building Societies (Amendment).*

- registered under, or specified in the  
Second Schedule to, the Co-operation  
Acts;
- 5 (b) were issued before 1st July, 1972, by  
such a building society; and
- (c) if they are withdrawable and have been  
the subject of a transfer, were last  
transferred before 1st July, 1972.
- (iii) by omitting section 62 (6);
- 10 (f) (i) by omitting from section 63 (2) (d) the word Sec. 63.  
“and”; (Liquidity.)
- (ii) by omitting from section 63 (2) (e) the words  
“this paragraph.” and by inserting instead the  
following words and paragraph :—
- 15 this paragraph; and
- (f) as funds or investments referred to in  
paragraphs (a), (b), (c), (d) and (e)  
and deposited with an association  
pursuant to arrangements made under
- 20 section 23,
- except to the extent of the amount necessary  
to satisfy any lien or charge on the funds and  
investments specified in paragraphs (a), (b),  
(c), (d) and (e).
- 25 (iii) by inserting after section 63 (3) the following  
subsection :—
- (4) Notwithstanding subsection (1), a  
society may approve the making of loans from  
a fund comprising specific moneys borrowed  
by it if—
- 30 (a) the moneys borrowed are not required  
to be repaid by the society before the  
expiration of ten years except to the  
extent

*Permanent Building Societies (Amendment).*

- 5 extent that the terms upon which the moneys are borrowed provide for the earlier payment to the lender by the society of amounts not exceeding the amounts from time to time payable or paid to the society by way of interest on, or in reduction or repayment of, loans so made; and
- 10 (b) the proceeds of the due repayment of each loan so made would be sufficient to provide for the due repayment by the society of the moneys borrowed by it.
- 15 (g) by inserting in section 64 (2) after the words "winding up" the words "or upon terms and conditions approved by the Advisory Committee". Sec. 64. (Reserve.)

## 8. Part VI of the Principal Act is amended—

Amendment  
of Part VI  
of Act No.  
18, 1967.

- (a) by omitting section 67 (5) and by inserting instead the following subsection :— Sec. 67.  
(Appoint-  
ment of  
directors.)
- 20 (5) Notwithstanding anything in this Act, the rules of a society may provide for the election by the members—
- (a) of not more than one employee of the society nominated by the directors; or
- 25 (b) where the directors number seven or more, of not more than two employees of the society so nominated,
- as a director, or as directors, of the society.
- 30 In this subsection "employee of the society" includes a person, or the employee of a person, who provides the society with secretarial and administrative services.

(b)



*Permanent Building Societies (Amendment).*

- (b) (i) by omitting from section 68 (4) (j) the word "or";
- (ii) by omitting section 68 (4) (k) and by inserting instead the following paragraphs :—
- (k) if, having been elected as a director pursuant to section 67 (5), he ceases to hold the qualification by virtue of which he was elected;
- (l) if an administrator of the society's affairs is appointed under section 86A; or
- (m) as provided by section 68B.

Sec. 68.  
(Directors—  
qualifica-  
tion and  
vacation of  
office.)

- (c) by inserting after section 68A the following section :—

Director  
vacates  
office in  
certain  
circum-  
stances.

68B. (1) Where a person is, at the same time, a director of a society and a director of another corporation (not being an association) the Advisory Committee may, subject to this section, determine that, in its opinion, the activities and operations in which the corporation is engaged are, or are likely to be, such that that person should not be a director of the society while he is a director of that corporation.

(2) The Advisory Committee shall not make a determination under subsection (1) in relation to a director unless the director—

- (a) has, by notice given to him in writing by the registrar at the direction of the Advisory Committee, been informed that the Advisory Committee proposes to consider whether a determination should be made under subsection (1) with respect to a specified corporation, or specified corporations; and

(b)

*Permanent Building Societies (Amendment).*

(b) has been given an opportunity to be heard by the Advisory Committee.

(3) The registrar shall, at the direction of the Advisory Committee, give notice in writing of a determination under subsection (1) to the director to whom it relates and, where the registrar gives such a notice, the director may appeal to the Minister against the determination within fourteen days after the giving of the notice.

(4) Where a director of a society appeals as provided by subsection (3), the Minister may—

(a) uphold the appeal;

(b) dismiss the appeal; or

(c) where the determination relates to more than one corporation, uphold or dismiss the appeal in so far as the determination relates to a corporation or corporations specified by the Minister and dismiss or uphold it in relation to the other or others.

(5) A director of a society given a notice referred to in subsection (3) vacates his office as such a director—

(a) where he does not appeal against the determination to which the notice relates—at the expiration of the period within which he might have appealed against that determination; or

(b) where he so appeals and the appeal—

(i) is dismissed; or

(ii)



*Pipelines (Amendment).*

(b) being a renewal of a licence, comes into force on the day after the day on which the last previous licence in respect of the same pipeline ceases to be in force,

5 and subject to this Act, remains in force for such period commencing on that day and not exceeding twenty-one years as may be specified in the licence.

10 (2) A licence, while it remains in force, authorises the licensee, subject to the conditions to which the licence was granted, to enter the lands specified in the licence and, in so far as his estate or interest in those lands permits him so to do—

- (a) to commence or continue the construction of a pipeline thereon;
- 15 (b) to alter or reconstruct a pipeline thereon;
- (c) to operate a pipeline thereon; and
- (d) to inspect and maintain a pipeline thereon.

20 (3) Nothing in paragraph (c) of subsection (2) affects the operation of paragraph (b) of subsection (2) of section 11.

25 18. (1) In this section, “minor variation”, in relation to a licence area, means a variation of that licence area by including therein additional lands, being a variation which the Minister is satisfied is for the purpose only of making a minor variation of—

- (a) the route of the pipeline;
- (b) the situation of any apparatus or works; or
- 30 (c) any means of gaining access to the pipeline or any apparatus or works.

*Pipelines (Amendment).*

(2) A licensee may, at any time, by an application to the Governor made by instrument in writing served on the Minister, apply for a variation of the licence area—

- 5 (a) by including therein additional lands;
- (b) by excluding lands therefrom; or
- (c) by including therein additional lands and by excluding lands therefrom.

(3) An application under this section—

- 10 (a) shall be in or to the effect of the prescribed form;
- (b) shall be accompanied by particulars of the proposed variation;
- 15 (c) shall specify the reasons for the proposed variation; and
- (d) shall be accompanied by the prescribed fee.

(4) Where an application under this section is an application for a variation (not being a minor variation) of the licence area by including therein additional lands, the application, in addition to complying with the requirements of subsection (3)—

- 20 (a) shall be accompanied by a plan, drawn in the prescribed manner—
- 25 (i) showing the location on lands in respect of which the applicant is or has been, as mentioned in subsection (1) of section 12, the holder of a permit of—
- 30 (a) any proposed variation of the route of the pipeline;

(b)



*Pipelines (Amendment).*

- 5 (b) any proposed variation of the situation of any apparatus or works; and

(c) any proposed variation of the means of gaining access to the pipeline or any apparatus or works; and

(ii) on which shall be identified the lands or easements over lands referred to in paragraph (c) of this subsection;
- 10 (b) shall be accompanied by particulars of any agreements entered into, or proposed to be entered into, by the applicant for the acquisition by him of, or of easements over, the additional lands shown in the plan referred to in paragraph (a) of this subsection;
- 15 (c) shall specify particulars of the additional lands, or of the easements over the additional lands, acquired or agreed to be acquired or in respect of which no agreement for acquisition by the applicant has been reached;
- 20 (d) shall be accompanied by copies of the notification caused to be published by the applicant in accordance with the provisions of subsection (7); and
- 25 (e) may set out any other matters that the applicant wishes the Minister to consider.
- 30 (5) Where an application under this section is an application for a minor variation of the licence area, the application, in addition to complying with the requirements of subsection (3)—

(a) shall be accompanied by a plan, drawn in the prescribed manner, showing the location on the additional lands of—

35 (i) any proposed variation of the route of the pipeline;

(ii)



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*Pipelines (Amendment).*

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- (ii) any proposed variation of the situation of any apparatus or works; and
- (iii) any proposed variation of the means of gaining access to the pipeline or any apparatus or works,

5

on which plan shall be identified the lands or easements over lands referred to in paragraph (c);

10

- (b) shall be accompanied by particulars of any agreements entered into, or proposed to be entered into, by the applicant for the acquisition by him of, or of easements over, the additional lands shown in the plan referred to in paragraph (a);

15

- (c) shall specify particulars of the additional lands, or of the easements over the additional lands, acquired or agreed to be acquired or in respect of which no agreement for acquisition by the applicant has been reached; and

20

- (d) may set out any other matters that the applicant wishes the Minister to consider.

25

(6) Where an application under this section is an application for the variation of a licence area by excluding lands from the licence area, the application, in addition to complying with the requirements of subsection (3), shall be accompanied by a plan, drawn in the prescribed manner, showing the location on the lands within the licence area of the lands proposed to be excluded.

30

(7) Not less than seven days before a person makes an application under this section for a variation (not being a minor variation) of the licence



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*Pipelines (Amendment).*

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5        licence area by including therein additional lands,  
he shall cause to be published in two daily news-  
papers circulating throughout New South Wales a  
notification in or to the effect of the prescribed form  
setting forth the particulars provided for by that  
form in relation to the proposed application.

10        (8) An application under this section and  
each of the documents, if any, accompanying it  
shall be submitted in quintuplicate, and the Minister  
shall serve a copy of the application and of those  
documents on the Minister for Transport, the  
Minister for Local Government, the Minister for  
Public Works and the Minister for Highways.

15        (9) The applicant shall, if required to do so  
by an instrument in writing served on him at any  
time by the Minister, furnish to the Minister and to  
each of the Ministers referred to in subsection (8),  
within the time specified in the instrument, further  
information in writing in connection with his  
20        application, as required by the instrument.

(10) The Minister—

25        (a) shall give notice of an application under this  
section for a minor variation of the licence  
area to any person who is the owner or  
occupier of any land that may be affected  
by the application;

30        (b) may give to such persons, if any, as he thinks  
fit, notice of an application under this  
section for a minor variation of the licence  
area or for a variation of the licence area  
by excluding lands therefrom; and

(c) shall specify in any such notice a period  
within which each person to whom notice is  
so given may submit to the Minister in

writing

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*Pipelines (Amendment).*

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writing any matters that he wishes to be considered in connection with the application.

5           19. (1) Where an application under section 18 is an application for a variation of the licence area by including therein additional lands and the Minister has certified to the Governor—

Grant of  
application  
for  
variation.

10           (a) that the application was made and submitted in compliance with such of the provisions of section 18 as are applicable to the application (except in so far as non-compliance with such of the provisions of subsections (3), (4), (5) and (9) of that section as are applicable to the application was, in the opinion of the Minister, not in a material respect);

15           (b) that the lands, or the easements over lands, specified in the application—  
              (i) are vested in the applicant; or  
20               (ii) are available, in accordance with section 22, for compulsory acquisition; and

25           (c) that the applicant has made provision, or given security in addition to any other security required by this Act, to the satisfaction of the Minister, for the payment—

30               (i) of compensation and any interest payable in respect of any lands, or easements over lands, that are available for compulsory acquisition; and

35               (ii) of all charges and expenses necessary for or incidental to the compulsory acquisition of those lands or easements,

the



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*Pipelines (Amendment).*

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the Governor may, by instrument in writing—

5 (d) where the application is an application for a variation (not being a minor variation, as defined in subsection (1) of section 18) of the licence area; or

10 (e) where the application is an application for a minor variation, as defined in subsection (1) of section 18, after considering particulars as submitted to him by the Minister of any matters submitted to the Minister as referred to in paragraph (c) of subsection (10) of section 18,

15 grant the application in relation to the lands, and the lands the subject of easements, specified in the application, or such of those lands as he thinks fit or may refuse the application.

(2) The Governor may refuse an application made under subsection (4) of section 18 but such an application shall not be refused unless—

20 (a) the Minister has, by instrument in writing served on the applicant, given not less than one month's notice of his intention to recommend to the Governor that the application be refused;

25 (b) the Minister has served a copy of the instrument on such other persons, if any, as he thinks fit;

(c) the Minister has, in the instrument—

30 (i) given particulars of the reasons for his intention; and

(ii) specified a date on or before which the applicant or a person on whom a copy of the instrument is served may, by instrument in writing served

on



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*Pipelines (Amendment).*

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on the Minister, submit any matters that he wishes the Governor to consider; and

- 5 (d) the Governor has taken into account particulars, as submitted to him by the Minister, of any matters so submitted to the Minister on or before the specified date.

10 (3) Where an application under section 18 is an application for a variation of the licence area by excluding lands therefrom, the Governor may, after considering particulars as submitted to him by the Minister of any matters submitted to the Minister as referred to in paragraph (c) of subsection (10) of section 18, grant the application  
15 to such extent as he thinks fit.

(4) Where a licence area is varied—

- 20 (a) by including additional lands therein, the additional lands shall, for the purposes of this Act, be deemed to be lands specified in the licence in respect of that licence area; or  
(b) by excluding lands therefrom, the lands so excluded shall, for the purposes of this Act, be deemed not to be lands specified in the  
25 licence in respect of that licence area.

(5) Where an application under section 18 is refused, the whole, or such part as the Minister determines of the fee referred to in paragraph (d) of subsection (3) of that section shall be refunded  
30 to the applicant.

(6) An application for the variation of a licence area by including therein additional lands may be granted subject to such conditions as the Governor thinks fit and specifies in the instrument  
35 by which he grants the application.

(7)



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*Pipelines (Amendment).*

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(7) Without limiting the generality of subsection (6), the conditions referred to in that subsection may include any conditions of the kind referred to in subsection (2) of section 15.

5 (8) Where an application is made for the variation of a licence area by including therein additional lands and by excluding lands therefrom, such of the provisions of section 18 as are applicable to an application for the variation of a licence  
10 area—

(a) by including therein additional lands, and such of the provisions of this section as are applicable to the granting of such an application, apply to and in respect of so much  
15 of the application and the granting thereof as relates to the variation of the licence area by including therein additional lands; and

(b) by excluding lands therefrom, and such of the provisions of this section as are applicable to the granting of such an application, apply to and in respect of so much of the  
20 application and the granting thereof as relates to the variation of the licence area by excluding lands therefrom.

25 20. (1) Upon the granting of a licence under section 14 or of an application under section 18 for the variation of a licence area by including additional lands in the licence area, the Minister shall  
30 cause to be lodged with the Registrar-General a plan of the lands in respect of which the licence or application is granted—

(a) showing the matters referred to in paragraphs (a), (b) and (c) of subparagraph (i) of paragraph (d) of subsection (1) of  
35 section 13, in paragraphs (a), (b) and (c)

of



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*Pipelines (Amendment).*

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of subparagraph (i) of paragraph (a) of subsection (4) of section 18 or in subparagraphs (i), (ii) and (iii) of paragraph (a) of subsection (5) of section 18; and

- 5 (b) identifying, or accompanied by instruments identifying, in relation to those lands, any lands or easements vested or to be vested in the applicant for the purposes of the proposed pipeline.

