

**PERMANENT BUILDING SOCIETIES (AMENDMENT)
BILL, 1979**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to extend the objects of permanent building societies so as to enable a society to lend money to a member upon the security of the member's paid up share capital and deposits with the society (Schedule 2 (1) and (2));
- (b) to enable the Minister to fix different maximum rates of interest in respect of different loans (Schedule 2 (1) (d));
- (c) to put beyond doubt the power of a society to vary the rate of interest on a loan during the currency of the loan (Schedule 2 (5));
- (d) to increase the amount of money that a society can invest in certain shares (Schedule 2 (6));
- (e) to enable a society to provide secretarial and administrative services to certain bodies (Schedule 2 (7));
- (f) to enable a society to raise money by dealing in bills of exchange (Schedule 2 (8));
- (g) to enable the Minister to fix, in respect of societies, separate rates for interest on deposits and for dividends on shares (Schedule 2 (9));
- (h) to extend the agency powers of a society (Schedule 2 (10));
- (i) to make further provision for the service of documents on societies and their officers (Schedule 3 (3) and (4));
- (j) to facilitate the transfer of property, rights and liabilities where—
 - (i) a society to which Part I of the Building and Co-operative Societies Act, 1901, applies becomes a permanent building society (Schedule 3 (2) (b));
 - (ii) 2 or more societies amalgamate (Schedule 3 (5)); or
 - (iii) a society transfers its engagements to another society (Schedule 3 (6), (7) and (8));
- (k) to make further provision with respect to the amount of liquid funds that a society must retain (Schedule 4 (4));
- (l) to enable the board of a society to delegate its functions to a director or committee of directors (Schedule 5 (1));

- (m) to further enable notice of meetings of societies to be given by advertisement (Schedule 5 (3) (c));
 - (n) to clarify the voting rights of members of societies (Schedule 5 (4));
 - (o) to require a society to make minutes of its meetings available for members to inspect (Schedule 5 (5));
 - (p) to make it an offence for a person to make false statements in loan applications and in other dealings with a society (Schedule 6 (2));
 - (q) to make it an offence for a person to offer or pay a bribe to an officer of a society (Schedule 6 (4));
 - (r) to increase the penalties for certain offences under the Permanent Building Societies Act, 1967 (Schedule 6 (3) (b) and (5));
 - (s) to extend the time for bringing summary proceedings under that Act (Schedule 6 (7));
 - (t) to enable the Registrar of Permanent Building Societies to enlarge or abridge the time for the doing of certain acts by societies (Schedule 7 (1));
 - (u) to validate certain contracts made for the provision by a society of secretarial and administrative services to certain bodies (clause 6); and
 - (v) to make other provisions of a minor, consequential or ancillary nature.
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**PERMANENT BUILDING SOCIETIES (AMENDMENT)
BILL, 1979**

No. , 1979.

A BILL FOR

An Act to amend the Permanent Building Societies Act, 1967, to extend the objects of societies registered under that Act; to make provision with respect to voting at meetings of those societies; to validate certain matters; and for other purposes.

[MR EINFELD—28 *February*, 1979.]

Permanent Building Societies (Amendment).

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 :—

5 **1.** This Act may be cited as the “Permanent Building Societies Short title.
(Amendment) Act, 1979”.

2. (1) Except as provided in subsection (2), this Act shall Commence-
commence on the date of assent to this Act. ment.

 (2) Section 5, in its application to Schedule 2 (4), and
10 Schedule 2 (4) shall commence on such day as may be appointed
by the Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

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

15 **4.** This Act contains the following Schedules.
Schedules :—

SCHEDULE 1.—AMENDMENT TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.

20 SCHEDULE 3.—AMENDMENTS TO PART III OF THE
PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART V OF THE
PRINCIPAL ACT.

Permanent Building Societies (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

5 SCHEDULE 7.—AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth in Schedules 1-7. Amendment of Act No. 18, 1967.

10 6. A contract referred to in section 18A (1) of the Principal Act, as amended by this Act, that purports to have been made before the commencement of Schedule 2 (7) shall be, and shall be deemed always to have been, as valid and effectual as it would have been if section 18A (1) of the Principal Act, as amended by this Act, had been in force when the contract purports to have
15 been made. Validation of certain contracts.

SCHEDULE 1.

Sec. 5.

AMENDMENT TO PART I OF THE PRINCIPAL ACT.

Section 2—

20 From the matter relating to Part IX, omit "106", insert instead "106A".

Permanent Building Societies (Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 4 (1) (a)—

Omit “land; or”, insert instead “land;”.

5 (b) Section 4 (1) (b)—

Omit “Acts.”, insert instead “Acts; or”.

(c) Section 4 (1) (c)—

After section 4 (1) (b), insert :—

10 (c) in relation to a particular member, upon the security of the paid up share capital and deposits of that member.

(d) Section 4 (4)—

Omit the subsection, insert instead :—

15 (4) The Minister may, from time to time, upon the recommendation of the Advisory Committee and with the concurrence of the Treasurer, fix, by order published in the Gazette, for the purposes of this section, a rate of interest in respect of loans generally or rates of interest in respect of loans of such classes or descriptions as are specified in the order and a
20 society shall not, in respect of a loan made by it, charge a rate of interest in excess of the rate for the time being so fixed and applicable to the loan.

(2) Section 6A—

25 After section 6, insert :—

30 6A. A society shall not lend money to a member on the security of the paid up share capital and deposits of the member where the amount of the loan exceeds the aggregate of that share capital and those deposits at the time the loan is made. Loan secured by member's investments.

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(3) (a) Section 8 (1)—

5 Omit “twenty-one” wherever occurring, insert instead
“18”.

(b) Section 8 (1) (b)—

Omit the paragraph.

(c) Section 8 (2)—

Omit “twenty-one”, insert instead “18”.

10 (4) Section 13 (2) (b)—

Omit the paragraph, insert instead :—

15 (b) in the case of a loan to be secured by mortgage over
land on which a building is already erected, or over
vacant land, be made by a prescribed person or a
person having a prescribed qualification.

(5) Section 14A—

After section 14, insert :—

20 14A. A society may, subject to any agreement with **Variation of**
respect to the loan, charge different rates of interest in **interest**
respect of a loan during the currency of the loan. **rate.**

(6) Section 16 (2), proviso—

Omit “two thousand dollars”, insert instead “\$10,000 or,
where some other amount is prescribed, the prescribed
amount”.

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(7) Section 18A—

After section 18, insert :—

5 18A. (1) A society may contract to provide secretarial and administrative services to a terminating building society or credit union.

Provision of secretarial and administrative services to certain bodies.

10 (2) A society entering into any such contract shall keep separate accounts and records in respect of its business and the business of each terminating building society or credit union for which it provides secretarial and administrative services involving the keeping of accounts and records.

(8) Section 20 (1A)—

15 After section 20 (1), insert :—

(1A) A society may, if authorised by its rules, raise money by issuing bank accepted bills of exchange and dealing in bank accepted bills of exchange issued by it.

(9) (a) Section 20A (1)—

20 Omit the subsection, insert instead :—

25 (1) The Minister may, from time to time, upon the recommendation of the Advisory Committee, fix, by order published in the Gazette, for the purposes of this section, a maximum rate of interest in respect of deposits generally or maximum rates of interest in respect of deposits of such classes or descriptions as are specified in the order and a society shall not, in respect of a deposit made with it, pay a rate of interest in excess of the rate for the time being so fixed and applicable to the deposit.

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Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 20A (4)—

Omit the subsection.

5 (10) Section 24A—

After section 24, insert :—

10 24A. A society may do or suffer, as an agent on behalf of any person, any act, being an act that the society may, in accordance with its objects, do or suffer as a principal and being an act that the Advisory Committee has authorised it either generally or in a particular case to do or suffer as such an agent. Society as agent generally.

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

15 (1) Section 28 (1)—

Omit “, or within such further period as the registrar may allow,”.

(2) (a) Section 30 (4) (c)—

20 Omit “seven and one-half per centum”, insert instead “10 per cent”.

(b) Section 30 (5)—

Omit the subsection, insert instead :—

25 (5) Subsections (4) and (5) of section 39 apply to and in respect of the registration under this Act of a society to which Part I of the Building and

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

5 Co-operative Societies Act, 1901, applies in the same way as they apply to and in respect of the amalgamation of societies registered under this Act, and those subsections so apply as if—

10 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the certificate of incorporation of the society under this Act is issued;

15 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society that made the application and included a reference to any persons who, immediately before the day on which the certificate of incorporation of the society under this Act is issued, were trustees appointed by the society that made the application;

20 (c) a reference in those subsections to the amalgamated society were a reference to the society incorporated under this Act; and

25 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the incorporation of the society under this Act.

(3) Section 36 (2)—

Omit the subsection.