- 10 (2) Upon lodgment of the plan and any other instruments pursuant to subsection (1), the Registrar-General shall, if he is satisfied that the plan is suitable for registration—

- 15 (a) register the plan and record the instruments in such manner as to him seems appropriate; and

- (b) inform the Minister, by instrument in writing, that he has done so and in the instrument specify the charges and expenses incurred by the Registrar-General in relation to the registration of the plan and the recording of the instruments.

- 25 21. (1) The Governor shall, by notification published in the Gazette as soon as practicable after a licence is granted, declare that any lands or easements specified in the licence (including lands deemed to be specified therein by paragraph (a) of subsection (4) of section 19) are vested in the licensee according to the tenor of the notification.

Vesting of  
lands or  
easements  
in licensee.

- 30 (2) Upon publication of a notification under subsection (1), any lands and easements specified in the notification, to the extent that they were not immediately before the date of the notification vested in the licensee, vest in the licensee according to the tenor of the notification.

35

(3)



*Pipelines (Amendment).*

(3) Where, by the operation of subsection (2), any lands under the provisions of the Real Property Act, 1900, or easements over any such lands, become vested in a licensee, the licensee shall forthwith make a request to the Registrar-General under section 46C of the Real Property Act, 1900, in relation to those lands and easements.

(4) Upon receipt of a request under section 46C of the Real Property Act, 1900, the Registrar-General may in accordance with that Act, notify in the Register kept by him pursuant to that Act, that the lands or easements over lands, are vested in the licensee according to the tenor of the notification, notwithstanding that any relevant certificate of title or Crown grant has not been produced to him.

22. For the purposes of sections 14 and 19, lands or easements over lands are available for compulsory acquisition—

Availability  
of certain  
lands, etc.,  
for  
compulsory  
acquisition.

(a) in the case of Crown lands or lands vested in a person on behalf of the Crown or in a public authority or in the case of easements over any such lands (not being Crown lands, or lands so vested, or easements over lands, referred to in paragraph (b)), if—

(i) at least three months before the Minister grants a certificate referred to in subsection (1) of section 14 or subsection (1) of section 19, the applicant has informed the public authority or person concerned or the Minister administering the provisions of the Crown Lands Acts applying to those lands of the application for the licence or variation of the licence area; and

(ii)

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*Pipelines (Amendment).*

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- 5 (ii) where the public authority or person  
or the Minister administering the  
provisions of the Crown Lands Acts  
applying to those lands has by  
instrument in writing addressed to  
the Minister objected to the grant-  
ing of the application and has  
requested that the matter be  
referred to the Premier for decision,  
10 the Premier has, after considering  
any representations made to the  
Minister by the public authority, the  
person concerned and the Minister  
administering the provisions of the  
15 Crown Lands Acts applying to those  
lands and such other matters as he  
thinks fit, approved of the applica-  
tion being referred to the  
Governor;
- 20 (b) in the case of Crown lands or lands vested  
in a person on behalf of the Crown (being  
Crown lands or lands so vested that are  
under the control of a public authority) or  
in the case of easements over any such  
25 lands, if—
- (i) at least three months before the  
Minister grants a certificate referred  
to in subsection (1) of section 14  
or subsection (1) of section 19, the  
30 applicant has informed the public  
authority concerned and the owner  
of the lands of the application for  
the licence or variation of the  
licence area; and
- 35 (ii) where the public authority con-  
cerned or the owner of the lands  
has by instrument in writing  
addressed to the Minister objected  
to the granting of the application  
and



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*Pipelines (Amendment).*

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- 5 and has requested that the matter be referred to the Premier for decision, the Premier has, after considering any representations made to the Minister by the public authority or the owner and such other matters as he thinks fit, approved of the application being referred to the Governor;
- 10 (c) in the case of lands that are held as an incomplete purchase, a homestead selection, a homestead grant or a lease in perpetuity under the Crown Lands Acts, or lands held in fee-simple over which the owner has no
- 15 power of sale or power to grant an easement, or in the case of easements over any such lands, if the Minister is satisfied that not less than two months before the Minister grants a certificate referred to in subsection
- 20 (1) of section 14 or subsection (1) of section 19, the applicant has given the owner and, where the lands are held as an incomplete purchase, a homestead selection, a homestead grant or a lease in perpetuity under the Crown Lands Acts, the Minister administering the provisions of the Crown Lands Acts applying to those lands, notice in writing that the lands, or an easement over the lands will, upon the grant of a
- 25 licence, be compulsorily acquired; or
- 30 (d) in the case of other lands, not being lands referred to in paragraph (a), (b) or (c), or easements over those other lands, if the Minister is satisfied—
- 35 (i) that the applicant has entered into an agreement with the owner to acquire the lands or an easement over the lands; or
- (ii)



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*Pipelines (Amendment).*

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5 (ii) that the applicant has taken all reasonable steps to enter into an agreement with the owner to acquire the lands or easements and those steps have not resulted in any such agreement.

10 22A. (1) A person who has an estate or interest in any lands vested in a licensee by section 21, or in any lands over which an easement is so vested by that section, or who, but for this Act, would have had such an estate or interest, is entitled to receive, in respect of the vesting of those lands or easements, compensation from the licensee in whom the lands or easements are vested by that section.

15 (2) For the purpose of assessing and dealing with any such compensation and for other purposes subsidiary thereto the provisions of section 45, sections 53 to 79, both inclusive, sections 102, 103, 106, and 124, sections 126 to 131, both inclusive, and sections 135 and 136 of the Public Works Act, 1912, shall, without limiting the provisions of section 157A of the Conveyancing Act, 1919, apply, mutatis mutandis, to the vesting of lands or easements under section 21 of this Act, subject to the amendments specified in subsection (3) of this section, as if the notification published under section 21 of this Act were a notification published under section 42 of the Public Works Act, 1912.

30 (3) For the purposes of subsection (2) and not otherwise, the Public Works Act, 1912, is deemed to be amended—

35 (a) by omitting from the sections specified in subsection (2) other than sections 103 and 124 the words "Constructing Authority" wherever occurring and by inserting instead the words "licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act";

(b)



*Pipelines (Amendment).*

- (b) (i) by omitting from section 53 the words  
“so seised, possessed or entitled as  
aforesaid”;
- 5 (ii) by omitting from section 53 the words  
“as in the preceding section mentioned”  
and by inserting instead the words “and  
may claim compensation in respect of  
the land or easements resumed and  
agree to, settle and determine with the  
10 licensee, under the Pipelines Act, 1967,  
liable to pay compensation under this  
Act, the amount of the compensation”;
- 15 (iii) by inserting in section 53 (3) after the  
word “release” the words “and to  
claim, agree to, and settle and deter-  
mine with the licensee, under the  
Pipelines Act, 1967, liable to pay  
compensation under this Act, the  
amount of compensation”;
- 20 (iv) by omitting section 53 (5);
- (c) (i) by omitting from section 102 the words  
“and upon the Crown Solicitor”;
- (ii) by inserting at the end of section 102  
the following new subsection :—
- 25 (2) Upon receipt of that notice of  
claim the licensee, under the Pipelines  
Act, 1967, liable to pay compensation  
under this Act, shall obtain from his  
30 solicitor a report on the title of the land  
in respect of which the claim has been  
served upon him by the claimant.
- (d) by omitting from section 103 the words  
“Crown Solicitor he shall forward the same,  
together with his report thereon to the  
Constructing

*Pipelines (Amendment).*

Constructing Authority, who" and by inserting instead the words "licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act, he";

- 5 (e) by omitting section 124 and by inserting instead the following section :—

10 124. For the purpose of ascertaining the compensation to be paid regard shall in every case be had by the Court not only to the value of any lands taken or lands over which the easements are taken but also to the damage (if any) caused by the severing of the lands taken from other lands in which the claimant has an estate or interest or by  
15 the exercise over any such lands of any rights by the licensee, under the Pipelines Act, 1967, liable to pay the compensation and the Court shall assess the compensation according to what it finds to have been the value of any such lands, estate or interest at  
20 the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant, and without reference to  
25 any alteration in such value arising from the construction of any works upon the lands taken or the lands over which easements were taken.

- 30 (f) (i) by inserting at the end of section 126 (2) the following further proviso:—

35 Provided further that in every case where a claim is not served within ninety days from the publication in the Gazette of the notification of the vesting of the lands in the licensee the compensation shall bear interest only from the date of service of the notice of claim.

(ii)



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*Permanent Building Societies (Amendment).*

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5 (10) An administrator of a society is not liable for any loss sustained by the society during his term of office unless the loss was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the regulations or the rules of the society.

10 (11) The registrar is not liable for any loss sustained by a society during the term of office of an administrator, whether or not the administrator is so liable.

15 86B. (1) Where an administrator of a society is appointed, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than fourteen days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

20 (2) The registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a society, revoke the appointment of an administrator of the society, and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment.

25 (b) by omitting from section 87 (3) (a) the word "fifty" and by inserting instead the words "one hundred or, where some other number is prescribed by the regulations, that other number";

30



*Permanent Building Societies (Amendment).*

(c) by inserting after section 90 the following section :—

5           90A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of a society, and its officers and former officers, in the same way as they apply to a company and its officers and former officers.

Certain offences under Companies Act, 1961, to apply equally in respect of society.

10           (2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

- (a) a reference therein to a company were a reference to a society;
- 15           (b) a reference therein to the Commission were a reference to the registrar;
- 20           (c) the reference in section 374B to the provisions of section 161A or any corresponding previous enactment for the time being in force were a reference to the provisions of this Act relating to the keeping of accounts by a society;
- (d) paragraph (c) were omitted from—
  - 25           (i) the definition of “company to which this section applies” in section 374E (1);
  - (ii) the definition of “appropriate officer” in section 374E (1); and
  - 30           (iii) the definition of “the relevant day” in section 374E (1); and

(e)



*Permanent Building Societies (Amendment).*

- (e) the return referred to in paragraph (f) of the definition of "the relevant day" in section 374E (1) were a reference to a return under section 82 (2) of this Act.

5 **11.** Part IX of the Principal Act is amended—

Amendment  
of Part IX  
of Act No.  
18, 1967.  
Sec. 105.

- (a) by inserting in section 105 (2) after the word "offence" the words "referred to therein or any contravention of that section or part";

(Contraven-  
tion of  
Act.)

10 (b) by inserting after section 105 (3) the following subsection :—

(4) Where a penalty is imposed on a society under this Act, the society shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

15

**12.** An order made under section 62 (4) of the Principal Act and in force immediately before the commencement of section 7 (e) of this Act shall be deemed to have been made under section 62 (4) of the Principal Act, as amended by section 7 (e) of this Act.

Transitional  
provision.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[25c]

1. The first part of the report is a summary of the work done during the year.

(a) The first part of the report is a summary of the work done during the year.

(b) The second part of the report is a summary of the work done during the year.

(c) The third part of the report is a summary of the work done during the year.

(d) The fourth part of the report is a summary of the work done during the year.

(e) The fifth part of the report is a summary of the work done during the year.

(f) The sixth part of the report is a summary of the work done during the year.

(g) The seventh part of the report is a summary of the work done during the year.

(h) The eighth part of the report is a summary of the work done during the year.

(i) The ninth part of the report is a summary of the work done during the year.

(j) The tenth part of the report is a summary of the work done during the year.

(k) The eleventh part of the report is a summary of the work done during the year.

(l) The twelfth part of the report is a summary of the work done during the year.

(m) The thirteenth part of the report is a summary of the work done during the year.

(n) The fourteenth part of the report is a summary of the work done during the year.

(o) The fifteenth part of the report is a summary of the work done during the year.

(p) The sixteenth part of the report is a summary of the work done during the year.

(q) The seventeenth part of the report is a summary of the work done during the year.

(r) The eighteenth part of the report is a summary of the work done during the year.

(s) The nineteenth part of the report is a summary of the work done during the year.

(t) The twentieth part of the report is a summary of the work done during the year.

(u) The twenty-first part of the report is a summary of the work done during the year.

(v) The twenty-second part of the report is a summary of the work done during the year.

(w) The twenty-third part of the report is a summary of the work done during the year.

(x) The twenty-fourth part of the report is a summary of the work done during the year.

(y) The twenty-fifth part of the report is a summary of the work done during the year.

(z) The twenty-sixth part of the report is a summary of the work done during the year.

(aa) The twenty-seventh part of the report is a summary of the work done during the year.

(ab) The twenty-eighth part of the report is a summary of the work done during the year.

(ac) The twenty-ninth part of the report is a summary of the work done during the year.

(ad) The thirtieth part of the report is a summary of the work done during the year.

(ae) The thirty-first part of the report is a summary of the work done during the year.

(af) The thirty-second part of the report is a summary of the work done during the year.

(ag) The thirty-third part of the report is a summary of the work done during the year.

(ah) The thirty-fourth part of the report is a summary of the work done during the year.

(ai) The thirty-fifth part of the report is a summary of the work done during the year.

(aj) The thirty-sixth part of the report is a summary of the work done during the year.

(ak) The thirty-seventh part of the report is a summary of the work done during the year.

(al) The thirty-eighth part of the report is a summary of the work done during the year.

(am) The thirty-ninth part of the report is a summary of the work done during the year.

(an) The fortieth part of the report is a summary of the work done during the year.



## PERMANENT BUILDING SOCIETIES (AMENDMENT) BILL, 1974

### EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to increase the amount that may be lent by a permanent building society without requiring mortgage insurance;
- (b) to increase the maximum penalty that may be imposed for a breach of the provisions of the Principal Act relating to "special" loans;
- (c) to enable a permanent building society, if authorised so to do by the Permanent Building Societies Advisory Committee, to lend money to a building society that is in financial difficulties, whether or not that other society is a society registered in New South Wales;
- (d) to enable different rates to be fixed in respect of interest on moneys deposited with a permanent building society for different periods or in respect of dividends on share capital subscribed for different periods;
- (e) to increase from 50 to 100 the minimum number of shareholders who may form a permanent building society;
- (f) to increase from \$600,000 to \$2,000,000 (including at least \$1,000,000 shareholders' funds and at least \$500,000 not repayable within 10 years) the minimum capital required to form a permanent building society;
- (g) to make further provisions with respect to the amalgamation of, and transfer of engagements between, building societies (whether permanent building societies or not);
- (h) to ensure that no person, either personally or through nominees or associates, holds more than one-fifth of the shares in a permanent building society or, where the rules of the society provide for a lesser proportion, that lesser proportion;
- (i) to increase from \$1,000 to \$5,000 the minimum shareholding to be retained for at least seven years by at least ten founders of a permanent building society registered in future, including all the directors, or all being directors;
- (j) to require a society, when calculating the amount of liquid funds required to be kept by it in accordance with the Principal Act, to deduct the amount required to satisfy any lien or charge on its investments;
- (k) to authorise a permanent building society to utilise its statutory reserves on terms and conditions approved by the Permanent Building Societies Advisory Committee;

- (l) to increase from one to two the number of employees of a permanent building society having seven or more directors who may be nominated for election as directors of the society;
- (m) to require a director of a permanent building society who is a director of another corporation to notify the society of that fact, specifying the corporation;
- (n) to require a society to incorporate in its register of directors information referred to in paragraph (m) above;
- (o) to provide that, in certain circumstances, a director of a permanent building society vacates his office if he is a director of another corporation;
- (p) to limit the amount that may be borrowed from a permanent building society by a director or officer of the society or his spouse, any corporation of which he or his spouse is a director and any partnership of which he or his spouse is a member;
- (q) to limit the amount that may be borrowed from a permanent building society by a director of a corporation or his spouse where a fellow director of the corporation is also a director or other officer of the society;
- (r) to require a permanent building society to submit certain returns to the registrar;
- (s) to enable the registrar, when determining a dispute between a permanent building society and a member of the society, to order payment of costs;
- (t) to enable the registrar, in certain circumstances and with the approval of the Minister, to appoint an administrator to conduct the affairs of a permanent building society instead of its directors;
- (u) to create certain offences relating to the winding up of a permanent building society, being offences of the same nature as those relating to the winding up of a company under the Companies Act, 1961;
- (v) to make provisions consequential upon or ancillary to the foregoing.