30 (4) Section 36A—

After section 36, insert :—

36A. (1) A document, other than a summons, may be served on a society, or on an officer of a society other than a director, by leaving it at the registered office of **Service of documents.**

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

5 the society with a person apparently in the service of the society, or by sending it by post to the society at its registered office.

(2) A document, other than a summons, may be served on a director of a society by sending it by post to the address of the director as last disclosed in returns transmitted to the registrar pursuant to this Act.

10 (3) Where a liquidator of a society has been appointed, a document, other than a summons, may be served on the society by leaving it at, or by sending it by post to, the address of the office of the liquidator of which notice has last been lodged with the registrar.

15 (4) A summons for an offence by a society punishable under this or any other Act may be served by leaving it at the registered office of the society with a person apparently in the service of the society and apparently of or above the age of 16 years.

20 (5) Where reasonable efforts have been made without success to effect service in the manner prescribed by subsection (4) and a stipendiary magistrate is so satisfied by affidavit, the stipendiary magistrate may give leave to effect service of the summons on an officer of the society,
25 or by advertisement, or in such other manner as in the circumstances appears to him to be proper, and service may be effected accordingly.

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(5) (a) Section 39 (1) (a)—

5 After “Co-operation Acts” where secondly occurring,
insert “and, in the case of a society so specified,
includes, for the purposes of subsections (4) and (5),
a reference to any persons who, immediately before
10 the day on which the certificate of incorporation of
the amalgamated society is issued, were trustees
appointed by that society”.

(b) Section 39 (4)–(11)—

Omit the subsections, insert instead :—

(4) On and from the day on which the certificate of
incorporation of the amalgamated society is issued—

15 (a) all real and personal property and all right
and interest therein and all management and
control thereof that, immediately before that
day, was vested in or belonged to a society
that is a party to the amalgamation shall
20 vest in or belong to the amalgamated
society;

25 (b) all debts, moneys and claims, liquidated
and unliquidated, that, immediately before
that day, were due or payable to, or
recoverable by, a society that is a party to
the amalgamation shall be debts due and
moneys payable to and claims recoverable
by the amalgamated society;

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 (c) all suits, actions and proceedings pending immediately before that day at the suit of a society that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of the amalgamated society and all suits, actions and proceedings so pending at the suit of 10 any person against a society that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of that person against the amalgamated society;
- 15 (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by a society that is a party to the amalgamation and in force immediately before that day shall be 20 deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the amalgamated society;
- 25 (e) the amalgamated society may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of suits, 30 actions and proceedings so referred to as a society that is a party to the amalgamation might have done but for the amalgamation;
- (f) the amalgamated society may enforce and realise any security or charge existing

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 immediately before that day in favour of a society that is a party to the amalgamation and may exercise any powers thereby conferred on a society that is a party to the amalgamation as if the security or charge were a security or charge in favour of the amalgamated society;
- 10 (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, a society that is a party to the
- 15 amalgamation shall be debts due and moneys payable by and claims recoverable against the amalgamated society;
- 20 (h) all liquidated and unliquidated claims for which a society that is a party to the amalgamation would, but for the amalgamation, have been liable shall be liquidated and unliquidated claims for which the amalgamated society shall be liable; and
- 25 (i) the amalgamated society may, in relation to any land of which a society that is a party to the amalgamation was, immediately before that day, the registered proprietor within the meaning of the Real Property

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

5 Act, 1900, execute any dealing within the meaning of that Act as if the amalgamated society were that registered proprietor.

10 (5) On and from the day on which the certificate of incorporation of the amalgamated society is issued, a reference in any instrument to a society that is a party to the amalgamation shall be read and construed as if it were a reference to the amalgamated society.

(6) Section 40 (5)—

Omit the subsection, insert instead :—

15 (5) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

20 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the special resolution of the transferor society is registered;

25 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its engagements;

(c) a reference in those subsections to the amalgamated society were a reference to the

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

society to which the engagements are transferred;
and

- 5 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.

(7) (a) Section 40A (2), (2A)—

Omit section 40A (2), insert instead :—

- 10 (2) Subsections (2), (3) and (4) of section 40 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of a transfer of engagements between societies under section 40.

- 15 (2A) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

- 20 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the special resolution of the transferor society is registered;

- 25 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 engagements and included a reference to any persons who, immediately before the day on which the special resolution of the transferor society is registered, were trustees appointed by the society transferring its engagements;
- 10 (c) a reference in those subsections to the amalgamated society were a reference to the society to which the engagements are transferred; and
- 15 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.
- (b) Section 40A (3)—
Omit “The”, insert instead “Notwithstanding subsection (2), the”.
- 20 (8) (a) Section 41A (1) (b)—
Omit “, or within such further period as the registrar may allow,”.
- (b) Section 41A (7)—
Omit “(subsection (5) excepted)”.
- 25 (c) Section 41A (7A)—
After section 41A (7), insert :—
(7A) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

- 5 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day notified by the registrar under subsection (8);
- 10 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its engagements;
- 15 (c) a reference in those subsections to the amalgamated society were a reference to the society to which the engagements are transferred; and
- 20 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.
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Permanent Building Societies (Amendment).

SCHEDULE 4.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Section 50 (4)—

Omit the subsection, insert instead :—

- 5 (4) A person who is under the age of 18 years and who holds shares in a society is not entitled to vote at a meeting of the society.

(2) (a) Section 51 (2) (a)—

Omit “as the members”, insert instead “as”.

10 (b) Section 51 (2) (a)—

Omit “as a member”, insert instead “as, a person who is entitled to vote in relation to any question which is to be determined by the votes of members of the society”.

15 (3) Section 53 (3)—

Omit the subsection, insert instead :—

- 20 (3) For the purpose of determining the number or proportion of any members required to give effect to any provisions of this Act or the rules of a society, the shares shall be deemed to be held by the primary joint holder alone.

(4) Section 63 (1)—

Omit the subsection, insert instead :—

- 25 (1) A society shall not approve of a loan where, if the loan, together with all other loans approved but not advanced at the time at which approval to make the first-mentioned loan is considered, were advanced at that time,

Permanent Building Societies (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

5 the society would hold liquid funds of less than 10 per cent or, where some other proportion is prescribed, the prescribed proportion, of the total of members' paid up share capital and deposits held by the society at that time.

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) Section 65A—

10 After section 65, insert :—

65A. (1) Where the rules of a society so provide, the board may, by resolution, delegate to a director or committee of 2 or more directors the exercise of such of the board's powers (other than this power of delegation) as are specified in the resolution, and the society or the board may, by resolution, revoke wholly or in part any such delegation. **Delegation.**

15

(2) A power, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

20

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstances.

25 (4) Notwithstanding any delegation under this section, the board may continue to exercise all or any of the powers delegated.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

5 (5) Where a power is exercised by a director
either alone or with another director or other directors and
the exercise of the power is evidenced in writing, signed
by the director in the name of the board or in his own
name on behalf of the board, the power shall be deemed
to have been exercised by the board, whether or not a
10 resolution delegating the exercise of the power to the
director was, when the power was exercised, in force and
whether or not any conditions or limitations referred to
in subsection (3) were observed by the director exercising
the power.

15 (6) An instrument purporting to be signed by a
director as referred to in subsection (5) shall in all courts
and before all persons acting judicially be received in
evidence as if it were an instrument executed by the society
under seal and, until the contrary is proved, shall be
20 deemed to be an instrument signed by a delegate of the
board under this section.

(2) (a) Section 68 (4) (a), (b)—

Omit the paragraphs, insert instead :—

- 25 (a) if he becomes bankrupt, applies to take the
benefit of any law for the relief of bankrupt
or insolvent debtors, compounds with his
creditors or makes an assignment of his
remuneration for their benefit;
- 30 (b) if he becomes a temporary patient, a continued
treatment patient, a protected person or an
incapable person within the meaning of the
Mental Health Act, 1958, or a person under
detention under Part VII of that Act;

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) Section 68 (4) (f)—

Omit the paragraph, insert instead :—

5 (f) on the expiration of one month's notice in writing of his intention to resign office, given by him to the board;

(3) (a) Section 73 (1)—

10 Omit “, or within such further time as may be allowed by the registrar”.

(b) Section 73 (4)—

Omit “qualified”, insert instead “entitled”.

(c) Section 73 (5A), (5B)—

After section 73 (5), insert :—

15 (5A) Subject to subsection (6), in the case of a meeting referred to in subsection (5) (a), (b) or (c), it shall be sufficient compliance with the provisions of subsection (4) if the notice is given by advertisement in accordance with a special rule of the society.

20 (5B) In subsection (5A), “special rule” means—

(a) a rule; or

(b) an alteration to a rule,

25 the terms of which the registrar has approved before a motion for the making of the rule or alteration is put to a meeting of a society.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 75 (2)—(2B)—

Omit section 75 (2), insert instead :—

5 (2) Except as otherwise provided in section 50,
a rule made for the purposes of subsection (3) or
(6), and section 76, a person—

10 (a) who is the sole holder, whether or not he is
also a joint holder, of shares in a society is,
in relation to any question which is to be
determined by the votes of members of the
society (whether those votes are exercised
pursuant to a postal ballot or at a meeting
of the society or otherwise), entitled to 1
15 vote irrespective of the number of shares or
parcels of shares he holds as a sole holder;
and

20 (b) who is the primary joint holder of shares in
a society is, in relation to any question
which is to be determined by the votes of
members of the society (whether those
votes are exercised pursuant to a postal
ballot or at a meeting of the society or
otherwise), where—

25 (i) he is not the sole holder of shares in
the society;

(ii) he does not hold any shares in the
society jointly with a person who is
a sole holder of shares in the society;

30 (iii) he does not hold any shares in the
society jointly with a person who is
a primary joint holder of shares in
the society; and

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

5 (iv) he is not one of two or more different primary joint holders of shares in the society, each of whom holds shares in the society jointly with the same person,

10 entitled to 1 vote irrespective of the number of shares or parcels of shares he holds as a primary joint holder.

15 (2A) Where a person referred to in subsection (2) is a body corporate and exercises its voting rights under that subsection by a person who is a representative or appointee appointed pursuant to section 51, the person who is the representative or appointee may exercise any voting rights that he has otherwise than as such a representative or appointee.

(2B) A person appointed as a proxy may not exercise more than 3 votes as a proxy.

20 (b) Section 75 (3)—
Omit “member”, insert instead “person”.

(c) Section 75 (4)—
Omit “member”, insert instead “person”.

25 (d) Section 75 (4)—
Omit “provided that no person shall be entitled to act as proxy for more than three members”.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(e) Section 75 (7)—

After section 75 (6), insert :—

- 5 (7) A reference in this section to a primary joint holder of shares is a reference to a primary joint holder of shares within the meaning of section 53.

(5) Section 79 (1A)—

After section 79 (1), insert :—

- 10 (1A) A society shall have at its registered office and open at all reasonable hours to inspection by any member without fee the minutes of meetings of the society.

(6) Section 81 (7)—

- 15 Omit “or in the alternative, if the rules of the society so provide, the notice of the annual general meeting”, insert instead “or, if notice of that meeting is given by advertisement in accordance with the rules of the society, published with that advertisement, or, if the rules of the society so provide, the notice of that meeting, whether transmitted to
20 each member or given by advertisement.”.

(7) (a) Section 82 (1A)—

After section 82 (1), insert :—

- 25 (1A) A society shall, within 14 days after any change in the appointment of the person primarily responsible, under the board of directors, for the daily management and control of the operations of the society, transmit to the registrar particulars of the change.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) Section 82 (2)—

5 Omit “or within such further time as the registrar may
authorise”.

(c) Section 82 (2) (a1)—

After section 82 (2) (a), insert :—

10 (a1) the name of the person then primarily
responsible, under the board of directors, for
the daily management and control of the
operations of the society;

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 91 (5)—

15 After section 91 (4), insert :—

(5) In any proceedings, no proof shall be required
(until evidence is given to the contrary) of the appointment
of the registrar or any former registrar.

(2) Section 102A—

20 After section 102, insert :—

102A. (1) A person who, in, or in relation to, any
application, request or demand for money, made to or of
any society—

25 (a) gives any information or makes any statement
to the society or a servant or an agent of the
society knowing it to be false; or

False state-
ments in
loan
applica-
tions, etc.

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

5 (b) proffers to the society or a servant or an agent of the society any information or statement provided by any other person knowing it to be false,

shall be guilty of an offence and shall be liable to a penalty not exceeding \$2,000 or imprisonment for a term not exceeding 12 months, or both.

10 (2) Where a person has been convicted of an offence under subsection (1) or an order has been made in favour of a person under section 556A (1) of the Crimes Act, 1900, in relation to an offence under subsection (1),
15 a society from which money has been obtained by the person in relation to the commission of the offence may, in respect of any mortgage or other security given to it by the person to secure the repayment of the money to the society, exercise all such rights under the mortgage or other security as it could exercise if there were a breach
20 of a covenant of the mortgage or, as the case may be, of a term of any contract by which the security was given, whether the mortgage or other security was executed by the person alone or by the person and another person or other persons.

25 (3) (a) Section 103 (1) (b)—

Omit “advertises”, insert instead “otherwise than in accordance with the prior written approval of the registrar, advertises”.

(b) Section 103 (1)—

30 Omit “two hundred dollars”, insert instead “\$1,000”.

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

(4) Section 103A—

After section 103, insert :—

- 5 103A. If any person offers or pays any commission, fee Offering
or paying
commission.
or reward, whether pecuniary or otherwise, to an officer of
a society for or in connection with a transaction or proposed
transaction between the person and the society, the person
10 shall be guilty of an offence and shall be liable to a penalty
not exceeding \$1,000.

(5) Section 104 (1)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(6) Section 105 (4)—

- 15 Omit “on a society under this Act”, insert instead “, under
this Act, on a society or an officer of a society”.

(7) Section 106A—

After section 106, insert :—

- 20 106A. Notwithstanding any other Act, proceedings for Time within
which
proceedings
may be
brought.
any offence punishable summarily under this Act and
committed—
(a) after the commencement of this section; or
(b) before the commencement of this section, where
the time for commencing the proceedings under

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

5 the law, as in force before the commencement of
this section, had not, as at that commencement,
expired in respect of that offence,
may be brought within 3 years after the commission of the
offence.

SCHEDULE 7.

Sec. 5.

AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

10 (1) Section 107A—

After section 107, insert :—

15 107A. (1) The registrar may grant an enlargement of,
or may abridge, any time for doing any act required to be
done by a society by this Act, the regulations or the rules
of a society upon such terms (if any) as the registrar may
determine. Enlargement
or
abridgement
of time.

(2) The registrar may grant an enlargement of
time for doing any act referred to in subsection (1)
notwithstanding that the time for doing the act has expired.

20 (3) This section does not limit the operation of
section 81 of the Supreme Court Act, 1970, or the
operation of any rules of the Supreme Court relating to the
enlargement or abridgement of time.

Permanent Building Societies (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART X OF THE PRINCIPAL ACT—*continued.*

(2) Section 113 (8)—

After section 113 (7), insert :—

- 5 (8) For the purpose of an inquiry under this section, an inspector appointed under section 114 and authorised in writing by the registrar to do so may examine, and shall report to the registrar upon, the affairs of the society which are the subject of the inquiry.

10 (3) Section 115 (1) (i)—

Omit “subsection (2) of section 36”, insert instead “section 36A”.