PROOF

No. , 1974.

## A BILL

To make further provisions with respect to the formation and administration of permanent building societies and the lending of money by them; to control excessive shareholdings in permanent building societies; to authorise, in certain circumstances, the appointment of an administrator to conduct the affairs of a permanent building society; for these and other purposes to amend the Permanent Building Societies Act, 1967; and for purposes connected therewith.

[MR MCGINTY—19 February, 1974.]

BE

*Permanent Building Societies (Amendment).*

**5** **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.** This Act may be cited as the "Permanent Building Societies (Amendment) Act, 1974". Short title.

**2.** (1) This section and sections 1 and 3 commence on the date of assent to this Act. Commencement.

**10** (2) Subject to subsection (1), the several provisions of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**15** **3.** The Permanent Building Societies Act, 1967, is in this Act referred to as the Principal Act. Principal Act.

**4.** Part II of the Principal Act is amended— Amendment of Part II of Act No. 18, 1967.

**20** (a) (i) by omitting from section 5 (1) the words "twenty thousand dollars" wherever occurring and by inserting instead the words "the prescribed amount"; Sec. 5. (Approval or additional security required in certain cases.)

(ii) by omitting from section 5 (1) (b) the word "value" and by inserting instead the word "valuation";

(iii)



*Permanent Building Societies (Amendment).*

- (iii) by inserting at the end of section 5 (1) the following words :—

In this subsection "the prescribed amount" means \$25,000 or, where some other amount is prescribed by the regulations for the purposes of this subsection, the amount so prescribed.

- (b) by omitting from section 10 (7) the words "five hundred dollars" and by inserting instead the matter "\$1,000";

Sec. 10.  
(Ordinary  
limitation  
on special  
loans.)

- (c) (i) by omitting from section 12 the word "society" where firstly occurring and by inserting instead the words "building society, whether registered under this or any other Act or under a law of another State or of a Territory of the Commonwealth,";

Sec. 12.  
(Assistance  
by a society  
to a  
building  
society.)

- (ii) by omitting from section 12 the words "it may authorise any society to lend money to the firstmentioned society and the latter society shall have power to do so accordingly" and by inserting instead the words ", a society may, with the authority of the Advisory Committee, lend money to that building society";

- (d) by inserting after section 20 (5) the following subsection :—

Sec. 20.  
(Borrowing  
powers.)

(5A) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, receive money on deposit upon the terms that it is not repayable before the expiration of a specified period that exceeds one month.

(e)

*Permanent Building Societies (Amendment).*

(e) by omitting section 20A (4) and by inserting instead the following subsections :—

Sec. 20A.  
(Maximum  
interest  
payable in  
respect of  
money  
received  
on deposit.)

5 (4) In this section "maximum rate" in relation to money received by a society on deposit means the same rate as the rate of dividend that would be payable by the society in respect of the deposit if—

- (a) the making of the deposit were a subscription of the same amount of share capital; and
- 10 (b) that share capital were withdrawable on the same terms and conditions as the deposit.

(5) This section does not apply to or in respect of deposits with a society that—

- 15 (a) are held by the society by reason of a transfer of engagements from, or amalgamation with, a building society registered under, or specified in the Second Schedule to, the Co-operation Acts; and
- 20 (b) were received by that building society before 1st July, 1972.

5. Part III of the Principal Act is amended—

Amendment  
of Part III  
of Act No.  
18, 1967.

25 (a) (i) by omitting from section 27 (1) the words "any fifty or more" and by inserting instead the words "not less than the prescribed number of";

Sec. 27.  
(Formation.)

(ii) by omitting from section 27 (2) the words "fifty or more such persons" and by inserting instead the words "not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)";

30

(iii)



*Permanent Building Societies (Amendment).*

(iii) by omitting from section 27 (4) the words  
“fifty or more such persons” and by inserting  
instead the words “not less than the prescribed  
number of persons of the age, and having the  
qualifications, required by subsection (1)”;

(iv) by inserting after section 27 (5) the following  
subsection :—

(6) In this section “the prescribed number”  
means one hundred or, where some other  
number is prescribed by the regulations for  
the purposes of this section, the number so  
prescribed.

(b) (i) by omitting section 28 (1) (c) and by Sec. 28.  
inserting instead the following paragraph :— (Registra-  
tion.)

(c) such evidence as the registrar may  
require that the society will, upon  
registration, have available to it not  
less than \$2,000,000 or such other  
amount as may be prescribed by the  
regulations, including—

(i) members’ share capital of not  
less than \$1,000,000 or such  
other amount as may be  
prescribed by the regulations;  
and

(ii) other funds that amount to not  
less than \$500,000 or such  
other amount as may be  
prescribed by the regulations,  
being funds that are available  
on terms which would not  
require repayment thereof  
within a period of less than ten  
years after receipt by the  
society;

(ii)

*Permanent Building Societies (Amendment).*

- 5 (ii) by omitting from section 28 (1) (f) the words  
“name and the occupation and address of fifty  
persons” and by inserting instead the words  
“names and the occupations and addresses of  
not less than the prescribed number of  
persons referred to in section 27”;
- 10 (c) by omitting from section 30 (4) (b) the words “six  
hundred thousand dollars, of which four hundred  
thousand dollars” and by inserting instead the words  
“\$2,000,000, or such other amount as may be  
prescribed by the regulations, of which not less than  
\$1,000,000, or such other amount as may be so  
prescribed,”; Sec. 30.  
(Societies  
registered  
under  
Co-operation  
Acts, etc.)
- 15 (d) (i) by inserting in section 34 (3) after the word  
“and” where secondly occurring the words  
“, subject to subsection (3A),”;
- 20 (ii) by inserting in section 34 (3) after the word  
“Limited” where secondly occurring the words  
“or the word ‘Limited’ in lieu of the abbrevi-  
ation ‘Ltd.’, or the use of the symbol ‘&’ in  
lieu of the word ‘and’, or the use of the word  
‘and’ in lieu of the symbol ‘&’ ”;
- 25 (iii) by inserting after section 34 (3) the following  
subsection :—  
(3A) Where, with the approval of the  
Minister, a society includes in its name the  
words “building society” (consecutively or  
otherwise) and does not include the word  
“permanent”, the omission of the word “per-  
manent” does not constitute a contravention  
of subsection (3).
- 30 (e) by omitting from section 35 (1) (b) the word  
“other”; Sec. 35.  
(Use of  
words  
“permanent  
building  
society”.)

(f)



*Permanent Building Societies (Amendment).*

- (f) by inserting in section 37 (2) after the word "abbreviation" the words "or elaboration"; Sec. 37.  
(Publication of name.)
- 5 (g) (i) by inserting in section 39 (1) (a) after the word "under" where thirdly occurring the words ", or one or more societies specified in the Second Schedule to,"; Sec. 39.  
(Amalgamation.)
- (ii) by inserting in section 39 (1) (a) after the word "under" where fifthly occurring the words ", or a society specified in the Second Schedule to,";
- 10 (h) (i) by inserting in section 40A (1) after the word "under" where firstly occurring the words ", or a society specified in the Second Schedule to,"; Sec. 40A.  
(Transfer of engagements of certain building societies.)
- 15 (ii) by omitting from section 40A (1) the words "such non-terminating building society" and by inserting instead the words "the society that resolved to transfer its engagements";
- (iii) by inserting in section 40A (2) after the word "under" where secondly occurring the words ", or a society specified in the Second Schedule to,";
- 20 (i) by inserting after section 41 the following sections :— Secs. 41A and 41B.
- 25 41A. (1) Subject to this section, the registrar may, with the approval of the Minister, direct a society— Transfer of engagements by direction of registrar.
- (a) to transfer its engagements to another society approved by the registrar; and
- 30 (b) within a period specified by the registrar when giving the direction, or within such further period as the registrar may allow, to enter into an agreement, approved by the registrar, to give effect to the transfer of engagements directed.

(2)

*Permanent Building Societies (Amendment).*

(2) The registrar shall not give a direction under subsection (1) unless he gives such a certificate as would be provided for by sections 87 (3) and 87 (4) if section 87 were amended—

5 (a) by omitting from subsection (3) the words  
“In the case of a winding up upon the  
certificate of the registrar, the society may  
be wound up if” and by inserting instead  
10 the words “The registrar may not direct a  
transfer of engagements under section 41A  
(1) unless”; and

(b) by omitting from subsection (3) (g) the  
words “the society should be wound up”  
15 and by inserting instead the words “the  
society should transfer its engagements”.

(3) Where a society fails to comply with  
a direction given under subsection (1), the registrar  
may notify the society that he has elected to treat  
20 the certificate given under subsection (2) in  
relation to the society as—

(a) a certificate given under section 86A (2);  
or

(b) a certificate given by him under section 87  
(3).

25 (4) Where the registrar notifies a society  
as provided by subsection (3), this Act applies to  
and in respect of the society as if the certificate that,  
pursuant to subsection (3) (a) or (b), was speci-  
fied in the notice had been given by the registrar.

30 (5) The registrar may, before a society  
has, pursuant to a direction under subsection (1),  
agreed pursuant to subsection (1) (b) to transfer  
its engagements, revoke the direction.

(6)



*Permanent Building Societies (Amendment).*

5 (6) A society may, with the consent of the registrar and by resolution of the board, accept a transfer of engagements directed under a provision of the Co-operation Acts corresponding to this section.

(7) Section 40 (subsection (5) excepted) does not apply to a transfer of engagements under this section.

10 (8) A transfer of engagements under this section takes effect upon a day notified by the registrar in the Gazette.

(9) An officer of a society who—

- 15 (a) fails to take all reasonable steps to secure compliance by the society with a direction given under subsection (1); or
- (b) by a wilful act or omission is the cause of a failure by the society to comply with such a direction,

is guilty of an offence.

20 Penalty : \$500.

25 41B. (1) Where a direction is given to a society under section 41A (1), the society may, not later than fourteen days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister. Certain representations may be made.

30 (2) The registrar shall exercise in relation to a society his powers under section 41A (5) if the Minister so directs after considering a report under subsection (1) with respect to the society.

*Permanent Building Societies (Amendment).*

6. Part IV of the Principal Act is amended by inserting in section 47 (2) (d) after the word "ways" the words "(including entering into arrangements under section 23)".

Amendment  
of Part IV  
of Act No.  
18, 1967.

Sec. 47.  
(Associations.)

7. Part V of the Principal Act is amended—

Amendment  
of Part V  
of Act No.  
18, 1967.

5 (a) by omitting from section 51 (3) the word "three" and by inserting instead the word "five";

Sec. 51.  
(Corporate  
body as  
member.)

10 (b) (i) by omitting from section 52 (1) (b) (ii) the words "its paid up share capital" and by inserting instead the words "shares of that class";

Sec. 52.  
(Share  
capital.)

(ii) by inserting after section 52 (1) the following subsections :—

15 (1A) This section does not operate to prevent a society from issuing a share subject to a condition that prevents withdrawal of the share capital before the expiration of a specified period of time.

20 (1B) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, issue a share referred to in subsection (1A).

25 (iii) by omitting from section 52 (3) (d) the words "six hundred thousand dollars of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000 or such other

amount



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*Permanent Building Societies (Amendment).*

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amount as may be prescribed, of which not less than \$1,000,000 or such other amount as may be prescribed”;

(iv) by omitting section 52 (7);

5 (c) by inserting after section 52 the following Sec. 52A.  
section :—

52A. (1) For the purposes of this section— Limitation  
of share-  
holding.

10 (a) a person has a relevant interest in a share in a society if he has power to withdraw the share capital subscribed for that share or to exercise control over the withdrawal of that share capital;

15 (b) the provisions of section 6A of the Companies Act, 1961, apply to and in respect of a relevant interest in a share in a society in the same way as they apply to and in respect of a relevant interest under that Act in a share in any other body corporate and they so apply as if—

20 (i) subsections (1), (2) (a), (5) (a), (7) and (8) had been omitted therefrom; and

25 (ii) references in that section to the disposal of a share were references to the withdrawal of the share capital subscribed for a share;

30 (c) a relevant interest in a share in a society shall be disregarded if it is a relevant interest, or a relevant interest of a class, prescribed for the purposes of this paragraph; and

(d) the prescribed proportion for a society is one-fifth or, where a lesser proportion is specified in the rules of the society, the proportion so specified.

(2)

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*Permanent Building Societies (Amendment).*

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- 5 (2) Where a person has relevant interests in shares in a society exceeding in nominal value the prescribed proportion of the nominal value of all shares issued by the society, the society shall exercise and perform in respect of the excess shares the powers and duties that, by section 52 (2) (a), are conferred upon it in respect of shares no longer required for the purposes of the society.
- 10 (d) by omitting from section 54 (1) (a) (i) the words "one thousand dollars or" and by inserting instead the words "\$1,000 in the case of a society registered before the commencement of section 7 (d) of the Permanent Building Societies (Amendment) Act, 1974, or \$5,000 in the case of a society registered after that commencement or, in either case,";
- 15 (e) (i) by omitting section 62 (4) and by inserting instead the following subsection :—
- Sec. 54.  
(Minimum subscription by founding members of societies.)
- Sec. 62.  
(Surplus from operations.)
- 20 (4) The rate of dividend in respect of a share shall not exceed the rate fixed by the Minister in respect of the share by order published in the Gazette on the recommendation of the Advisory Committee.
- (ii) by inserting after section 62 (4) the following subsections :—
- 25 (4A) An order under subsection (4) may fix rates of dividend differing according to specified circumstances.
- (4B) Subsection (4) does not apply in respect of shares that—
- 30 (a) are held in the society by reason of a transfer of engagements from, or amalgamation with, a building society

(2) registered



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*Permanent Building Societies (Amendment).*

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- registered under, or specified in the  
Second Schedule to, the Co-operation  
Acts;
- 5 (b) were issued before 1st July, 1972, by  
such a building society; and
- (c) if they are withdrawable and have been  
the subject of a transfer, were last  
transferred before 1st July, 1972.
- (iii) by omitting section 62 (6);
- 10 (f) (i) by omitting from section 63 (2) (d) the word Sec. 63.  
"and"; (Liquidity.)
- (ii) by omitting from section 63 (2) (e) the words  
"this paragraph." and by inserting instead the  
following words and paragraph :—
- 15 this paragraph; and
- (f) as funds or investments referred to in  
paragraphs (a), (b), (c), (d) and (e)  
and deposited with an association  
pursuant to arrangements made under  
20 section 23,
- except to the extent of the amount necessary  
to satisfy any lien or charge on the funds and  
investments specified in paragraphs (a), (b),  
(c), (d) and (e).
- 25 (iii) by inserting after section 63 (3) the following  
subsection :—
- (4) Notwithstanding subsection (1), a  
society may approve the making of loans from  
a fund comprising specific moneys borrowed  
by it if—
- 30 (a) the moneys borrowed are not required  
to be repaid by the society before the  
expiration of ten years except to the  
extent

*Permanent Building Societies (Amendment).*

- 5 extent that the terms upon which the moneys are borrowed provide for the earlier payment to the lender by the society of amounts not exceeding the amounts from time to time payable or paid to the society by way of interest on, or in reduction or repayment of, loans so made; and
- 10 (b) the proceeds of the due repayment of each loan so made would be sufficient to provide for the due repayment by the society of the moneys borrowed by it.
- 15 (g) by inserting in section 64 (2) after the words "winding up" the words "or upon terms and conditions approved by the Advisory Committee".

8. Part VI of the Principal Act is amended—

Amendment  
of Part VI  
of Act No.  
18, 1967.

- (a) by omitting section 67 (5) and by inserting instead the following subsection :—
- 20 (5) Notwithstanding anything in this Act, the rules of a society may provide for the election by the members—
- (a) of not more than one employee of the society nominated by the directors; or
- 25 (b) where the directors number seven or more, of not more than two employees of the society so nominated,
- as a director, or as directors, of the society.
- 30 In this subsection "employee of the society" includes a person, or the employee of a person, who provides the society with secretarial and administrative services.
- (b)

Sec. 67.  
(Appoint-  
ment of  
directors.)



*Permanent Building Societies (Amendment).*

- (b) (i) by omitting from section 68 (4) (j) the word "or"; (Directors—qualification and vacation of office.)  
 (ii) by omitting section 68 (4) (k) and by inserting instead the following paragraphs :—

- 5 (k) if, having been elected as a director pursuant to section 67 (5), he ceases to hold the qualification by virtue of which he was elected;  
 10 (l) if an administrator of the society's affairs is appointed under section 86A; or  
 (m) as provided by section 68B.

- (c) by inserting after section 68A the following section :—

15 68B. (1) Where a person is, at the same time, a director of a society and a director of another corporation (not being an association) the Advisory Committee may, subject to this section, determine that, in its opinion, the activities and operations in which the corporation is engaged are, or are likely to be, such that that person should not be a director of the society while he is a director of that corporation. (Director vacates office in certain circumstances.)

25 (2) The Advisory Committee shall not make a determination under subsection (1) in relation to a director unless the director—

- 30 (a) has, by notice given to him in writing by the registrar at the direction of the Advisory Committee, been informed that the Advisory Committee proposes to consider whether a determination should be made under subsection (1) with respect to a specified corporation, or specified corporations; and

(b)

*Permanent Building Societies (Amendment).*

(b) has been given an opportunity to be heard by the Advisory Committee.

(3) The registrar shall, at the direction of the Advisory Committee, give notice in writing of a determination under subsection (1) to the director to whom it relates and, where the registrar gives such a notice, the director may appeal to the Minister against the determination within fourteen days after the giving of the notice.

(4) Where a director of a society appeals as provided by subsection (3), the Minister may—

(a) uphold the appeal;

(b) dismiss the appeal; or

(c) where the determination relates to more than one corporation, uphold or dismiss the appeal in so far as the determination relates to a corporation or corporations specified by the Minister and dismiss or uphold it in relation to the other or others.

(5) A director of a society given a notice referred to in subsection (3) vacates his office as such a director—

(a) where he does not appeal against the determination to which the notice relates—at the expiration of the period within which he might have appealed against that determination; or

(b) where he so appeals and the appeal—

(i) is dismissed; or

(ii)



*Permanent Building Societies (Amendment).*

(ii) is dismissed in respect of one or more corporations and upheld in relation to another corporation or other corporations—

5 at the expiration of the period of seven days that next succeeds the giving to him of notice of dismissal of the appeal,

10 unless before the expiration of that period he ceases to be a director of any corporation in respect of which he failed to appeal or in respect of which an appeal was dismissed.

(d) by inserting after section 69 the following Sec. 69A.  
section :—

15 69A. (1) A society shall, not later than three months after the end of its financial year, lodge with the registrar in the prescribed form a return specifying any declaration made to its board under section 69 during that financial year. Return showing certain declarations.

20 (2) Where a society fails to comply with subsection (1), the society and any officer in default are each guilty of an offence.

Penalty : \$500. Default penalty.

(e) by inserting in section 70 (1) after the word "officer," the words "or his spouse,"; Sec. 70. (Certain prohibited dealings.)

25 (f) by inserting after section 70 the following Sec. 70A.  
section :—

70A. (1) For the purposes of this section— Certain borrowings prohibited.

(a) a person is associated with a director or other officer of a society if that person is—

30 (i) the spouse of that director or other officer;

80—B

(ii)

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*Permanent Building Societies (Amendment).*

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- 5 (ii) a member, or the spouse of a member, of a partnership of which that director or other officer, or the spouse of that director or other officer, is a member; or
- (iii) a corporation of which that director or other officer, or the spouse of that director or other officer, is a director; and
- 10 (b) the prescribed amount is \$50,000 or, where some other amount is prescribed by the regulations, that other amount.
- 15 (2) Where a society makes a loan to a director or other officer of the society, or to a person associated with a director or other officer of the society, the total of the amount lent and—
- (a) where the loan is to a director or other officer of the society—the amount of any existing indebtedness to the society of—
- 20 (i) that director or other officer; and
- (ii) any person associated with that director or other officer; or
- 25 (b) where the loan is to a person associated with a director or other officer of the society—the amount of any existing indebtedness to the society of—
- (i) that person;
- (ii) any other person associated with that director or other officer; and
- 30 (iii) that director or other officer,
- shall not exceed the prescribed amount.

(3)



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*Permanent Building Societies (Amendment).*

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5 (3) Where a director or other officer of a  
society is a director of another corporation (not  
being an association registered under this Act, the  
Co-operation Acts or the Credit Union Act, 1969)  
the society shall not lend to another director of that  
corporation or to the spouse of such a director an  
amount that, if added to any indebtedness of that  
other director, or of his spouse, to the society at  
10 the time the loan to him is made, would exceed  
the prescribed amount.

15 (4) For the purposes of this section,  
anything done by a proprietary company of which  
a director or other officer of a society or his spouse  
is a member shall be deemed to have been done  
by that director or other officer, as the case may  
be.

20 (5) Notwithstanding anything in this  
section, the Advisory Committee may, in a  
particular case, approve the making of a loan  
where, but for this subsection, the making thereof  
would be a contravention of subsection (2) or  
(3) and, where such an approval is given, the  
making of the loan is not such a contravention.

25 (6) Where a loan is made by a society in  
contravention of subsection (2) or (3)—

- (a) the society;
- (b) any officer in default;
- (c) in the case of a loan made in contravention  
of subsection (2) to a director or other  
30 officer—the person to whom the loan was  
made;

(d)

*Permanent Building Societies (Amendment).*

(d) in the case of a loan made in contravention of subsection (2) to a person associated with a director or other officer—that director or other officer; and

5 (e) in the case of a loan made to a director of another corporation or his spouse in contravention of subsection (3)—any director or other officer of the society who is a director of that other corporation,

10 are each guilty of an offence unless, in the cases referred to in paragraphs (d) and (e), it is proved that the defendant used all due diligence to prevent the contravention.

Penalty : \$500.

15 (g) by omitting from section 75 (2) the words “section Sec. 75. fifty of this Act” and by inserting instead the words (Voting.) “sections 50 and 76”;

(h) (i) by inserting in section 76 (1) after the words Sec. 76. “a majority” the words “of votes”; (Voting at association meeting.)

20 (ii) by omitting from section 76 (1) the word “representatives” where secondly occurring and by inserting instead the words “societies represented at the meeting”;

25 (iii) by inserting after section 76 (1) the following subsection :—

(1A) Where the rules of an association so provide, the representative or representatives of a component society who is or are present at a meeting of the association may, on a poll, cast on behalf of the society such total number of votes, not exceeding five, as is specified in the rules of the association.

(i)



*Permanent Building Societies (Amendment).*

- (i) by inserting after section 78 (3) the following subsection :—
- Sec. 78.  
(Registers  
and  
accounts.)

5 (3A) In relation to each person who is a director of a society, there shall, upon receipt of the necessary particulars under section 78A, be incorporated as part of the register of directors of the society a list specifying every corporation (other than the society) of which that person is from time to time a director.

- 10 (j) by inserting after section 78 the following sections :—
- Secs. 78A and  
78B.

15 78A. (1) A director of a society shall give notice in writing to the society of such matters relating to himself as are necessary to enable the society to keep up to date its register of directors (including the list referred to in section 78 (3A)).

Directors  
to furnish  
certain  
information.

(2) A director required to give a notice under subsection (1) shall give the notice not later than fourteen days after—

- 20 (a) the commencement of section 8 (j) of the Permanent Building Societies (Amendment) Act, 1974;
- (b) the day on which he became a director of the society; or
- 25 (c) the day on which he first became aware of the matter of which he is required to give notice,

whichever last occurs.

30 (3) A director who fails to give the notice required by subsection (1) within the time specified by subsection (2) is guilty of an offence.

Penalty : \$500. Default penalty.

78B.

*Permanent Building Societies (Amendment).*

5 78B. A society shall, not later than three months after the end of its financial year, submit a return in the prescribed form to the registrar specifying, in respect of each person who during that financial year was a director of the society, any corporations of which, according to any notice or notices given to the society under section 78A during that financial year, that person was at any time a director.

10 (k) by inserting in section 82 (1) after the word "change" where secondly occurring the words "and of any corporations of which, according to any notice or notices given to the society under section 78A, any new member of the board is a director";

15 (1) by inserting after section 84 the following section :—

20 84A. (1) Where a society is directed by the registrar so to do, the society shall submit to the registrar a special return in the form, within the time, and relating to the subject-matter, specified by the registrar when giving the direction.

(2) A return submitted pursuant to subsection (1) is not a document to which section 108 (1) applies.

25 9. Part VII of the Principal Act is amended by inserting in section 85 (4) (a) after the word "hearing" the words "and such costs of the parties as he specifies".

Amendment  
of Part VII  
of Act No.  
18, 1967.  
Sec. 85.  
(Disputes.)



*Permanent Building Societies (Amendment).*

**10.** Part VIII of the Principal Act is amended—

Amendment  
of Part  
VIII of  
Act No. 18,  
1967.

- (a) by inserting after section 86 the following sections :—

Secs.  
86A and 86B.

5           86A. (1) Subject to this section, the registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a society and may revoke any such appointment.

Appoint-  
ment of  
administra-  
tor of  
society.

10           (2) The registrar shall not appoint an administrator unless he certifies as would be provided by sections 87 (3) and 87 (4) if section 87 were amended—

15           (a) by omitting from subsection (3) the words “In the case of a winding up upon the certificate of the registrar, the society may be wound up if” and by inserting instead the words “An administrator may not be appointed under section 86A (1) unless”; and

20           (b) by omitting from subsection (3) (g) the words “the society should be wound up” and by inserting instead the words “an administrator should be appointed to conduct the affairs of the society”.

25           (3) Upon the appointment of an administrator of a society—

- (a) the directors of the society cease to hold office;
- (b) all contracts of employment with the society are terminated; and
- 30           (c) all contracts for the provision of secretarial or administrative services for the society are terminated.

(4)

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*Permanent Building Societies (Amendment).*

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5 (4) An administrator of a society has the powers, authorities, duties and functions of the board of the society and, except as provided by subsection (5), no appointment of a director of the society may be made while the administrator is in office.

10 (5) Before revoking the appointment of an administrator of a society, the registrar shall, except in the case of a revocation under section 86B (2)—

15 (a) ensure that directors of the society have been elected in accordance with the rules of the society at a meeting convened by the administrator in accordance with those rules; or

(b) appoint directors of the society.

(6) Directors elected under subsection (5) (a) or appointed under subsection (5) (b)—

20 (a) take office upon revocation of the appointment of the administrator; and

(b) in the case of appointed directors, hold office until the annual general meeting of the society that next succeeds revocation of that appointment.

25 (7) The expenses of and incidental to the conduct of the affairs of a society by an administrator are payable from the funds of the society.

30 (8) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subsection (7) and shall be fixed by the registrar.

35 (9) Where an administrator appointed under this section is a servant of the Crown, the reimbursement of the Crown in an amount certified by the registrar in respect of the remuneration of its servant is an expense referred to in subsection (7) and is recoverable as a debt due to the Crown.

(10)



*Permanent Building Societies (Amendment).*

5 (10) An administrator of a society is not liable for any loss sustained by the society during his term of office unless the loss was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the regulations or the rules of the society.

10 (11) The registrar is not liable for any loss sustained by a society during the term of office of an administrator, whether or not the administrator is so liable.

15 86B. (1) Where an administrator of a society is appointed, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than fourteen days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

20 (2) The registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a society, revoke the appointment of an administrator of the society, and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment.

25 (b) by omitting from section 87 (3) (a) the word "fifty" and by inserting instead the words "one hundred or, where some other number is prescribed by the regulations, that other number";

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*Permanent Building Societies (Amendment).*

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(c) by inserting after section 90 the following Sec. 90A.  
section :—

5           90A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of a society, and its officers and former officers, in the same way as they apply to a company and its officers and former officers. Certain offences under Companies Act, 1961, to apply equally in respect of society.

10                 (2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

- (a) a reference therein to a company were a reference to a society;
- 15           (b) a reference therein to the Commission were a reference to the registrar;
- 20           (c) the reference in section 374B to the provisions of section 161A or any corresponding previous enactment for the time being in force were a reference to the provisions of this Act relating to the keeping of accounts by a society;

(d) paragraph (c) were omitted from—

- 25                 (i) the definition of “company to which this section applies” in section 374E (1);
- (ii) the definition of “appropriate officer” in section 374E (1); and
- 30                 (iii) the definition of “the relevant day” in section 374E (1); and

(e)



*Permanent Building Societies (Amendment).*

- (e) the return referred to in paragraph (f) of the definition of "the relevant day" in section 374E (1) were a reference to a return under section 82 (2) of this Act.