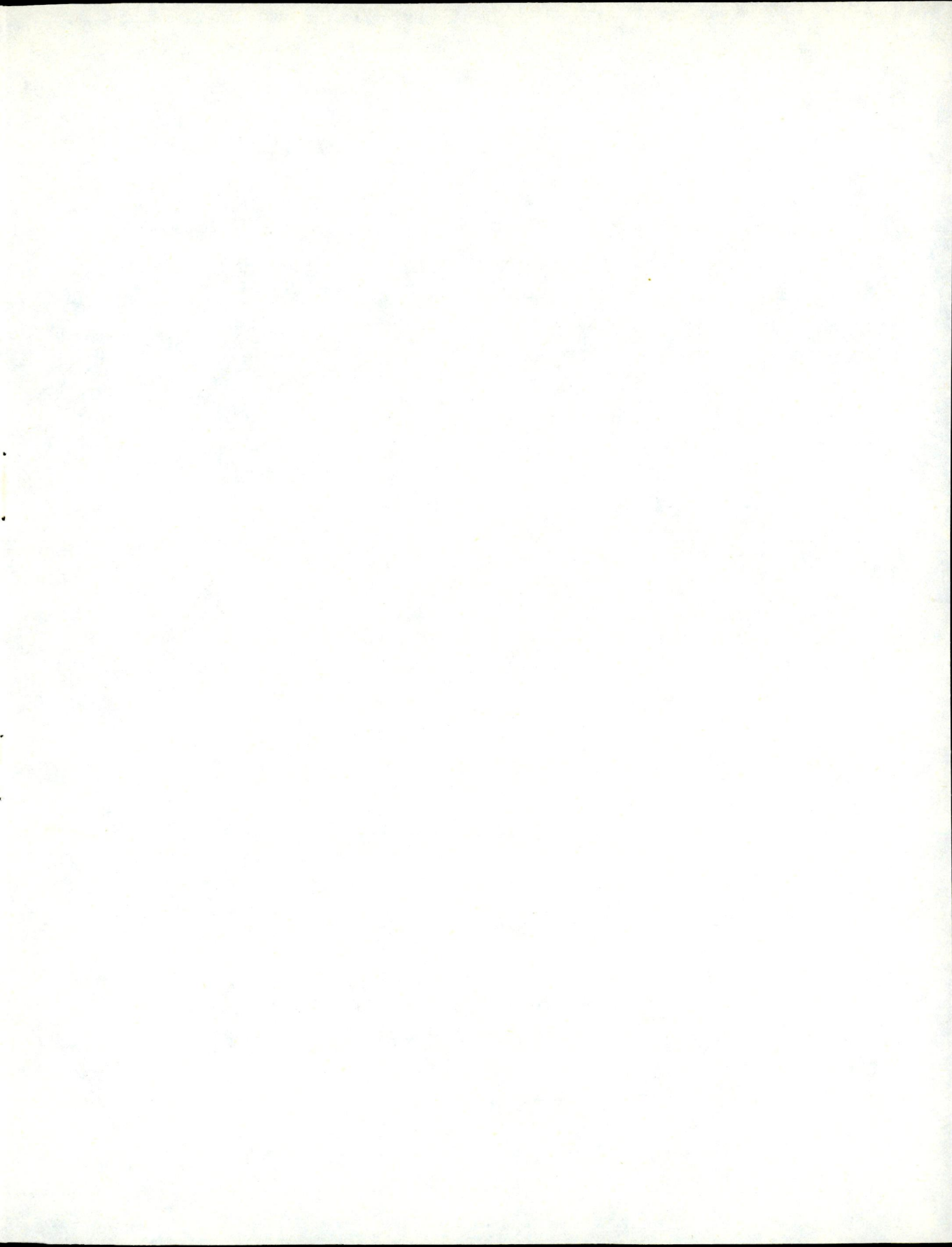
(4) Section 121 (2)—

- 15 Omit “transferring”, insert instead “or in respect of the transfer of”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

[56c]





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.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, March, 1979.*

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. , 1979.

An Act to amend the Permanent Building Societies Act, 1967, to extend the objects of societies registered under that Act; to make provision with respect to voting at meetings of those societies; to validate certain matters; and for other purposes.

Permanent Building Societies (Amendment).

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 :—

5 **1.** This Act may be cited as the "Permanent Building Societies Short title.
(Amendment) Act, 1979".

2. (1) Except as provided in subsection (2), this Act shall Commence-
commence on the date of assent to this Act. ment.

 (2) Section 5, in its application to Schedule 2 (4), and
10 Schedule 2 (4) shall commence on such day as may be appointed
by the Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

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

15 **4.** This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENT TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.

20 SCHEDULE 3.—AMENDMENTS TO PART III OF THE
PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART V OF THE
PRINCIPAL ACT.

Permanent Building Societies (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

5 SCHEDULE 7.—AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth in Schedules 1-7. **Amendment of Act No. 18, 1967.**

6. A contract referred to in section 18A (1) of the Principal Act, as amended by this Act, that purports to have been made before the commencement of Schedule 2 (7) shall be, and shall be deemed always to have been, as valid and effectual as it would have been if section 18A (1) of the Principal Act, as amended by this Act, had been in force when the contract purports to have been made. **Validation of certain contracts.**

SCHEDULE 1.

Sec. 5.

AMENDMENT TO PART I OF THE PRINCIPAL ACT.

Section 2—

20 From the matter relating to Part IX, omit "106", insert instead "106A".

Permanent Building Societies (Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 4 (1) (a)—

Omit "land; or", insert instead "land;".

5 (b) Section 4 (1) (b)—

Omit "Acts.", insert instead "Acts; or".

(c) Section 4 (1) (c)—

After section 4 (1) (b), insert :—

10 (c) in relation to a particular member, upon the security of the paid up share capital and deposits of that member.

(d) Section 4 (4)—

Omit the subsection, insert instead :—

15 (4) The Minister may, from time to time, upon the recommendation of the Advisory Committee and with the concurrence of the Treasurer, fix, by order published in the Gazette, for the purposes of this section, a rate of interest in respect of loans generally or rates of interest in respect of loans of such classes or descriptions as are specified in the order and a society shall not, in respect of a loan made by it, charge
20 a rate of interest in excess of the rate for the time being so fixed and applicable to the loan.

(2) Section 6A—

25 After section 6, insert :—

30 6A. A society shall not lend money to a member on the security of the paid up share capital and deposits of the member where the amount of the loan exceeds the aggregate of that share capital and those deposits at the time the loan is made. **Loan secured by member's investments.**

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(3) (a) Section 8 (1)—

5 Omit “twenty-one” wherever occurring, insert instead
“18”.

(b) Section 8 (1) (b)—

Omit the paragraph.

(c) Section 8 (2)—

Omit “twenty-one”, insert instead “18”.

10 (4) Section 13 (2) (b)—

Omit the paragraph, insert instead :—

15 (b) in the case of a loan to be secured by mortgage over
land on which a building is already erected, or over
vacant land, be made by a prescribed person or a
person having a prescribed qualification.

(5) Section 14A—

After section 14, insert :—

20 14A. A society may, subject to any agreement with
respect to the loan, charge different rates of interest in
respect of a loan during the currency of the loan. ^{Variation of}
^{interest}
^{rate.}

(6) Section 16 (2), proviso—

Omit “two thousand dollars”, insert instead “\$10,000 or,
where some other amount is prescribed, the prescribed
amount”.

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(7) Section 18A—

After section 18, insert :—

5 18A. (1) A society may contract to provide secretarial and administrative services to a terminating building society or credit union. Provision of secretarial and administrative services to certain bodies.

10 (2) A society entering into any such contract shall keep separate accounts and records in respect of its business and the business of each terminating building society or credit union for which it provides secretarial and administrative services involving the keeping of accounts and records.

(8) Section 20 (1A)—

15 After section 20 (1), insert :—

(1A) A society may, if authorised by its rules, raise money by issuing bank accepted bills of exchange and dealing in bank accepted bills of exchange issued by it.

(9) (a) Section 20A (1)—

20 Omit the subsection, insert instead :—

25 (1) The Minister may, from time to time, upon the recommendation of the Advisory Committee, fix, by order published in the Gazette, for the purposes of this section, a maximum rate of interest in respect of deposits generally or maximum rates of interest in respect of deposits of such classes or descriptions as are specified in the order and a society shall not, in respect of a deposit made with it, pay a rate of interest in excess of the rate for the time being so fixed and applicable to the deposit.

30

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 20A (4)—

Omit the subsection.

5 (10) Section 24A—

After section 24, insert :—

10 24A. A society may do or suffer, as an agent on behalf of any person, any act, being an act that the society may, in accordance with its objects, do or suffer as a principal and being an act that the Advisory Committee has authorised it either generally or in a particular case to do or suffer as such an agent.

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

15 (1) Section 28 (1)—

Omit “, or within such further period as the registrar may allow,”.

(2) (a) Section 30 (4) (c)—

20 Omit “seven and one-half per centum”, insert instead “10 per cent”.

(b) Section 30 (5)—

Omit the subsection, insert instead :—

25 (5) Subsections (4) and (5) of section 39 apply to and in respect of the registration under this Act of a society to which Part I of the Building and

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

Co-operative Societies Act, 1901, applies in the same way as they apply to and in respect of the
5 amalgamation of societies registered under this Act, and those subsections so apply as if—

(a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a
10 reference to the day on which the certificate of incorporation of the society under this Act is issued;

(b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society that made the application and included a reference to any
15 persons who, immediately before the day on which the certificate of incorporation of the society under this Act is issued, were trustees appointed by the society that made the application;

(c) a reference in those subsections to the amalgamated society were a reference to the society incorporated under this Act; and

(d) a reference in section 39 (4) (e) and (h)
25 to the amalgamation were a reference to the incorporation of the society under this Act.

(3) Section 36 (2)—

Omit the subsection.

30 (4) Section 36A—

After section 36, insert :—

36A. (1) A document, other than a summons, may
be served on a society, or on an officer of a society other
than a director, by leaving it at the registered office of
Service of documents.

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 the society with a person apparently in the service of the society, or by sending it by post to the society at its registered office.
- (2) A document, other than a summons, may be served on a director of a society by sending it by post to the address of the director as last disclosed in returns transmitted to the registrar pursuant to this Act.
- 10 (3) Where a liquidator of a society has been appointed, a document, other than a summons, may be served on the society by leaving it at, or by sending it by post to, the address of the office of the liquidator of which notice has last been lodged with the registrar.
- 15 (4) A summons for an offence by a society punishable under this or any other Act may be served by leaving it at the registered office of the society with a person apparently in the service of the society and apparently of or above the age of 16 years.
- 20 (5) Where reasonable efforts have been made without success to effect service in the manner prescribed by subsection (4) and a stipendiary magistrate is so satisfied by affidavit, the stipendiary magistrate may give leave to effect service of the summons on an officer of the society, or by advertisement, or in such other manner as in the
- 25 circumstances appears to him to be proper, and service may be effected accordingly.

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(5) (a) Section 39 (1) (a)—

5 After “Co-operation Acts” where secondly occurring,
insert “and, in the case of a society so specified,
includes, for the purposes of subsections (4) and (5),
a reference to any persons who, immediately before
10 the day on which the certificate of incorporation of
the amalgamated society is issued, were trustees
appointed by that society”.

(b) Section 39 (4)–(11)—

Omit the subsections, insert instead :—

(4) On and from the day on which the certificate of
incorporation of the amalgamated society is issued—

15 (a) all real and personal property and all right
and interest therein and all management and
control thereof that, immediately before that
day, was vested in or belonged to a society
that is a party to the amalgamation shall
20 vest in or belong to the amalgamated
society;

25 (b) all debts, moneys and claims, liquidated
and unliquidated, that, immediately before
that day, were due or payable to, or
recoverable by, a society that is a party to
the amalgamation shall be debts due and
moneys payable to and claims recoverable
by the amalgamated society;

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 (c) all suits, actions and proceedings pending immediately before that day at the suit of a society that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of the amalgamated society and all suits, actions and proceedings so pending at the suit of any person against a society that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of that person against the amalgamated society;
- 10
- 15 (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by a society that is a party to the amalgamation and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the amalgamated society;
- 20
- 25 (e) the amalgamated society may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of suits, actions and proceedings so referred to as a society that is a party to the amalgamation might have done but for the amalgamation;
- 30
- (f) the amalgamated society may enforce and realise any security or charge existing

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 immediately before that day in favour of a society that is a party to the amalgamation and may exercise any powers thereby conferred on a society that is a party to the amalgamation as if the security or charge were a security or charge in favour of the amalgamated society;
- 10 (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, a society that is a party to the
- 15 amalgamation shall be debts due and moneys payable by and claims recoverable against the amalgamated society;
- 20 (h) all liquidated and unliquidated claims for which a society that is a party to the amalgamation would, but for the amalgamation, have been liable shall be liquidated and unliquidated claims for which the amalgamated society shall be liable; and
- 25 (i) the amalgamated society may, in relation to any land of which a society that is a party to the amalgamation was, immediately before that day, the registered proprietor within the meaning of the Real Property

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

5 Act, 1900, execute any dealing within the meaning of that Act as if the amalgamated society were that registered proprietor.

10 (5) On and from the day on which the certificate of incorporation of the amalgamated society is issued, a reference in any instrument to a society that is a party to the amalgamation shall be read and construed as if it were a reference to the amalgamated society.

(6) Section 40 (5)—

Omit the subsection, insert instead :—

15 (5) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

20 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the special resolution of the transferor society is registered;

25 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its engagements;

(c) a reference in those subsections to the amalgamated society were a reference to the

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

society to which the engagements are transferred;
and

- 5 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.

(7) (a) Section 40A (2), (2A)—

Omit section 40A (2), insert instead :—

10 (2) Subsections (2), (3) and (4) of section 40 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of a transfer of engagements between societies under section 40.

15 (2A) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

20 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the special resolution of the transferor society is registered;

25 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- 5 engagements and included a reference to any persons who, immediately before the day on which the special resolution of the transferor society is registered, were trustees appointed by the society transferring its engagements;
- 10 (c) a reference in those subsections to the amalgamated society were a reference to the society to which the engagements are transferred; and
- 15 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.
- (b) Section 40A (3)—
Omit “The”, insert instead “Notwithstanding subsection (2), the”.
- 20 (8) (a) Section 41A (1) (b)—
Omit “, or within such further period as the registrar may allow,”.
- (b) Section 41A (7)—
Omit “(subsection (5) excepted)”.
- 25 (c) Section 41A (7A)—
After section 41A (7), insert :—
(7A) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

- 5 (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day notified by the registrar under subsection (8);
- 10 (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its engagements;
- 15 (c) a reference in those subsections to the amalgamated society were a reference to the society to which the engagements are transferred; and
- 20 (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.
-

Permanent Building Societies (Amendment).

SCHEDULE 4.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Section 50 (4)—

Omit the subsection, insert instead :—

- 5 (4) A person who is under the age of 18 years and who holds shares in a society is not entitled to vote whether pursuant to a postal ballot or at a meeting of the society or otherwise.

(2) (a) Section 51 (2) (a)—

- 10 Omit “as the members”, insert instead “as”.

(b) Section 51 (2) (a)—

- 15 Omit “as a member”, insert instead “as, a person who is entitled to vote in relation to any question which is to be determined by the votes of members of the society”.

(3) Section 53 (3)—

Omit the subsection, insert instead :—

- 20 (3) For the purpose of determining the number or proportion of any members required to give effect to any provisions of this Act or the rules of a society, the shares shall be deemed to be held by the primary joint holder alone.

(4) Section 63 (1)—

Omit the subsection, insert instead :—

- 25 (1) A society shall not approve of a loan where, if the loan, together with all other loans approved but not advanced at the time at which approval to make the first-mentioned loan is considered, were advanced at that time,

Permanent Building Societies (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

5 the society would hold liquid funds of less than 10 per cent or, where some other proportion is prescribed, the prescribed proportion, of the total of members' paid up share capital and deposits held by the society at that time.

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) Section 65A—

10 After section 65, insert :—

65A. (1) Where the rules of a society so provide, the board may, by resolution, delegate to a director or committee of 2 or more directors the exercise of such of the board's powers (other than this power of delegation) as are specified in the resolution, and the society or the board may, by resolution, revoke wholly or in part any such delegation. **Delegation.**

15

(2) A power, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

20

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstances.

25 (4) Notwithstanding any delegation under this section, the board may continue to exercise all or any of the powers delegated.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

5 (5) Where a power is exercised by a director
either alone or with another director or other directors and
the exercise of the power is evidenced in writing, signed
by the director in the name of the board or in his own
name on behalf of the board, the power shall be deemed
to have been exercised by the board, whether or not a
10 resolution delegating the exercise of the power to the
director was, when the power was exercised, in force and
whether or not any conditions or limitations referred to
in subsection (3) were observed by the director exercising
the power.

15 (6) An instrument purporting to be signed by a
director as referred to in subsection (5) shall in all courts
and before all persons acting judicially be received in
evidence as if it were an instrument executed by the society
under seal and, until the contrary is proved, shall be
20 deemed to be an instrument signed by a delegate of the
board under this section.

(2) (a) Section 68 (4) (a), (b)—

Omit the paragraphs, insert instead :—

25 (a) if he becomes bankrupt, applies to take the
benefit of any law for the relief of bankrupt
or insolvent debtors, compounds with his
creditors or makes an assignment of his
remuneration for their benefit;

30 (b) if he becomes a temporary patient, a continued
treatment patient, a protected person or an
incapable person within the meaning of the
Mental Health Act, 1958, or a person under
detention under Part VII of that Act;

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) Section 68 (4) (f)—

Omit the paragraph, insert instead :—

5 (f) on the expiration of one month's notice in writing of his intention to resign office, given by him to the board;

(3) (a) Section 73 (1)—

10 Omit “, or within such further time as may be allowed by the registrar”.

(b) Section 73 (4)—

Omit “qualified”, insert instead “entitled”.

(c) Section 73 (5A), (5B)—

After section 73 (5), insert :—

15 (5A) Subject to subsection (6), in the case of a meeting referred to in subsection (5) (a), (b) or (c), it shall be sufficient compliance with the provisions of subsection (4) if the notice is given by advertisement in accordance with a special rule of the society.

20 (5B) In subsection (5A), “special rule” means—

(a) a rule; or

(b) an alteration to a rule,

25 the terms of which the registrar has approved before a motion for the making of the rule or alteration is put to a meeting of a society.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 75 (2)—(2B)—

Omit section 75 (2), insert instead :—

- 5 (2) Except as otherwise provided in section 50,
a rule made for the purposes of subsection (3) or
(6), and section 76, a person—
- 10 (a) who is the sole holder, whether or not he is
also a joint holder, of shares in a society is,
in relation to any question which is to be
determined by the votes of members of the
15 society (whether those votes are exercised
pursuant to a postal ballot or at a meeting
of the society or otherwise), entitled to 1
vote irrespective of the number of shares or
parcels of shares he holds as a sole holder;
and
- 20 (b) who is the primary joint holder of shares in
a society is, in relation to any question
which is to be determined by the votes of
members of the society (whether those
votes are exercised pursuant to a postal
ballot or at a meeting of the society or
otherwise), where—
- 25 (i) he is not the sole holder of shares in
the society;
- (ii) he does not hold any shares in the
society jointly with a person who is
a sole holder of shares in the society;
- 30 (iii) he does not hold any shares in the
society jointly with a person who is
a primary joint holder of shares in
the society; and

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

5 (iv) he is not one of two or more different primary joint holders of shares in the society, each of whom holds shares in the society jointly with the same or a common person,

10 entitled to 1 vote irrespective of the number of shares or parcels of shares he holds as a primary joint holder.