5 **11.** Part IX of the Principal Act is amended—

Amendment  
of Part IX  
of Act No.  
18, 1967.  
Sec. 105.

- (a) by inserting in section 105 (2) after the word "offence" the words "referred to therein or any contravention of that section or part";

(Contraven-  
tion of  
Act.)

10 (b) by inserting after section 105 (3) the following subsection :—

(4) Where a penalty is imposed on a society under this Act, the society shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

15

**12.** An order made under section 62 (4) of the Principal Act and in force immediately before the commencement of section 7 (e) of this Act shall be deemed to have been made under section 62 (4) of the Principal Act, as amended by section 7 (e) of this Act.

Transitional  
provision.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974





## New South Wales



ANNO VICESIMO TERTIO

# ELIZABETHÆ II REGINÆ

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### Act No. 5, 1974.

An Act to make further provisions with respect to the formation and administration of permanent building societies and the lending of money by them; to control excessive shareholdings in permanent building societies; to authorise, in certain circumstances, the appointment of an administrator to conduct the affairs of a permanent building society; for these and other purposes to amend the Permanent Building Societies Act, 1967; and for purposes connected therewith. [Assented to, 26th March, 1974.]

BE

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*Permanent Building Societies (Amendment).*

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**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 :—

Short  
title.

1. This Act may be cited as the "Permanent Building Societies (Amendment) Act, 1974".

Commence-  
ment.

2. (1) This section and sections 1 and 3 commence on the date of assent to this Act.

(2) Subject to subsection (1), the several provisions of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal  
Act.

3. The Permanent Building Societies Act, 1967, is in this Act referred to as the Principal Act.

Amendment  
of Part II  
of Act No.  
18, 1967.

4. Part II of the Principal Act is amended—

Sec. 5.  
(Approval  
or additional  
security  
required in  
certain  
cases.)

- (a) (i) by omitting from section 5 (1) the words "twenty thousand dollars" wherever occurring and by inserting instead the words "the prescribed amount";
- (ii) by omitting from section 5 (1) (b) the word "value" and by inserting instead the word "valuation";

(iii)



*Permanent Building Societies (Amendment).*

- (iii) by inserting at the end of section 5 (1) the following words :—

In this subsection “the prescribed amount” means \$25,000 or, where some other amount is prescribed by the regulations for the purposes of this subsection, the amount so prescribed.

- (b) by omitting from section 10 (7) the words “five hundred dollars” and by inserting instead the matter “\$1,000”; Sec. 10.  
(Ordinary  
limitation  
on special  
loans.)

- (c) (i) by omitting from section 12 the word “society” where firstly occurring and by inserting instead the words “building society, whether registered under this or any other Act or under a law of another State or of a Territory of the Commonwealth,”; Sec. 12.  
(Assistance  
by a society  
to a  
building  
society.)

- (ii) by omitting from section 12 the words “it may authorise any society to lend money to the firstmentioned society and the latter society shall have power to do so accordingly” and by inserting instead the words “, a society may, with the authority of the Advisory Committee, lend money to that building society”;

- (d) by inserting after section 20 (5) the following subsection :— Sec. 20.  
(Borrowing  
powers.)

(5A) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, receive money on deposit upon the terms that it is not repayable before the expiration of a specified period that exceeds one month.

(e)

*Permanent Building Societies (Amendment).*

Sec. 20A.  
(Maximum  
interest  
payable in  
respect of  
money  
received  
on deposit.)

(e) by omitting section 20A (4) and by inserting instead the following subsections :—

(4) In this section “maximum rate” in relation to money received by a society on deposit means the same rate as the rate of dividend that would be payable by the society in respect of the deposit if—

(a) the making of the deposit were a subscription of the same amount of share capital; and

(b) that share capital were withdrawable on the same terms and conditions as the deposit.

(5) This section does not apply to or in respect of deposits with a society that—

(a) are held by the society by reason of a transfer of engagements from, or amalgamation with, a building society registered under, or specified in the Second Schedule to, the Co-operation Acts; and

(b) were received by that building society before 1st July, 1972.

Amendment  
of Part III  
of Act No.  
18, 1967.

5. Part III of the Principal Act is amended—

Sec. 27.  
(Forma-  
tion.)

(a) (i) by omitting from section 27 (1) the words “any fifty or more” and by inserting instead the words “not less than the prescribed number of”;

(ii) by omitting from section 27 (2) the words “fifty or more such persons” and by inserting instead the words “not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)”;

(iii)



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*Permanent Building Societies (Amendment).*

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- (iii) by omitting from section 27 (4) the words "fifty or more such persons" and by inserting instead the words "not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)";
- (iv) by inserting after section 27 (5) the following subsection :—

(6) In this section "the prescribed number" means one hundred or, where some other number is prescribed by the regulations for the purposes of this section, the number so prescribed.

- (b) (i) by omitting section 28 (1) (c) and by inserting instead the following paragraph :— (Registra-  
tion.)

(c) such evidence as the registrar may require that the society will, upon registration, have available to it not less than \$2,000,000 or such other amount as may be prescribed by the regulations, including—

- (i) members' share capital of not less than \$1,000,000 or such other amount as may be prescribed by the regulations; and
- (ii) other funds that amount to not less than \$500,000 or such other amount as may be prescribed by the regulations, being funds that are available on terms which would not require repayment thereof within a period of less than ten years after receipt by the society;

(ii)

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*Permanent Building Societies (Amendment).*

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- (ii) by omitting from section 28 (1) (f) the words "name and the occupation and address of fifty persons" and by inserting instead the words "names and the occupations and addresses of not less than the prescribed number of persons referred to in section 27";

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

- (c) by omitting from section 30 (4) (b) the words "six hundred thousand dollars, of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000, or such other amount as may be prescribed by the regulations, of which not less than \$1,000,000, or such other amount as may be so prescribed,";

Sec. 34.  
(Name.)

- (d) (i) by inserting in section 34 (3) after the word "and" where secondly occurring the words ", subject to subsection (3A).";
- (ii) by inserting in section 34 (3) after the word "Limited" where secondly occurring the words "or the word 'Limited' in lieu of the abbreviation 'Ltd.', or the use of the symbol '&' in lieu of the word 'and', or the use of the word 'and' in lieu of the symbol '&'";
- (iii) by inserting after section 34 (3) the following subsection :—

(3A) Where, with the approval of the Minister, a society includes in its name the words "building society" (consecutively or otherwise) and does not include the word "permanent", the omission of the word "permanent" does not constitute a contravention of subsection (3).

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

- (e) by omitting from section 35 (1) (b) the word "other";

(f)



*Permanent Building Societies (Amendment).*

- (f) by inserting in section 37 (2) after the word "abbreviation" the words "or elaboration"; Sec. 37.  
(Publication of name.)
- (g) (i) by inserting in section 39 (1) (a) after the word "under" where thirdly occurring the words ", or one or more societies specified in the Second Schedule to,"; Sec. 39.  
(Amalgamation.)
- (ii) by inserting in section 39 (1) (a) after the word "under" where fifthly occurring the words ", or a society specified in the Second Schedule to,";
- (h) (i) by inserting in section 40A (1) after the word "under" where firstly occurring the words ", or a society specified in the Second Schedule to,"; Sec. 40A.  
(Transfer of engagements of certain building societies.)
- (ii) by omitting from section 40A (1) the words "such non-terminating building society" and by inserting instead the words "the society that resolved to transfer its engagements";
- (iii) by inserting in section 40A (2) after the word "under" where secondly occurring the words ", or a society specified in the Second Schedule to,";
- (i) by inserting after section 41 the following sections :— Secs. 41A  
and 41B.
- 41A. (1) Subject to this section, the registrar may, with the approval of the Minister, direct a society— Transfer of engagements by direction of registrar.
- (a) to transfer its engagements to another society approved by the registrar; and
- (b) within a period specified by the registrar when giving the direction, or within such further period as the registrar may allow, to enter into an agreement, approved by the registrar, to give effect to the transfer of engagements directed.

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*Permanent Building Societies (Amendment).*

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(2) The registrar shall not give a direction under subsection (1) unless he gives such a certificate as would be provided for by sections 87 (3) and 87 (4) if section 87 were amended—

- (a) by omitting from subsection (3) the words “In the case of a winding up upon the certificate of the registrar, the society may be wound up if” and by inserting instead the words “The registrar may not direct a transfer of engagements under section 41A (1) unless”; and
- (b) by omitting from subsection (3) (g) the words “the society should be wound up” and by inserting instead the words “the society should transfer its engagements”.

(3) Where a society fails to comply with a direction given under subsection (1), the registrar may notify the society that he has elected to treat the certificate given under subsection (2) in relation to the society as—

- (a) a certificate given under section 86A (2);  
or
- (b) a certificate given by him under section 87 (3).

(4) Where the registrar notifies a society as provided by subsection (3), this Act applies to and in respect of the society as if the certificate that, pursuant to subsection (3) (a) or (b), was specified in the notice had been given by the registrar.

(5) The registrar may, before a society has, pursuant to a direction under subsection (1), agreed pursuant to subsection (1) (b) to transfer its engagements, revoke the direction.

(6)



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*Permanent Building Societies (Amendment).*

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(6) A society may, with the consent of the registrar and by resolution of the board, accept a transfer of engagements directed under a provision of the Co-operation Acts corresponding to this section.

(7) Section 40 (subsection (5) excepted) does not apply to a transfer of engagements under this section.

(8) A transfer of engagements under this section takes effect upon a day notified by the registrar in the Gazette.

(9) An officer of a society who—

- (a) fails to take all reasonable steps to secure compliance by the society with a direction given under subsection (1); or
- (b) by a wilful act or omission is the cause of a failure by the society to comply with such a direction,

is guilty of an offence.

Penalty : \$500.

41B. (1) Where a direction is given to a society under section 41A (1), the society may, not later than fourteen days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister. Certain representations may be made.

(2) The registrar shall exercise in relation to a society his powers under section 41A (5) if the Minister so directs after considering a report under subsection (1) with respect to the society.

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*Permanent Building Societies (Amendment).*

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Amendment  
of Part IV  
of Act No.  
18, 1967.  
Sec. 47.  
(Associa-  
tions.)

6. Part IV of the Principal Act is amended by inserting in section 47 (2) (d) after the word "ways" the words "(including entering into arrangements under section 23)".

Amendment  
of Part V  
of Act No.  
18, 1967.

7. Part V of the Principal Act is amended—

Sec. 51.  
(Corporate  
body as  
member.)

(a) by omitting from section 51 (3) the word "three" and by inserting instead the word "five";

Sec. 52.  
(Share  
capital.)

(b) (i) by omitting from section 52 (1) (b) (ii) the words "its paid up share capital" and by inserting instead the words "shares of that class";

(ii) by inserting after section 52 (1) the following subsections :—

(1A) This section does not operate to prevent a society from issuing a share subject to a condition that prevents withdrawal of the share capital before the expiration of a specified period of time.

(1B) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, issue a share referred to in subsection (1A).

(iii) by omitting from section 52 (3) (d) the words "six hundred thousand dollars of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000 or such other

amount



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*Permanent Building Societies (Amendment).*

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amount as may be prescribed, of which not less than \$1,000,000 or such other amount as may be prescribed”;

(iv) by omitting section 52 (7);

(c) by inserting after section 52 the following Sec. 52A.  
section :—

52A. (1) For the purposes of this section—

Limitation  
of share-  
holding.

(a) a person has a relevant interest in a share in a society if he has power to withdraw the share capital subscribed for that share or to exercise control over the withdrawal of that share capital;

(b) the provisions of section 6A of the Companies Act, 1961, apply to and in respect of a relevant interest in a share in a society in the same way as they apply to and in respect of a relevant interest under that Act in a share in any other body corporate and they so apply as if—

(i) subsections (1), (2) (a), (5) (a), (7) and (8) had been omitted therefrom; and

(ii) references in that section to the disposal of a share were references to the withdrawal of the share capital subscribed for a share;

(c) a relevant interest in a share in a society shall be disregarded if it is a relevant interest, or a relevant interest of a class, prescribed for the purposes of this paragraph; and

(d) the prescribed proportion for a society is one-fifth or, where a lesser proportion is specified in the rules of the society, the proportion so specified.

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*Permanent Building Societies (Amendment).*

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(2) Where a person has relevant interests in shares in a society exceeding in nominal value the prescribed proportion of the nominal value of all shares issued by the society, the society shall exercise and perform in respect of the excess shares the powers and duties that, by section 52 (2) (a), are conferred upon it in respect of shares no longer required for the purposes of the society.

**Sec. 54.**

(Minimum subscription by founding members of societies.)

- (d) by omitting from section 54 (1) (a) (i) the words "one thousand dollars or" and by inserting instead the words "\$1,000 in the case of a society registered before the commencement of section 7 (d) of the Permanent Building Societies (Amendment) Act, 1974, or \$5,000 in the case of a society registered after that commencement or, in either case,";

**Sec. 62.**

(Surplus from operations.)

- (e) (i) by omitting section 62 (4) and by inserting instead the following subsection :—

(4) The rate of dividend in respect of a share shall not exceed the rate fixed by the Minister in respect of the share by order published in the Gazette on the recommendation of the Advisory Committee.

- (ii) by inserting after section 62 (4) the following subsections :—

(4A) An order under subsection (4) may fix rates of dividend differing according to specified circumstances.

(4B) Subsection (4) does not apply in respect of shares that—

- (a) are held in the society by reason of a transfer of engagements from, or amalgamation with, a building society

registered



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*Permanent Building Societies (Amendment).*

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registered under, or specified in the Second Schedule to, the Co-operation Acts;

(b) were issued before 1st July, 1972, by such a building society; and

(c) if they are withdrawable and have been the subject of a transfer, were last transferred before 1st July, 1972.

(iii) by omitting section 62 (6);

(f) (i) by omitting from section 63 (2) (d) the word **Sec. 63.**  
 "and"; (Liquidity.)

(ii) by omitting from section 63 (2) (e) the words "this paragraph." and by inserting instead the following words and paragraph :—

this paragraph; and

(f) as funds or investments referred to in paragraphs (a), (b), (c), (d) and (e) and deposited with an association pursuant to arrangements made under section 23,

except to the extent of the amount necessary to satisfy any lien or charge on the funds and investments specified in paragraphs (a), (b), (c), (d) and (e).

(iii) by inserting after section 63 (3) the following subsection :—

(4) Notwithstanding subsection (1), a society may approve the making of loans from a fund comprising specific moneys borrowed by it if—

(a) the moneys borrowed are not required to be repaid by the society before the expiration of ten years except to the  
 extent

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*Permanent Building Societies (Amendment).*

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extent that the terms upon which the moneys are borrowed provide for the earlier payment to the lender by the society of amounts not exceeding the amounts from time to time payable or paid to the society by way of interest on, or in reduction or repayment of, loans so made; and

- (b) the proceeds of the due repayment of each loan so made would be sufficient to provide for the due repayment by the society of the moneys borrowed by it.