15 (2A) Where a person referred to in subsection (2) is a body corporate and exercises its voting rights under that subsection by a person who is a representative or appointee appointed pursuant to section 51, the person who is the representative or appointee may exercise any voting rights that he has otherwise than as such a representative or appointee.

(2B) A person appointed as a proxy may not exercise more than 3 votes as a proxy.

20 (b) Section 75 (3)—
Omit “member”, insert instead “person”.

(c) Section 75 (4)—
Omit “member”, insert instead “person”.

25 (d) Section 75 (4)—
Omit “provided that no person shall be entitled to act as proxy for more than three members”.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(e) Section 75 (7)—

After section 75 (6), insert :—

- 5 (7) A reference in this section to a primary joint holder of shares is a reference to a primary joint holder of shares within the meaning of section 53.

(5) Section 79 (1A)—

After section 79 (1), insert :—

- 10 (1A) A society shall have at its registered office and open at all reasonable hours to inspection by any member without fee the minutes of meetings of the society.

(6) Section 81 (7)—

- 15 Omit “or in the alternative, if the rules of the society so provide, the notice of the annual general meeting”, insert instead “or, if notice of that meeting is given by advertisement in accordance with the rules of the society, published with that advertisement, or, if the rules of the society so provide, the notice of that meeting, whether transmitted to
20 each member or given by advertisement.”.

(7) (a) Section 82 (1A)—

After section 82 (1), insert :—

- 25 (1A) A society shall, within 14 days after any change in the appointment of the person primarily responsible, under the board of directors, for the daily management and control of the operations of the society, transmit to the registrar particulars of the change.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) Section 82 (2)—

5 Omit “or within such further time as the registrar may
authorise”.

(c) Section 82 (2) (a1)—

After section 82 (2) (a), insert :—

10 (a1) the name of the person then primarily
responsible, under the board of directors, for
the daily management and control of the
operations of the society;

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 91 (5)—

15 After section 91 (4), insert :—

(5) In any proceedings, no proof shall be required
(until evidence is given to the contrary) of the appointment
of the registrar or any former registrar.

(2) Section 102A—

20 After section 102, insert :—

102A. (1) A person who, in, or in relation to, any
application, request or demand for money, made to or of
any society—

False state-
ments in
loan
applica-
tions, etc.

25 (a) gives any information or makes any statement
to the society or a servant or an agent of the
society knowing it to be false; or

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

5 (b) proffers to the society or a servant or an agent of the society any information or statement provided by any other person knowing it to be false,

shall be guilty of an offence and shall be liable to a penalty not exceeding \$2,000 or imprisonment for a term not exceeding 12 months, or both.

10 (2) Where a person has been convicted of an offence under subsection (1) or an order has been made in favour of a person under section 556A (1) of the Crimes Act, 1900, in relation to an offence under subsection (1),
15 a society from which money has been obtained by the person in relation to the commission of the offence may, in respect of any mortgage or other security given to it by the person to secure the repayment of the money to the society, exercise all such rights under the mortgage or other security as it could exercise if there were a breach
20 of a covenant of the mortgage or, as the case may be, of a term of any contract by which the security was given, whether the mortgage or other security was executed by the person alone or by the person and another person or other persons.

25 (3) (a) Section 103 (1) (b)—

Omit "advertises", insert instead "otherwise than in accordance with the prior written approval of the registrar, advertises".

(b) Section 103 (1)—

30 Omit "two hundred dollars", insert instead "\$1,000".

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

(4) Section 103A—

After section 103, insert :—

5 103A. If any person offers or pays any commission, fee Offering or paying commission.
 or reward, whether pecuniary or otherwise, to an officer of
 a society for or in connection with a transaction or proposed
 transaction between the person and the society, the person
 10 shall be guilty of an offence and shall be liable to a penalty
 not exceeding \$1,000.

(5) Section 104 (1)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(6) Section 105 (4)—

15 Omit “on a society under this Act”, insert instead “, under
 this Act, on a society or an officer of a society”.

(7) Section 106A—

After section 106, insert :—

20 106A. Notwithstanding any other Act, proceedings for Time within which proceedings may be brought.
 any offence punishable summarily under this Act and
 committed—

- (a) after the commencement of this section; or
- (b) before the commencement of this section, where the time for commencing the proceedings under

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

5 the law, as in force before the commencement of
 this section, had not, as at that commencement,
 expired in respect of that offence,
 may be brought within 3 years after the commission of the
 offence.

SCHEDULE 7.

Sec. 5.

AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

10 (1) Section 107A—

After section 107, insert :—

15 107A. (1) The registrar may grant an enlargement of, Enlargement
or
abridgement
of time.
 or may abridge, any time for doing any act required to be
 done by a society by this Act, the regulations or the rules
 of a society upon such terms (if any) as the registrar may
 determine.

(2) The registrar may grant an enlargement of
 time for doing any act referred to in subsection (1)
 notwithstanding that the time for doing the act has expired.

20 (3) This section does not limit the operation of
 section 81 of the Supreme Court Act, 1970, or the
 operation of any rules of the Supreme Court relating to the
 enlargement or abridgement of time.

Permanent Building Societies (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART X OF THE PRINCIPAL ACT—*continued.*

(2) Section 113 (8)—

After section 113 (7), insert :—

- 5 (8) For the purpose of an inquiry under this section, an inspector appointed under section 114 and authorised in writing by the registrar to do so may examine, and shall report to the registrar upon, the affairs of the society which are the subject of the inquiry.

10 (3) Section 115 (1) (i)—

Omit “subsection (2) of section 36”, insert instead “section 36A”.

(4) Section 121 (2)—

- 15 Omit “transferring”, insert instead “or in respect of the transfer of”.

**PERMANENT BUILDING SOCIETIES
(AMENDMENT) ACT, 1979, No. 15**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 15, 1979.

An Act to amend the Permanent Building Societies Act, 1967, to extend the objects of societies registered under that Act; to make provision with respect to voting at meetings of those societies; to validate certain matters; and for other purposes. [Assented to, 18th April, 1979.]

Permanent Building Societies (Amendment).

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, 1979".

**Commence-
ment.** **2.** (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 2 (4), and Schedule 2 (4) shall commence on such day 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 referred to in this Act as the Principal Act.

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENT TO PART I OF THE
PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART III OF THE
PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART V OF THE
PRINCIPAL ACT.

Permanent Building Societies (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART VI OF THE
PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART IX OF THE
PRINCIPAL ACT.

SCHEDULE 7.—AMENDMENTS TO PART X OF THE
PRINCIPAL ACT.

5. The Principal Act is amended in the manner set forth in Schedules 1-7. Amendment
of Act No.
18, 1967.

6. A contract referred to in section 18A (1) of the Principal Act, as amended by this Act, that purports to have been made before the commencement of Schedule 2 (7) shall be, and shall be deemed always to have been, as valid and effectual as it would have been if section 18A (1) of the Principal Act, as amended by this Act, had been in force when the contract purports to have been made. Validation
of certain
contracts.

SCHEDULE 1.

Sec. 5.

AMENDMENT TO PART I OF THE PRINCIPAL ACT.

Section 2—

From the matter relating to Part IX, omit "106", insert instead "106A".

Permanent Building Societies (Amendment).

Sec. 5.

SCHEDULE 2.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) (a) Section 4 (1) (a)—

Omit "land; or", insert instead "land;".

(b) Section 4 (1) (b)—

Omit "Acts.", insert instead "Acts; or".

(c) Section 4 (1) (c)—

After section 4 (1) (b), insert :—

(c) in relation to a particular member, upon the security of the paid up share capital and deposits of that member.

(d) Section 4 (4)—

Omit the subsection, insert instead :—

(4) The Minister may, from time to time, upon the recommendation of the Advisory Committee and with the concurrence of the Treasurer, fix, by order published in the Gazette, for the purposes of this section, a rate of interest in respect of loans generally or rates of interest in respect of loans of such classes or descriptions as are specified in the order and a society shall not, in respect of a loan made by it, charge a rate of interest in excess of the rate for the time being so fixed and applicable to the loan.

(2) Section 6A—

After section 6, insert :—

6A. A society shall not lend money to a member on the security of the paid up share capital and deposits of the member where the amount of the loan exceeds the aggregate of that share capital and those deposits at the time the loan is made.

Loan
secured by
member's
investments.

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(3) (a) Section 8 (1)—

Omit “twenty-one” wherever occurring, insert instead “18”.

(b) Section 8 (1) (b)—

Omit the paragraph.

(c) Section 8 (2)—

Omit “twenty-one”, insert instead “18”.

(4) Section 13 (2) (b)—

Omit the paragraph, insert instead :—

(b) in the case of a loan to be secured by mortgage over land on which a building is already erected, or over vacant land, be made by a prescribed person or a person having a prescribed qualification.

(5) Section 14A—

After section 14, insert :—

14A. A society may, subject to any agreement with respect to the loan, charge different rates of interest in respect of a loan during the currency of the loan. ^{Variation of interest rate.}

(6) Section 16 (2), proviso—

Omit “two thousand dollars”, insert instead “\$10,000 or, where some other amount is prescribed, the prescribed amount”.

Permanent Building Societies (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(7) Section 18A—

After section 18, insert :—

 Provision of
secretarial
and adminis-
trative
services to
certain
bodies.

18A. (1) A society may contract to provide secretarial and administrative services to a terminating building society or credit union.

(2) A society entering into any such contract shall keep separate accounts and records in respect of its business and the business of each terminating building society or credit union for which it provides secretarial and administrative services involving the keeping of accounts and records.

(8) Section 20 (1A)—

After section 20 (1), insert :—

(1A) A society may, if authorised by its rules, raise money by issuing bank accepted bills of exchange and dealing in bank accepted bills of exchange issued by it.

(9) (a) Section 20A (1)—

Omit the subsection, insert instead :—

(1) The Minister may, from time to time, upon the recommendation of the Advisory Committee, fix, by order published in the Gazette, for the purposes of this section, a maximum rate of interest in respect of deposits generally or maximum rates of interest in respect of deposits of such classes or descriptions as are specified in the order and a society shall not, in respect of a deposit made with it, pay a rate of interest in excess of the rate for the time being so fixed and applicable to the deposit.

Permanent Building Societies (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 20A (4)—

Omit the subsection.

(10) Section 24A—

After section 24, insert :—

24A. A society may do or suffer, as an agent on behalf of any person, any act, being an act that the society may, in accordance with its objects, do or suffer as a principal and being an act that the Advisory Committee has authorised it either generally or in a particular case to do or suffer as such an agent. ^{Society as agent generally.}

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

(1) Section 28 (1)—

Omit “, or within such further period as the registrar may allow,”.

(2) (a) Section 30 (4) (c)—

Omit “seven and one-half per centum”, insert instead “10 per cent”.

(b) Section 30 (5)—

Omit the subsection, insert instead :—

(5) Subsections (4) and (5) of section 39 apply to and in respect of the registration under this Act of a society to which Part I of the Building and

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

Co-operative Societies Act, 1901, applies in the same way as they apply to and in respect of the amalgamation of societies registered under this Act, and those subsections so apply as if—

- (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the certificate of incorporation of the society under this Act is issued;
- (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society that made the application and included a reference to any persons who, immediately before the day on which the certificate of incorporation of the society under this Act is issued, were trustees appointed by the society that made the application;
- (c) a reference in those subsections to the amalgamated society were a reference to the society incorporated under this Act; and
- (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the incorporation of the society under this Act.

(3) Section 36 (2)—

Omit the subsection.

(4) Section 36A—

After section 36, insert :—

36A. (1) A document, other than a summons, may be served on a society, or on an officer of a society other than a director, by leaving it at the registered office of

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

the society with a person apparently in the service of the society, or by sending it by post to the society at its registered office.

(2) A document, other than a summons, may be served on a director of a society by sending it by post to the address of the director as last disclosed in returns transmitted to the registrar pursuant to this Act.

(3) Where a liquidator of a society has been appointed, a document, other than a summons, may be served on the society by leaving it at, or by sending it by post to, the address of the office of the liquidator of which notice has last been lodged with the registrar.

(4) A summons for an offence by a society punishable under this or any other Act may be served by leaving it at the registered office of the society with a person apparently in the service of the society and apparently of or above the age of 16 years.

(5) Where reasonable efforts have been made without success to effect service in the manner prescribed by subsection (4) and a stipendiary magistrate is so satisfied by affidavit, the stipendiary magistrate may give leave to effect service of the summons on an officer of the society, or by advertisement, or in such other manner as in the circumstances appears to him to be proper, and service may be effected accordingly.

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(5) (a) Section 39 (1) (a)—

After “Co-operation Acts” where secondly occurring, insert “and, in the case of a society so specified, includes, for the purposes of subsections (4) and (5), a reference to any persons who, immediately before the day on which the certificate of incorporation of the amalgamated society is issued, were trustees appointed by that society”.

(b) Section 39 (4)–(11)—

Omit the subsections, insert instead :—

(4) On and from the day on which the certificate of incorporation of the amalgamated society is issued—

(a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to a society that is a party to the amalgamation shall vest in or belong to the amalgamated society;

(b) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable to, or recoverable by, a society that is a party to the amalgamation shall be debts due and moneys payable to and claims recoverable by the amalgamated society;

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (c) all suits, actions and proceedings pending immediately before that day at the suit of a society that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of the amalgamated society and all suits, actions and proceedings so pending at the suit of any person against a society that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of that person against the amalgamated society;
- (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by a society that is a party to the amalgamation and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the amalgamated society;
- (e) the amalgamated society may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of suits, actions and proceedings so referred to as a society that is a party to the amalgamation might have done but for the amalgamation;
- (f) the amalgamated society may enforce and realise any security or charge existing

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- immediately before that day in favour of a society that is a party to the amalgamation and may exercise any powers thereby conferred on a society that is a party to the amalgamation as if the security or charge were a security or charge in favour of the amalgamated society;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, a society that is a party to the amalgamation shall be debts due and moneys payable by and claims recoverable against the amalgamated society;
- (h) all liquidated and unliquidated claims for which a society that is a party to the amalgamation would, but for the amalgamation, have been liable shall be liquidated and unliquidated claims for which the amalgamated society shall be liable; and
- (i) the amalgamated society may, in relation to any land of which a society that is a party to the amalgamation was, immediately before that day, the registered proprietor within the meaning of the Real Property

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

Act, 1900, execute any dealing within the meaning of that Act as if the amalgamated society were that registered proprietor.

(5) On and from the day on which the certificate of incorporation of the amalgamated society is issued, a reference in any instrument to a society that is a party to the amalgamation shall be read and construed as if it were a reference to the amalgamated society.

(6) Section 40 (5)—

Omit the subsection, insert instead :—

(5) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

- (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the special resolution of the transferor society is registered;
- (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its engagements;
- (c) a reference in those subsections to the amalgamated society were a reference to the

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

society to which the engagements are transferred;
and

- (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.

- (7) (a) Section 40A (2), (2A)—

Omit section 40A (2), insert instead :—

(2) Subsections (2), (3) and (4) of section 40 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of a transfer of engagements between societies under section 40.

(2A) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

- (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day on which the special resolution of the transferor society is registered;
- (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

engagements and included a reference to any persons who, immediately before the day on which the special resolution of the transferor society is registered, were trustees appointed by the society transferring its engagements;

(c) a reference in those subsections to the amalgamated society were a reference to the society to which the engagements are transferred; and

(d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.

(b) Section 40A (3)—

Omit “The”, insert instead “Notwithstanding subsection (2), the”.

(8) (a) Section 41A (1) (b)—

Omit “, or within such further period as the registrar may allow,”.

(b) Section 41A (7)—

Omit “(subsection (5) excepted)”.

(c) Section 41A (7A)—

After section 41A (7), insert :—

(7A) Subsections (4) and (5) of section 39 apply to and in respect of a transfer of engagements between societies under this section in the same way as they

Permanent Building Societies (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

apply to and in respect of the amalgamation of societies, and those subsections so apply as if—

- (a) a reference in those subsections to the day on which the certificate of incorporation of the amalgamated society is issued were a reference to the day notified by the registrar under subsection (8);
 - (b) a reference in those subsections to a society that is a party to the amalgamation were a reference to the society transferring its engagements;
 - (c) a reference in those subsections to the amalgamated society were a reference to the society to which the engagements are transferred; and
 - (d) a reference in section 39 (4) (e) and (h) to the amalgamation were a reference to the transfer of engagements.
-

Permanent Building Societies (Amendment).

SCHEDULE 4.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Section 50 (4)—

Omit the subsection, insert instead :—

(4) A person who is under the age of 18 years and who holds shares in a society is not entitled to vote whether pursuant to a postal ballot or at a meeting of the society or otherwise.

(2) (a) Section 51 (2) (a)—

Omit “as the members”, insert instead “as”.

(b) Section 51 (2) (a)—

Omit “as a member”, insert instead “as, a person who is entitled to vote in relation to any question which is to be determined by the votes of members of the society”.

(3) Section 53 (3)—

Omit the subsection, insert instead :—

(3) For the purpose of determining the number or proportion of any members required to give effect to any provisions of this Act or the rules of a society, the shares shall be deemed to be held by the primary joint holder alone.

(4) Section 63 (1)—

Omit the subsection, insert instead :—

(1) A society shall not approve of a loan where, if the loan, together with all other loans approved but not advanced at the time at which approval to make the first-mentioned loan is considered, were advanced at that time,

Permanent Building Societies (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

the society would hold liquid funds of less than 10 per cent or, where some other proportion is prescribed, the prescribed proportion, of the total of members' paid up share capital and deposits held by the society at that time.