Sec. 64.  
(Reserve.)

- (g) by inserting in section 64 (2) after the words "winding up" the words "or upon terms and conditions approved by the Advisory Committee".

Amendment  
of Part VI  
of Act No.  
18, 1967.

**8. Part VI of the Principal Act is amended—**

Sec. 67.  
(Appointment  
of  
directors.)

- (a) by omitting section 67 (5) and by inserting instead the following subsection :—

(5) Notwithstanding anything in this Act, the rules of a society may provide for the election by the members—

- (a) of not more than one employee of the society nominated by the directors; or  
(b) where the directors number seven or more, of not more than two employees of the society so nominated,

as a director, or as directors, of the society.

In this subsection "employee of the society" includes a person, or the employee of a person, who provides the society with secretarial and administrative services.

(b)



*Permanent Building Societies (Amendment).*

- (b) (i) by omitting from section 68 (4) (j) the word "or"; Sec. 68.  
(Directors—  
qualifica-  
tion and  
vacation of  
office.)
- (ii) by omitting section 68 (4) (k) and by inserting instead the following paragraphs :—
- (k) if, having been elected as a director pursuant to section 67 (5), he ceases to hold the qualification by virtue of which he was elected;
- (l) if an administrator of the society's affairs is appointed under section 86A; or
- (m) as provided by section 68B.

- (c) by inserting after section 68A the following section :— Sec. 68B.

68B. (1) Where a person is, at the same time, a director of a society and a director of another corporation (not being an association) the Advisory Committee may, subject to this section, determine that, in its opinion, the activities and operations in which the corporation is engaged are, or are likely to be, such that that person should not be a director of the society while he is a director of that corporation. Director  
vacates  
office in  
certain  
circum-  
stances.

(2) The Advisory Committee shall not make a determination under subsection (1) in relation to a director unless the director—

- (a) has, by notice given to him in writing by the registrar at the direction of the Advisory Committee, been informed that the Advisory Committee proposes to consider whether a determination should be made under subsection (1) with respect to a specified corporation, or specified corporations; and

(b)

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*Permanent Building Societies (Amendment).*

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(b) has been given an opportunity to be heard by the Advisory Committee.

(3) The registrar shall, at the direction of the Advisory Committee, give notice in writing of a determination under subsection (1) to the director to whom it relates and, where the registrar gives such a notice, the director may appeal to the Minister against the determination within fourteen days after the giving of the notice.

(4) Where a director of a society appeals as provided by subsection (3), the Minister may—

(a) uphold the appeal;

(b) dismiss the appeal; or

(c) where the determination relates to more than one corporation, uphold or dismiss the appeal in so far as the determination relates to a corporation or corporations specified by the Minister and dismiss or uphold it in relation to the other or others.

(5) A director of a society given a notice referred to in subsection (3) vacates his office as such a director—

(a) where he does not appeal against the determination to which the notice relates—at the expiration of the period within which he might have appealed against that determination; or

(b) where he so appeals and the appeal—

(i) is dismissed; or

(ii)



*Permanent Building Societies (Amendment).*

- (ii) is dismissed in respect of one or more corporations and upheld in relation to another corporation or other corporations—

at the expiration of the period of seven days that next succeeds the giving to him of notice of dismissal of the appeal,

unless before the expiration of that period he ceases to be a director of any corporation in respect of which he failed to appeal or in respect of which an appeal was dismissed.

- (d) by inserting after section 69 the following Sec. 69A.  
section :—

69A. (1) A society shall, not later than three months after the end of its financial year, lodge with the registrar in the prescribed form a return specifying any declaration made to its board under section 69 during that financial year. Return showing certain declarations.

(2) Where a society fails to comply with subsection (1), the society and any officer in default are each guilty of an offence.

Penalty : \$500. Default penalty.

- (e) by inserting in section 70 (1) after the word Sec. 70.  
“officer,” the words “or his spouse,”; (Certain prohibited dealings.)
- (f) by inserting after section 70 the following Sec. 70A.  
section :—

70A. (1) For the purposes of this section— Certain borrowings prohibited.

(a) a person is associated with a director or other officer of a society if that person is—

(i) the spouse of that director or other officer;

(ii)

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*Permanent Building Societies (Amendment).*

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- (ii) a member, or the spouse of a member, of a partnership of which that director or other officer, or the spouse of that director or other officer, is a member; or
    - (iii) a corporation of which that director or other officer, or the spouse of that director or other officer, is a director; and
  - (b) the prescribed amount is \$50,000 or, where some other amount is prescribed by the regulations, that other amount.
- (2) Where a society makes a loan to a director or other officer of the society, or to a person associated with a director or other officer of the society, the total of the amount lent and—
- (a) where the loan is to a director or other officer of the society—the amount of any existing indebtedness to the society of—
    - (i) that director or other officer; and
    - (ii) any person associated with that director or other officer; or
  - (b) where the loan is to a person associated with a director or other officer of the society—the amount of any existing indebtedness to the society of—
    - (i) that person;
    - (ii) any other person associated with that director or other officer; and
    - (iii) that director or other officer,
- shall not exceed the prescribed amount.



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*Permanent Building Societies (Amendment).*

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(3) Where a director or other officer of a society is a director of another corporation (not being an association registered under this Act, the Co-operation Acts or the Credit Union Act, 1969) the society shall not lend to another director of that corporation or to the spouse of such a director an amount that, if added to any indebtedness of that other director, or of his spouse, to the society at the time the loan to him is made, would exceed the prescribed amount.

(4) For the purposes of this section, anything done by a proprietary company of which a director or other officer of a society or his spouse is a member shall be deemed to have been done by that director or other officer, as the case may be.

(5) Notwithstanding anything in this section, the Advisory Committee may, in a particular case, approve the making of a loan where, but for this subsection, the making thereof would be a contravention of subsection (2) or (3) and, where such an approval is given, the making of the loan is not such a contravention.

(6) Where a loan is made by a society in contravention of subsection (2) or (3)—

- (a) the society;
- (b) any officer in default;
- (c) in the case of a loan made in contravention of subsection (2) to a director or other officer—the person to whom the loan was made;

(d)

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*Permanent Building Societies (Amendment).*

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(d) in the case of a loan made in contravention of subsection (2) to a person associated with a director or other officer—that director or other officer; and

(e) in the case of a loan made to a director of another corporation or his spouse in contravention of subsection (3)—any director or other officer of the society who is a director of that other corporation,

are each guilty of an offence unless, in the cases referred to in paragraphs (d) and (e), it is proved that the defendant used all due diligence to prevent the contravention.

Penalty : \$500.

**Sec. 75.**  
(Voting.)

(g) by omitting from section 75 (2) the words “section fifty of this Act” and by inserting instead the words “sections 50 and 76”;

**Sec. 76.**  
(Voting at  
association  
meeting.)

(h) (i) by inserting in section 76 (1) after the words “a majority” the words “of votes”;

(ii) by omitting from section 76 (1) the word “representatives” where secondly occurring and by inserting instead the words “societies represented at the meeting”;

(iii) by inserting after section 76 (1) the following subsection :—

(1A) Where the rules of an association so provide, the representative or representatives of a component society who is or are present at a meeting of the association may, on a poll, cast on behalf of the society such total number of votes, not exceeding five, as is specified in the rules of the association.

(i)



*Permanent Building Societies (Amendment).*

- (i) by inserting after section 78 (3) the following subsection :—
- Sec. 78.  
(Registers  
and  
accounts.)

(3A) In relation to each person who is a director of a society, there shall, upon receipt of the necessary particulars under section 78A, be incorporated as part of the register of directors of the society a list specifying every corporation (other than the society) of which that person is from time to time a director.

- (j) by inserting after section 78 the following sections :—
- Secs. 78A and  
78B.

78A. (1) A director of a society shall give notice in writing to the society of such matters relating to himself as are necessary to enable the society to keep up to date its register of directors (including the list referred to in section 78 (3A)).

Directors  
to furnish  
certain  
information.

(2) A director required to give a notice under subsection (1) shall give the notice not later than fourteen days after—

- (a) the commencement of section 8 (j) of the Permanent Building Societies (Amendment) Act, 1974;
- (b) the day on which he became a director of the society; or
- (c) the day on which he first became aware of the matter of which he is required to give notice,

whichever last occurs.

(3) A director who fails to give the notice required by subsection (1) within the time specified by subsection (2) is guilty of an offence.

Penalty : \$500. Default penalty.

78B.

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*Permanent Building Societies (Amendment).*

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Return  
to be  
submitted  
by society.

78B. A society shall, not later than three months after the end of its financial year, submit a return in the prescribed form to the registrar specifying, in respect of each person who during that financial year was a director of the society, any corporations of which, according to any notice or notices given to the society under section 78A during that financial year, that person was at any time a director.

Sec. 82.  
(Returns.)

- (k) by inserting in section 82 (1) after the word "change" where secondly occurring the words "and of any corporations of which, according to any notice or notices given to the society under section 78A, any new member of the board is a director";

Sec. 84A.

- (1) by inserting after section 84 the following section :—

Special  
returns.

84A. (1) Where a society is directed by the registrar so to do, the society shall submit to the registrar a special return in the form, within the time, and relating to the subject-matter, specified by the registrar when giving the direction.

(2) A return submitted pursuant to subsection (1) is not a document to which section 108 (1) applies.

Amendment  
of Part VII  
of Act No.  
18, 1967.  
Sec. 85.

9. Part VII of the Principal Act is amended by inserting in section 85 (4) (a) after the word "hearing" the words "and such costs of the parties as he specifies".

(Disputes.)



*Permanent Building Societies (Amendment).*

**10.** Part VIII of the Principal Act is amended—

Amendment  
of Part  
VIII of  
Act No. 18,  
1967.

- (a) by inserting after section 86 the following sections :—

Secs.  
86A and 86B.

86A. (1) Subject to this section, the registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a society and may revoke any such appointment.

Appoint-  
ment of  
administra-  
tor of  
society.

(2) The registrar shall not appoint an administrator unless he certifies as would be provided by sections 87 (3) and 87 (4) if section 87 were amended—

- (a) by omitting from subsection (3) the words “In the case of a winding up upon the certificate of the registrar, the society may be wound up if” and by inserting instead the words “An administrator may not be appointed under section 86A (1) unless”; and
- (b) by omitting from subsection (3) (g) the words “the society should be wound up” and by inserting instead the words “an administrator should be appointed to conduct the affairs of the society”.

(3) Upon the appointment of an administrator of a society—

- (a) the directors of the society cease to hold office;
- (b) all contracts of employment with the society are terminated; and
- (c) all contracts for the provision of secretarial or administrative services for the society are terminated.

(4)

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*Permanent Building Societies (Amendment).*

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(4) An administrator of a society has the powers, authorities, duties and functions of the board of the society and, except as provided by subsection (5), no appointment of a director of the society may be made while the administrator is in office.

(5) Before revoking the appointment of an administrator of a society, the registrar shall, except in the case of a revocation under section 86B (2)—

(a) ensure that directors of the society have been elected in accordance with the rules of the society at a meeting convened by the administrator in accordance with those rules; or

(b) appoint directors of the society.

(6) Directors elected under subsection (5) (a) or appointed under subsection (5) (b)—

(a) take office upon revocation of the appointment of the administrator; and

(b) in the case of appointed directors, hold office until the annual general meeting of the society that next succeeds revocation of that appointment.

(7) The expenses of and incidental to the conduct of the affairs of a society by an administrator are payable from the funds of the society.

(8) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subsection (7) and shall be fixed by the registrar.

(9) Where an administrator appointed under this section is a servant of the Crown, the reimbursement of the Crown in an amount certified by the registrar in respect of the remuneration of its servant is an expense referred to in subsection (7) and is recoverable as a debt due to the Crown.

(10)



*Permanent Building Societies (Amendment).*

(10) An administrator of a society is not liable for any loss sustained by the society during his term of office unless the loss was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the regulations or the rules of the society.

(11) The registrar is not liable for any loss sustained by a society during the term of office of an administrator, whether or not the administrator is so liable.

86B. (1) Where an administrator of a society is appointed, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than fourteen days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

Advisory Committee may make certain report to Minister.

(2) The registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a society, revoke the appointment of an administrator of the society, and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment.

(b) by omitting from section 87 (3) (a) the word "fifty" and by inserting instead the words "one hundred or, where some other number is prescribed by the regulations, that other number";

Sec. 87. (Winding up.)

*Permanent Building Societies (Amendment).*

Sec. 90A.

(c) by inserting after section 90 the following section :—

Certain  
offences  
under  
Companies  
Act, 1961,  
to apply  
equally in  
respect of  
society.

90A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of a society, and its officers and former officers, in the same way as they apply to a company and its officers and former officers.

(2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

(a) a reference therein to a company were a reference to a society;

(b) a reference therein to the Commission were a reference to the registrar;

(c) the reference in section 374B to the provisions of section 161A or any corresponding previous enactment for the time being in force were a reference to the provisions of this Act relating to the keeping of accounts by a society;

(d) paragraph (c) were omitted from—

(i) the definition of “company to which this section applies” in section 374E (1);

(ii) the definition of “appropriate officer” in section 374E (1); and

(iii) the definition of “the relevant day” in section 374E (1); and

(e)



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*Permanent Building Societies (Amendment).*

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- (e) the return referred to in paragraph (f) of the definition of "the relevant day" in section 374E (1) were a reference to a return under section 82 (2) of this Act.

**11.** Part IX of the Principal Act is amended—

Amendment  
of Part IX  
of Act No.  
18, 1967.  
Sec. 105.

- (a) by inserting in section 105 (2) after the word "offence" the words "referred to therein or any contravention of that section or part";
- (b) by inserting after section 105 (3) the following subsection :—

(4) Where a penalty is imposed on a society under this Act, the society shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

**12.** An order made under section 62 (4) of the Principal Act and in force immediately before the commencement of section 7 (e) of this Act shall be deemed to have been made under section 62 (4) of the Principal Act, as amended by section 7 (e) of this Act.

Transitional  
provision.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

Permanent Building Societies (Amendment).

(c) the return referred to in paragraph (1) of the definition of "the relevant day" in section 374A (1) were a reference to a return under section 82 (2) of this Act.

11. Part IX of the Principal Act is amended—

(a) by inserting in section 105 (2) after the words "reference" the words "referred to therein or any Act";

(b) by inserting after section 105 (3) the following subsection:—

(4) Where a penalty is imposed on a society under this Act, the society shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

12. An order made under section 82 (4) of the Principal Act and in force immediately before the commencement of section 7 (a) of this Act shall be deemed to have been made under section 82 (4) of the Principal Act as amended by section 7 (a) of this Act.



*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.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 12 March, 1974.*

## New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. 5, 1974.**

An Act to make further provisions with respect to the formation and administration of permanent building societies and the lending of money by them; to control excessive shareholdings in permanent building societies; to authorise, in certain circumstances, the appointment of an administrator to conduct the affairs of a permanent building society; for these and other purposes to amend the Permanent Building Societies Act, 1967; and for purposes connected therewith. [Assented to, 26th March, 1974.]