Sec. 5.

SCHEDULE 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) Section 65A—

After section 65, insert :—

Delegation.

65A. (1) Where the rules of a society so provide, the board may, by resolution, delegate to a director or committee of 2 or more directors the exercise of such of the board's powers (other than this power of delegation) as are specified in the resolution, and the society or the board may, by resolution, revoke wholly or in part any such delegation.

(2) A power, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstances.

(4) Notwithstanding any delegation under this section, the board may continue to exercise all or any of the powers delegated.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(5) Where a power is exercised by a director either alone or with another director or other directors and the exercise of the power is evidenced in writing, signed by the director in the name of the board or in his own name on behalf of the board, the power shall be deemed to have been exercised by the board, whether or not a resolution delegating the exercise of the power to the director was, when the power was exercised, in force and whether or not any conditions or limitations referred to in subsection (3) were observed by the director exercising the power.

(6) An instrument purporting to be signed by a director as referred to in subsection (5) shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the society under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the board under this section.

(2) (a) Section 68 (4) (a), (b)—

Omit the paragraphs, insert instead :—

- (a) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) Section 68 (4) (f)—

Omit the paragraph, insert instead :—

- (f) on the expiration of one month's notice in writing of his intention to resign office, given by him to the board;

(3) (a) Section 73 (1)—

Omit “, or within such further time as may be allowed by the registrar”.

(b) Section 73 (4)—

Omit “qualified”, insert instead “entitled”.

(c) Section 73 (5A), (5B)—

After section 73 (5), insert :—

(5A) Subject to subsection (6), in the case of a meeting referred to in subsection (5) (a), (b) or (c), it shall be sufficient compliance with the provisions of subsection (4) if the notice is given by advertisement in accordance with a special rule of the society.

(5B) In subsection (5A), “special rule” means—

- (a) a rule; or
(b) an alteration to a rule,

the terms of which the registrar has approved before a motion for the making of the rule or alteration is put to a meeting of a society.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 75 (2)–(2B)—

Omit section 75 (2), insert instead :—

(2) Except as otherwise provided in section 50, a rule made for the purposes of subsection (3) or (6), and section 76, a person—

- (a) who is the sole holder, whether or not he is also a joint holder, of shares in a society is, in relation to any question which is to be determined by the votes of members of the society (whether those votes are exercised pursuant to a postal ballot or at a meeting of the society or otherwise), entitled to 1 vote irrespective of the number of shares or parcels of shares he holds as a sole holder; and
- (b) who is the primary joint holder of shares in a society is, in relation to any question which is to be determined by the votes of members of the society (whether those votes are exercised pursuant to a postal ballot or at a meeting of the society or otherwise), where—
 - (i) he is not the sole holder of shares in the society;
 - (ii) he does not hold any shares in the society jointly with a person who is a sole holder of shares in the society;
 - (iii) he does not hold any shares in the society jointly with a person who is a primary joint holder of shares in the society; and

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

- (iv) he is not one of two or more different primary joint holders of shares in the society, each of whom holds shares in the society jointly with the same or a common person,

entitled to 1 vote irrespective of the number of shares or parcels of shares he holds as a primary joint holder.

(2A) Where a person referred to in subsection (2) is a body corporate and exercises its voting rights under that subsection by a person who is a representative or appointee appointed pursuant to section 51, the person who is the representative or appointee may exercise any voting rights that he has otherwise than as such a representative or appointee.

(2B) A person appointed as a proxy may not exercise more than 3 votes as a proxy.

(b) Section 75 (3)—

Omit “member”, insert instead “person”.

(c) Section 75 (4)—

Omit “member”, insert instead “person”.

(d) Section 75 (4)—

Omit “provided that no person shall be entitled to act as proxy for more than three members”.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(e) Section 75 (7)—

After section 75 (6), insert :—

(7) A reference in this section to a primary joint holder of shares is a reference to a primary joint holder of shares within the meaning of section 53.

(5) Section 79 (1A)—

After section 79 (1), insert :—

(1A) A society shall have at its registered office and open at all reasonable hours to inspection by any member without fee the minutes of meetings of the society.

(6) Section 81 (7)—

Omit “or in the alternative, if the rules of the society so provide, the notice of the annual general meeting”, insert instead “or, if notice of that meeting is given by advertisement in accordance with the rules of the society, published with that advertisement, or, if the rules of the society so provide, the notice of that meeting, whether transmitted to each member or given by advertisement,”.

(7) (a) Section 82 (1A)—

After section 82 (1), insert :—

(1A) A society shall, within 14 days after any change in the appointment of the person primarily responsible, under the board of directors, for the daily management and control of the operations of the society, transmit to the registrar particulars of the change.

Permanent Building Societies (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) Section 82 (2)—

Omit “or within such further time as the registrar may authorise”.

(c) Section 82 (2) (a1)—

After section 82 (2) (a), insert :—

(a1) the name of the person then primarily responsible, under the board of directors, for the daily management and control of the operations of the society;

Sec. 5.

SCHEDULE 6.

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 91 (5)—

After section 91 (4), insert :—

(5) In any proceedings, no proof shall be required (until evidence is given to the contrary) of the appointment of the registrar or any former registrar.

(2) Section 102A—

After section 102, insert :—

102A. (1) A person who, in, or in relation to, any application, request or demand for money, made to or of any society—

(a) gives any information or makes any statement to the society or a servant or an agent of the society knowing it to be false; or

False state-
ments in
loan
applica-
tions, etc.

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

- (b) proffers to the society or a servant or an agent of the society any information or statement provided by any other person knowing it to be false,

shall be guilty of an offence and shall be liable to a penalty not exceeding \$2,000 or imprisonment for a term not exceeding 12 months, or both.

(2) Where a person has been convicted of an offence under subsection (1) or an order has been made in favour of a person under section 556A (1) of the Crimes Act, 1900, in relation to an offence under subsection (1), a society from which money has been obtained by the person in relation to the commission of the offence may, in respect of any mortgage or other security given to it by the person to secure the repayment of the money to the society, exercise all such rights under the mortgage or other security as it could exercise if there were a breach of a covenant of the mortgage or, as the case may be, of a term of any contract by which the security was given, whether the mortgage or other security was executed by the person alone or by the person and another person or other persons.

- (3) (a) Section 103 (1) (b)—

Omit “advertises”, insert instead “otherwise than in accordance with the prior written approval of the registrar, advertises”.

- (b) Section 103 (1)—

Omit “two hundred dollars”, insert instead “\$1,000”.

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

(4) Section 103A—

After section 103, insert :—

Offering
or paying
commission.

103A. If any person offers or pays any commission, fee or reward, whether pecuniary or otherwise, to an officer of a society for or in connection with a transaction or proposed transaction between the person and the society, the person shall be guilty of an offence and shall be liable to a penalty not exceeding \$1,000.

(5) Section 104 (1)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(6) Section 105 (4)—

Omit “on a society under this Act”, insert instead “, under this Act, on a society or an officer of a society”.

(7) Section 106A—

After section 106, insert :—

Time within
which
proceedings
may be
brought.

106A. Notwithstanding any other Act, proceedings for any offence punishable summarily under this Act and committed—

- (a) after the commencement of this section; or
- (b) before the commencement of this section, where the time for commencing the proceedings under

Permanent Building Societies (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT—*continued.*

the law, as in force before the commencement of this section, had not, as at that commencement, expired in respect of that offence,

may be brought within 3 years after the commission of the offence.

SCHEDULE 7.

Sec. 5.

AMENDMENTS TO PART X OF THE PRINCIPAL ACT.

(1) Section 107A—

After section 107, insert :—

107A. (1) The registrar may grant an enlargement of, or may abridge, any time for doing any act required to be done by a society by this Act, the regulations or the rules of a society upon such terms (if any) as the registrar may determine. Enlargement
or
abridgement
of time.

(2) The registrar may grant an enlargement of time for doing any act referred to in subsection (1) notwithstanding that the time for doing the act has expired.

(3) This section does not limit the operation of section 81 of the Supreme Court Act, 1970, or the operation of any rules of the Supreme Court relating to the enlargement or abridgement of time.

Permanent Building Societies (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART X OF THE PRINCIPAL ACT—*continued.*

(2) Section 113 (8)—

After section 113 (7), insert :—

(8) For the purpose of an inquiry under this section, an inspector appointed under section 114 and authorised in writing by the registrar to do so may examine, and shall report to the registrar upon, the affairs of the society which are the subject of the inquiry.

(3) Section 115 (1) (i)—

Omit “subsection (2) of section 36”, insert instead “section 36A”.

(4) Section 121 (2)—

Omit “transferring”, insert instead “or in respect of the transfer of”.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 18th April, 1979.*

BY AUTHORITY

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