BE

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

J. H. BROWN,  
*Chairman of Committees of the Legislative Assembly.*

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*Permanent Building Societies (Amendment).*

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**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 :—

Short  
title.

1. This Act may be cited as the "Permanent Building Societies (Amendment) Act, 1974".

Commence-  
ment.

2. (1) This section and sections 1 and 3 commence on the date of assent to this Act.

(2) Subject to subsection (1), the several provisions of this Act shall commence upon such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal  
Act.

3. The Permanent Building Societies Act, 1967, is in this Act referred to as the Principal Act.

Amendment  
of Part II  
of Act No.  
18, 1967.

4. Part II of the Principal Act is amended—

Sec. 5.  
(Approval  
or additional  
security  
required in  
certain  
cases.)

(a) (i) by omitting from section 5 (1) the words "twenty thousand dollars" wherever occurring and by inserting instead the words "the prescribed amount";

(ii) by omitting from section 5 (1) (b) the word "value" and by inserting instead the word "valuation";

(iii)



*Permanent Building Societies (Amendment).*

- (iii) by inserting at the end of section 5 (1) the following words :—

In this subsection "the prescribed amount" means \$25,000 or, where some other amount is prescribed by the regulations for the purposes of this subsection, the amount so prescribed.

- (b) by omitting from section 10 (7) the words "five hundred dollars" and by inserting instead the matter "\$1,000";

Sec. 10.  
(Ordinary  
limitation  
on special  
loans.)

- (c) (i) by omitting from section 12 the word "society" where firstly occurring and by inserting instead the words "building society, whether registered under this or any other Act or under a law of another State or of a Territory of the Commonwealth,";

Sec. 12.  
(Assistance  
by a society  
to a  
building  
society.)

- (ii) by omitting from section 12 the words "it may authorise any society to lend money to the firstmentioned society and the latter society shall have power to do so accordingly" and by inserting instead the words ", a society may, with the authority of the Advisory Committee, lend money to that building society";

- (d) by inserting after section 20 (5) the following subsection :—

Sec. 20.  
(Borrowing  
powers.)

(5A) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, receive money on deposit upon the terms that it is not repayable before the expiration of a specified period that exceeds one month.

(e)



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*Permanent Building Societies (Amendment).*

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Sec. 20A.  
(Maximum  
interest  
payable in  
respect of  
money  
received  
on deposit.)

(e) by omitting section 20A (4) and by inserting instead the following subsections :—

(4) In this section “maximum rate” in relation to money received by a society on deposit means the same rate as the rate of dividend that would be payable by the society in respect of the deposit if—

(a) the making of the deposit were a subscription of the same amount of share capital; and

(b) that share capital were withdrawable on the same terms and conditions as the deposit.

(5) This section does not apply to or in respect of deposits with a society that—

(a) are held by the society by reason of a transfer of engagements from, or amalgamation with, a building society registered under, or specified in the Second Schedule to, the Co-operation Acts; and

(b) were received by that building society before 1st July, 1972.

Amendment  
of Part III  
of Act No.  
18, 1967.

**5. Part III of the Principal Act is amended—**

Sec. 27.  
(Forma-  
tion.)

(a) (i) by omitting from section 27 (1) the words “any fifty or more” and by inserting instead the words “not less than the prescribed number of”;

(ii) by omitting from section 27 (2) the words “fifty or more such persons” and by inserting instead the words “not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)”;

(iii)



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*Permanent Building Societies (Amendment).*

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- (iii) by omitting from section 27 (4) the words "fifty or more such persons" and by inserting instead the words "not less than the prescribed number of persons of the age, and having the qualifications, required by subsection (1)";
- (iv) by inserting after section 27 (5) the following subsection :—
  - (6) In this section "the prescribed number" means one hundred or, where some other number is prescribed by the regulations for the purposes of this section, the number so prescribed.
- (b) (i) by omitting section 28 (1) (c) and by inserting instead the following paragraph :—
  - (c) such evidence as the registrar may require that the society will, upon registration, have available to it not less than \$2,000,000 or such other amount as may be prescribed by the regulations, including—
    - (i) members' share capital of not less than \$1,000,000 or such other amount as may be prescribed by the regulations; and
    - (ii) other funds that amount to not less than \$500,000 or such other amount as may be prescribed by the regulations, being funds that are available on terms which would not require repayment thereof within a period of less than ten years after receipt by the society;

Sec. 28.  
(Registration.)

(ii)



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*Permanent Building Societies (Amendment).*

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- (ii) by omitting from section 28 (1) (f) the words "name and the occupation and address of fifty persons" and by inserting instead the words "names and the occupations and addresses of not less than the prescribed number of persons referred to in section 27";
- Sec. 30.  
(Societies  
registered  
under  
Co-operation  
Acts, etc.)
- (c) by omitting from section 30 (4) (b) the words "six hundred thousand dollars, of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000, or such other amount as may be prescribed by the regulations, of which not less than \$1,000,000, or such other amount as may be so prescribed,";
- Sec. 34.  
(Name.)
- (d) (i) by inserting in section 34 (3) after the word "and" where secondly occurring the words ", subject to subsection (3A),";
- (ii) by inserting in section 34 (3) after the word "Limited" where secondly occurring the words "or the word 'Limited' in lieu of the abbreviation 'Ltd.', or the use of the symbol '&' in lieu of the word 'and', or the use of the word 'and' in lieu of the symbol '&'";
- (iii) by inserting after section 34 (3) the following subsection :—
- (3A) Where, with the approval of the Minister, a society includes in its name the words "building society" (consecutively or otherwise) and does not include the word "permanent", the omission of the word "permanent" does not constitute a contravention of subsection (3).
- Sec. 35.  
(Use of  
words  
"permanent  
building  
society".)
- (e) by omitting from section 35 (1) (b) the word "other";

(f)



*Permanent Building Societies (Amendment).*

- (f) by inserting in section 37 (2) after the word "abbreviation" the words "or elaboration"; Sec. 37.  
(Publica-  
tion of  
name.)
- (g) (i) by inserting in section 39 (1) (a) after the word "under" where thirdly occurring the words ", or one or more societies specified in the Second Schedule to,"; Sec. 39.  
(Amalga-  
mation.)
- (ii) by inserting in section 39 (1) (a) after the word "under" where fifthly occurring the words ", or a society specified in the Second Schedule to,";
- (h) (i) by inserting in section 40A (1) after the word "under" where firstly occurring the words ", or a society specified in the Second Schedule to,"; Sec. 40A.  
(Transfer of  
engagements  
of certain  
building  
societies.)
- (ii) by omitting from section 40A (1) the words "such non-terminating building society" and by inserting instead the words "the society that resolved to transfer its engagements";
- (iii) by inserting in section 40A (2) after the word "under" where secondly occurring the words ", or a society specified in the Second Schedule to,";
- (i) by inserting after section 41 the following sections :— Secs. 41A  
and 41B.
- 41A. (1) Subject to this section, the registrar may, with the approval of the Minister, direct a society— Transfer of  
engagements  
by direction  
of registrar.
- (a) to transfer its engagements to another society approved by the registrar; and
- (b) within a period specified by the registrar when giving the direction, or within such further period as the registrar may allow, to enter into an agreement, approved by the registrar, to give effect to the transfer of engagements directed.

(2)

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*Permanent Building Societies (Amendment).*

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(2) The registrar shall not give a direction under subsection (1) unless he gives such a certificate as would be provided for by sections 87 (3) and 87 (4) if section 87 were amended—

- (a) by omitting from subsection (3) the words “In the case of a winding up upon the certificate of the registrar, the society may be wound up if” and by inserting instead the words “The registrar may not direct a transfer of engagements under section 41A (1) unless”; and
- (b) by omitting from subsection (3) (g) the words “the society should be wound up” and by inserting instead the words “the society should transfer its engagements”.

(3) Where a society fails to comply with a direction given under subsection (1), the registrar may notify the society that he has elected to treat the certificate given under subsection (2) in relation to the society as—

- (a) a certificate given under section 86A (2);  
or
- (b) a certificate given by him under section 87 (3).

(4) Where the registrar notifies a society as provided by subsection (3), this Act applies to and in respect of the society as if the certificate that, pursuant to subsection (3) (a) or (b), was specified in the notice had been given by the registrar.

(5) The registrar may, before a society has, pursuant to a direction under subsection (1), agreed pursuant to subsection (1) (b) to transfer its engagements, revoke the direction.

(6)



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*Permanent Building Societies (Amendment).*

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(6) A society may, with the consent of the registrar and by resolution of the board, accept a transfer of engagements directed under a provision of the Co-operation Acts corresponding to this section.

(7) Section 40 (subsection (5) excepted) does not apply to a transfer of engagements under this section.

(8) A transfer of engagements under this section takes effect upon a day notified by the registrar in the Gazette.

(9) An officer of a society who—

- (a) fails to take all reasonable steps to secure compliance by the society with a direction given under subsection (1); or
- (b) by a wilful act or omission is the cause of a failure by the society to comply with such a direction,

is guilty of an offence.

Penalty : \$500.

41B. (1) Where a direction is given to a society under section 41A (1), the society may, not later than fourteen days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister. <sup>Certain representations may be made.</sup>

(2) The registrar shall exercise in relation to a society his powers under section 41A (5) if the Minister so directs after considering a report under subsection (1) with respect to the society.

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*Permanent Building Societies (Amendment).*

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Amendment  
of Part IV  
of Act No.  
18, 1967.

Sec. 47.  
(Associations.)

6. Part IV of the Principal Act is amended by inserting in section 47 (2) (d) after the word "ways" the words "(including entering into arrangements under section 23)".

Amendment  
of Part V  
of Act No.  
18, 1967.

Sec. 51.  
(Corporate  
body as  
member.)

Sec. 52.  
(Share  
capital.)

7. Part V of the Principal Act is amended—

(a) by omitting from section 51 (3) the word "three" and by inserting instead the word "five";

(b) (i) by omitting from section 52 (1) (b) (ii) the words "its paid up share capital" and by inserting instead the words "shares of that class";

(ii) by inserting after section 52 (1) the following subsections :—

(1A) This section does not operate to prevent a society from issuing a share subject to a condition that prevents withdrawal of the share capital before the expiration of a specified period of time.

(1B) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a society shall not, except as provided by the order, issue a share referred to in subsection (1A).

(iii) by omitting from section 52 (3) (d) the words "six hundred thousand dollars of which four hundred thousand dollars" and by inserting instead the words "\$2,000,000 or such other

amount



*Permanent Building Societies (Amendment).*

amount as may be prescribed, of which not less than \$1,000,000 or such other amount as may be prescribed”;

(iv) by omitting section 52 (7);

(c) by inserting after section 52 the following Sec. 52A.  
section :—

52A. (1) For the purposes of this section—

Limitation  
of share-  
holding.

(a) a person has a relevant interest in a share in a society if he has power to withdraw the share capital subscribed for that share or to exercise control over the withdrawal of that share capital;

(b) the provisions of section 6A of the Companies Act, 1961, apply to and in respect of a relevant interest in a share in a society in the same way as they apply to and in respect of a relevant interest under that Act in a share in any other body corporate and they so apply as if—

(i) subsections (1), (2) (a), (5) (a), (7) and (8) had been omitted therefrom; and

(ii) references in that section to the disposal of a share were references to the withdrawal of the share capital subscribed for a share;

(c) a relevant interest in a share in a society shall be disregarded if it is a relevant interest, or a relevant interest of a class, prescribed for the purposes of this paragraph; and

(d) the prescribed proportion for a society is one-fifth or, where a lesser proportion is specified in the rules of the society, the proportion so specified.

(2)



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*Permanent Building Societies (Amendment).*


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(2) Where a person has relevant interests in shares in a society exceeding in nominal value the prescribed proportion of the nominal value of all shares issued by the society, the society shall exercise and perform in respect of the excess shares the powers and duties that, by section 52 (2) (a), are conferred upon it in respect of shares no longer required for the purposes of the society.

Sec. 54.  
(Minimum  
subscription  
by founding  
members of  
societies.)

(d) by omitting from section 54 (1) (a) (i) the words "one thousand dollars or" and by inserting instead the words "\$1,000 in the case of a society registered before the commencement of section 7 (d) of the Permanent Building Societies (Amendment) Act, 1974, or \$5,000 in the case of a society registered after that commencement or, in either case,";

Sec. 62.  
(Surplus  
from  
operations.)

(e) (i) by omitting section 62 (4) and by inserting instead the following subsection :—

(4) The rate of dividend in respect of a share shall not exceed the rate fixed by the Minister in respect of the share by order published in the Gazette on the recommendation of the Advisory Committee.

(ii) by inserting after section 62 (4) the following subsections :—

(4A) An order under subsection (4) may fix rates of dividend differing according to specified circumstances.

(4B) Subsection (4) does not apply in respect of shares that—

(a) are held in the society by reason of a transfer of engagements from, or amalgamation with, a building society

registered



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registered under, or specified in the Second Schedule to, the Co-operation Acts;

(b) were issued before 1st July, 1972, by such a building society; and

(c) if they are withdrawable and have been the subject of a transfer, were last transferred before 1st July, 1972.

(iii) by omitting section 62 (6);

(f) (i) by omitting from section 63 (2) (d) the word "and"; Sec. 63.  
(Liquidity.)

(ii) by omitting from section 63 (2) (e) the words "this paragraph." and by inserting instead the following words and paragraph :—

this paragraph; and

(f) as funds or investments referred to in paragraphs (a), (b), (c), (d) and (e) and deposited with an association pursuant to arrangements made under section 23,

except to the extent of the amount necessary to satisfy any lien or charge on the funds and investments specified in paragraphs (a), (b), (c), (d) and (e).

(iii) by inserting after section 63 (3) the following subsection :—

(4) Notwithstanding subsection (1), a society may approve the making of loans from a fund comprising specific moneys borrowed by it if—

(a) the moneys borrowed are not required to be repaid by the society before the expiration of ten years except to the

extent

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*Permanent Building Societies (Amendment).*

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extent that the terms upon which the moneys are borrowed provide for the earlier payment to the lender by the society of amounts not exceeding the amounts from time to time payable or paid to the society by way of interest on, or in reduction or repayment of, loans so made; and

- (b) the proceeds of the due repayment of each loan so made would be sufficient to provide for the due repayment by the society of the moneys borrowed by it.

Sec. 64.  
(Reserve.)

- (g) by inserting in section 64 (2) after the words "winding up" the words "or upon terms and conditions approved by the Advisory Committee".

Amendment  
of Part VI  
of Act No.  
18, 1967.

**8. Part VI of the Principal Act is amended—**

Sec. 67.  
(Appointment  
of  
directors.)

- (a) by omitting section 67 (5) and by inserting instead the following subsection :—

(5) Notwithstanding anything in this Act, the rules of a society may provide for the election by the members—

- (a) of not more than one employee of the society nominated by the directors; or

- (b) where the directors number seven or more, of not more than two employees of the society so nominated,

as a director, or as directors, of the society.

In this subsection "employee of the society" includes a person, or the employee of a person, who provides the society with secretarial and administrative services.

(b)



*Permanent Building Societies (Amendment).*

- (b) (i) by omitting from section 68 (4) (j) the word "or"; Sec. 68.  
(Directors—  
qualifica-  
tion and  
vacation of  
office.)
- (ii) by omitting section 68 (4) (k) and by inserting instead the following paragraphs :—
- (k) if, having been elected as a director pursuant to section 67 (5), he ceases to hold the qualification by virtue of which he was elected;
- (l) if an administrator of the society's affairs is appointed under section 86A; or
- (m) as provided by section 68B.

- (c) by inserting after section 68A the following Sec. 68B.  
section :—

68B. (1) Where a person is, at the same time, a director of a society and a director of another corporation (not being an association) the Advisory Committee may, subject to this section, determine that, in its opinion, the activities and operations in which the corporation is engaged are, or are likely to be, such that that person should not be a director of the society while he is a director of that corporation. Director  
vacates  
office in  
certain  
circum-  
stances.

(2) The Advisory Committee shall not make a determination under subsection (1) in relation to a director unless the director—

- (a) has, by notice given to him in writing by the registrar at the direction of the Advisory Committee, been informed that the Advisory Committee proposes to consider whether a determination should be made under subsection (1) with respect to a specified corporation, or specified corporations; and

(b)

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*Permanent Building Societies (Amendment).*

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(b) has been given an opportunity to be heard by the Advisory Committee.

(3) The registrar shall, at the direction of the Advisory Committee, give notice in writing of a determination under subsection (1) to the director to whom it relates and, where the registrar gives such a notice, the director may appeal to the Minister against the determination within fourteen days after the giving of the notice.

(4) Where a director of a society appeals as provided by subsection (3), the Minister may—

(a) uphold the appeal;

(b) dismiss the appeal; or

(c) where the determination relates to more than one corporation, uphold or dismiss the appeal in so far as the determination relates to a corporation or corporations specified by the Minister and dismiss or uphold it in relation to the other or others.

(5) A director of a society given a notice referred to in subsection (3) vacates his office as such a director—

(a) where he does not appeal against the determination to which the notice relates—at the expiration of the period within which he might have appealed against that determination; or

(b) where he so appeals and the appeal—

(i) is dismissed; or

(ii)



*Permanent Building Societies (Amendment).*

(ii) is dismissed in respect of one or more corporations and upheld in relation to another corporation or other corporations—

at the expiration of the period of seven days that next succeeds the giving to him of notice of dismissal of the appeal,

unless before the expiration of that period he ceases to be a director of any corporation in respect of which he failed to appeal or in respect of which an appeal was dismissed.

- (d) by inserting after section 69 the following Sec. 69A.  
section :—

69A. (1) A society shall, not later than three months after the end of its financial year, lodge with the registrar in the prescribed form a return specifying any declaration made to its board under section 69 during that financial year. Return showing certain declarations.

(2) Where a society fails to comply with subsection (1), the society and any officer in default are each guilty of an offence.

Penalty : \$500. Default penalty.

- (e) by inserting in section 70 (1) after the word "officer," the words "or his spouse,"; Sec. 70.  
(Certain prohibited dealings.)

- (f) by inserting after section 70 the following Sec. 70A.  
section :—

70A. (1) For the purposes of this section— Certain borrowings prohibited.

(a) a person is associated with a director or other officer of a society if that person is—

(i) the spouse of that director or other officer;

(E)

(ii)

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*Permanent Building Societies (Amendment).*

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- (ii) a member, or the spouse of a member, of a partnership of which that director or other officer, or the spouse of that director or other officer, is a member; or
  - (iii) a corporation of which that director or other officer, or the spouse of that director or other officer, is a director; and
- (b) the prescribed amount is \$50,000 or, where some other amount is prescribed by the regulations, that other amount.
- (2) Where a society makes a loan to a director or other officer of the society, or to a person associated with a director or other officer of the society, the total of the amount lent and—
- (a) where the loan is to a director or other officer of the society—the amount of any existing indebtedness to the society of—
    - (i) that director or other officer; and
    - (ii) any person associated with that director or other officer; or
  - (b) where the loan is to a person associated with a director or other officer of the society—the amount of any existing indebtedness to the society of—
    - (i) that person;
    - (ii) any other person associated with that director or other officer; and
    - (iii) that director or other officer,
- shall not exceed the prescribed amount.

(3)



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*Permanent Building Societies (Amendment).*

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(3) Where a director or other officer of a society is a director of another corporation (not being an association registered under this Act, the Co-operation Acts or the Credit Union Act, 1969) the society shall not lend to another director of that corporation or to the spouse of such a director an amount that, if added to any indebtedness of that other director, or of his spouse, to the society at the time the loan to him is made, would exceed the prescribed amount.

(4) For the purposes of this section, anything done by a proprietary company of which a director or other officer of a society or his spouse is a member shall be deemed to have been done by that director or other officer, as the case may be.

(5) Notwithstanding anything in this section, the Advisory Committee may, in a particular case, approve the making of a loan where, but for this subsection, the making thereof would be a contravention of subsection (2) or (3) and, where such an approval is given, the making of the loan is not such a contravention.

(6) Where a loan is made by a society in contravention of subsection (2) or (3)—

- (a) the society;
- (b) any officer in default;
- (c) in the case of a loan made in contravention of subsection (2) to a director or other officer—the person to whom the loan was made;

(d)

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*Permanent Building Societies (Amendment).*

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(d) in the case of a loan made in contravention of subsection (2) to a person associated with a director or other officer—that director or other officer; and

(e) in the case of a loan made to a director of another corporation or his spouse in contravention of subsection (3)—any director or other officer of the society who is a director of that other corporation,

are each guilty of an offence unless, in the cases referred to in paragraphs (d) and (e), it is proved that the defendant used all due diligence to prevent the contravention.

Penalty : \$500.

Sec. 75.  
(Voting.)

(g) by omitting from section 75 (2) the words “section fifty of this Act” and by inserting instead the words “sections 50 and 76”;

Sec. 76.  
(Voting at  
association  
meeting.)

(h) (i) by inserting in section 76 (1) after the words “a majority” the words “of votes”;

(ii) by omitting from section 76 (1) the word “representatives” where secondly occurring and by inserting instead the words “societies represented at the meeting”;

(iii) by inserting after section 76 (1) the following subsection :—

(1A) Where the rules of an association so provide, the representative or representatives of a component society who is or are present at a meeting of the association may, on a poll, cast on behalf of the society such total number of votes, not exceeding five, as is specified in the rules of the association.

(i)



*Permanent Building Societies (Amendment).*

- (i) by inserting after section 78 (3) the following subsection :—

Sec. 78.  
(Registers  
and  
accounts.)

(3A) In relation to each person who is a director of a society, there shall, upon receipt of the necessary particulars under section 78A, be incorporated as part of the register of directors of the society a list specifying every corporation (other than the society) of which that person is from time to time a director.

- (j) by inserting after section 78 the following sections :—

Secs. 78A and  
78B.

78A. (1) A director of a society shall give notice in writing to the society of such matters relating to himself as are necessary to enable the society to keep up to date its register of directors (including the list referred to in section 78 (3A)).

Directors  
to furnish  
certain  
information.

(2) A director required to give a notice under subsection (1) shall give the notice not later than fourteen days after—

- (a) the commencement of section 8 (j) of the Permanent Building Societies (Amendment) Act, 1974;
- (b) the day on which he became a director of the society; or
- (c) the day on which he first became aware of the matter of which he is required to give notice,

whichever last occurs.

(3) A director who fails to give the notice required by subsection (1) within the time specified by subsection (2) is guilty of an offence.

Penalty : \$500. Default penalty.

78B.

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*Permanent Building Societies (Amendment).*

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Return  
to be  
submitted  
by society.

78B. A society shall, not later than three months after the end of its financial year, submit a return in the prescribed form to the registrar specifying, in respect of each person who during that financial year was a director of the society, any corporations of which, according to any notice or notices given to the society under section 78A during that financial year, that person was at any time a director.

Sec. 82.  
(Returns.)

(k) by inserting in section 82 (1) after the word "change" where secondly occurring the words "and of any corporations of which, according to any notice or notices given to the society under section 78A, any new member of the board is a director";

Sec. 84A.

(1) by inserting after section 84 the following section :—

Special  
returns.

84A. (1) Where a society is directed by the registrar so to do, the society shall submit to the registrar a special return in the form, within the time, and relating to the subject-matter, specified by the registrar when giving the direction.

(2) A return submitted pursuant to subsection (1) is not a document to which section 108 (1) applies.

Amendment  
of Part VII  
of Act No.  
18, 1967.

Sec. 85.  
(Disputes.)

9. Part VII of the Principal Act is amended by inserting in section 85 (4) (a) after the word "hearing" the words "and such costs of the parties as he specifies".



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*Permanent Building Societies (Amendment).*

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**10. Part VIII of the Principal Act is amended—**

Amendment  
of Part  
VIII of  
Act No. 18,  
1967.

- (a) by inserting after section 86 the following sections :—

Secs.  
86A and 86B.

86A. (1) Subject to this section, the registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a society and may revoke any such appointment.

Appoint-  
ment of  
administra-  
tor of  
society.

(2) The registrar shall not appoint an administrator unless he certifies as would be provided by sections 87 (3) and 87 (4) if section 87 were amended—

- (a) by omitting from subsection (3) the words “In the case of a winding up upon the certificate of the registrar, the society may be wound up if” and by inserting instead the words “An administrator may not be appointed under section 86A (1) unless”; and
- (b) by omitting from subsection (3) (g) the words “the society should be wound up” and by inserting instead the words “an administrator should be appointed to conduct the affairs of the society”.

(3) Upon the appointment of an administrator of a society—

- (a) the directors of the society cease to hold office;
- (b) all contracts of employment with the society are terminated; and
- (c) all contracts for the provision of secretarial or administrative services for the society are terminated.

(4)

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*Permanent Building Societies (Amendment).*

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(4) An administrator of a society has the powers, authorities, duties and functions of the board of the society and, except as provided by subsection (5), no appointment of a director of the society may be made while the administrator is in office.

(5) Before revoking the appointment of an administrator of a society, the registrar shall, except in the case of a revocation under section 86B (2)—

- (a) ensure that directors of the society have been elected in accordance with the rules of the society at a meeting convened by the administrator in accordance with those rules; or
- (b) appoint directors of the society.

(6) Directors elected under subsection (5) (a) or appointed under subsection (5) (b)—

- (a) take office upon revocation of the appointment of the administrator; and
- (b) in the case of appointed directors, hold office until the annual general meeting of the society that next succeeds revocation of that appointment.

(7) The expenses of and incidental to the conduct of the affairs of a society by an administrator are payable from the funds of the society.

(8) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subsection (7) and shall be fixed by the registrar.

(9) Where an administrator appointed under this section is a servant of the Crown, the reimbursement of the Crown in an amount certified by the registrar in respect of the remuneration of its servant is an expense referred to in subsection (7) and is recoverable as a debt due to the Crown.

(10)



*Permanent Building Societies (Amendment).*

(10) An administrator of a society is not liable for any loss sustained by the society during his term of office unless the loss was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the regulations or the rules of the society.

(11) The registrar is not liable for any loss sustained by a society during the term of office of an administrator, whether or not the administrator is so liable.

86B. (1) Where an administrator of a society is appointed, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than fourteen days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

Advisory  
Committee  
may make  
certain  
report to  
Minister.

(2) The registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a society, revoke the appointment of an administrator of the society, and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment.

(b) by omitting from section 87 (3) (a) the word "fifty" and by inserting instead the words "one hundred or, where some other number is prescribed by the regulations, that other number";

Sec. 87.  
(Winding  
up.)

(c)



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*Permanent Building Societies (Amendment).*

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Sec. 90A.

(c) by inserting after section 90 the following section :—

Certain  
offences  
under  
Companies  
Act, 1961,  
to apply  
equally in  
respect of  
society.

90A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of a society, and its officers and former officers, in the same way as they apply to a company and its officers and former officers.

(2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

- (a) a reference therein to a company were a reference to a society;
- (b) a reference therein to the Commission were a reference to the registrar;
- (c) the reference in section 374B to the provisions of section 161A or any corresponding previous enactment for the time being in force were a reference to the provisions of this Act relating to the keeping of accounts by a society;
- (d) paragraph (c) were omitted from—
  - (i) the definition of “company to which this section applies” in section 374E (1);
  - (ii) the definition of “appropriate officer” in section 374E (1); and
  - (iii) the definition of “the relevant day” in section 374E (1); and

(e)



*Permanent Building Societies (Amendment).*

- (e) the return referred to in paragraph (f) of the definition of "the relevant day" in section 374E (1) were a reference to a return under section 82 (2) of this Act.

**11.** Part IX of the Principal Act is amended—

Amendment  
of Part IX  
of Act No.  
18, 1967.  
Sec. 105.

- (a) by inserting in section 105 (2) after the word "offence" the words "referred to therein or any contravention of that section or part";
- (b) by inserting after section 105 (3) the following subsection :—

(4) Where a penalty is imposed on a society under this Act, the society shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

**12.** An order made under section 62 (4) of the Principal Act and in force immediately before the commencement of section 7 (e) of this Act shall be deemed to have been made under section 62 (4) of the Principal Act, as amended by section 7 (e) of this Act.

Transitional  
provision.

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

A. R. CUTLER,  
Governor.

*Government House,  
Sydney, 26th March, 1974.*

1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system has a solution if and only if the parameters  $\alpha$  and  $\beta$  satisfy certain conditions. These conditions are derived from the analysis of the system of equations (1) and the properties of the functions involved.

2. In the second part of the paper, the problem of the existence of a solution of the system of equations (1) is solved for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system has a solution if and only if the parameters  $\alpha$  and  $\beta$  satisfy certain conditions. These conditions are derived from the analysis of the system of equations (1) and the properties of the functions involved.

3. In the third part of the paper, the problem of the existence of a solution of the system of equations (1) is solved for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system has a solution if and only if the parameters  $\alpha$  and  $\beta$  satisfy certain conditions. These conditions are derived from the analysis of the system of equations (1) and the properties of the functions involved.

4. In the fourth part of the paper, the problem of the existence of a solution of the system of equations (1) is solved for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system has a solution if and only if the parameters  $\alpha$  and  $\beta$  satisfy certain conditions. These conditions are derived from the analysis of the system of equations (1) and the properties of the functions involved.

5. In the fifth part of the paper, the problem of the existence of a solution of the system of equations (1) is solved for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system has a solution if and only if the parameters  $\alpha$  and  $\beta$  satisfy certain conditions. These conditions are derived from the analysis of the system of equations (1) and the properties of the functions involved.