

**PERMANENT BUILDING SOCIETIES (FURTHER
AMENDMENT) BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Permanent Building Societies Act 1967 so as—

- (a) to provide that, with specified exceptions, the provisions of the Companies (New South Wales) Code do not apply to a permanent building society;
- (b) to provide that generally the provisions of the Securities Industry (New South Wales) Code do not apply to a permanent building society, or an officer or employee of such a society, in relation to securities of the society;
- (c) to empower the making of regulations to apply provisions of those Codes to permanent building societies; and
- (d) to make consequential amendments.

The amendments will also apply to permanent-type building societies under the Co-operation Act 1923.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) inserts proposed Division 1A (proposed sections 33A–33E) into Part III of the Principal Act:

- (a) Proposed section 33A is an interpretative provision which requires references in the proposed Division to the Companies (New South Wales) Code and the Securities Industry (New South Wales) Code to be read as including relevant regulations under those Codes.
- (b) Proposed section 33B provides that, with certain specified exceptions, provisions of the Companies (New South Wales) Code do not apply to a society. The exceptions are—
 - (i) provisions applied by the Principal Act or the regulations;

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- (ii) provisions relating to the formation of and substantial shareholdings in a company; and
- (iii) provisions relating to the society as a member of a corporation or as a person having dealings with a corporation.
- (c) Proposed section 33C provides that provisions of the Securities Industry (New South Wales) Code do not apply to a society, or its officers and employees, in relation to securities of the society unless the provisions are applied by the Principal Act or the regulations.
- (d) Proposed section 33D enables regulations to be made applying provisions of those Codes to societies or making provision for any matter for which those Codes make provision.
- (e) Proposed section 33E provides that any such regulations cannot have the effect of conflicting with provisions of the Principal Act.

Schedule 1 (2) and (3) make consequential amendments to require proceedings for an offence against the regulations involving recovery of a penalty of \$10,000 or more to be taken in the Supreme Court. Such a penalty will now be able to be provided for by virtue of the adoption of provisions of the Codes under proposed section 33D which have such penalties.

Schedule 1 (4) extends the provisions of proposed sections 33A-33E to building societies mentioned in the Second Schedule to the Co-operation Act 1923 and non-terminating building societies registered under that Act.

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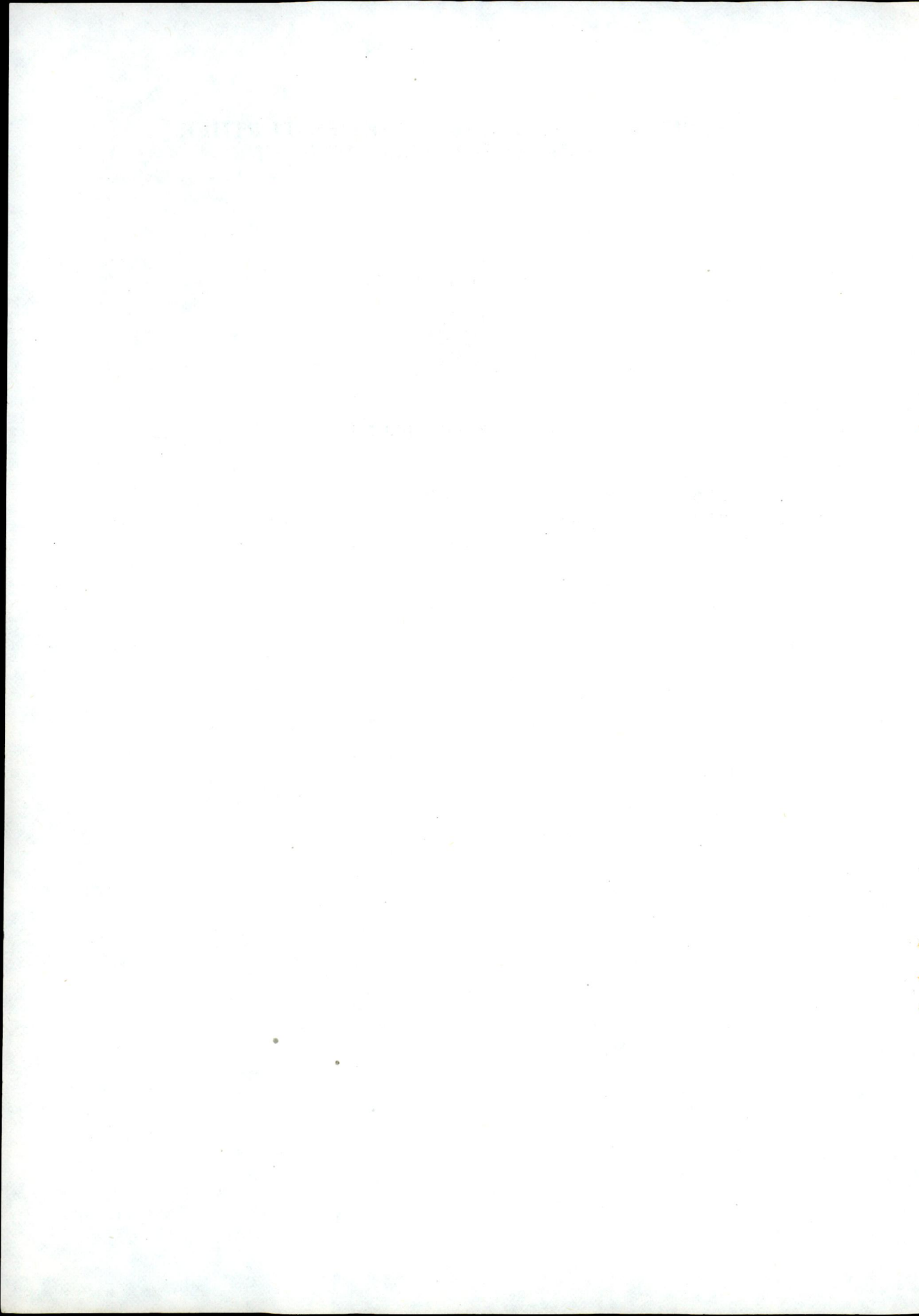
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TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 18, 1967

SCHEDULE 1—AMENDMENTS



**PERMANENT BUILDING SOCIETIES (FURTHER
AMENDMENT) BILL 1987**

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No. , 1987

A BILL FOR

An Act to amend the Permanent Building Societies Act 1967 with respect to the application to certain building societies of companies and securities legislation.

Permanent Building Societies (Further Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Permanent Building Societies (Further Amendment) Act 1987.

5 Amendment of Act No. 18, 1967

2. The Permanent Building Societies Act 1967 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

10 (1) Part III, Division 1A—

After Division 1, insert:

Division 1A—Application of companies and securities legislation

Interpretation

15 33A. A reference in this Division to a Code or to provisions of a Code includes a reference to regulations under the Code or the provisions concerned.

Application of Companies (New South Wales) Code

20 33B. (1) The provisions of Divisions 1 and 6 of Part IV of the Companies (New South Wales) Code do not apply to a society, except provisions that are applied to societies by or under this Act.

(2) Other provisions of the Companies (New South Wales) Code do not apply to a society, except provisions—

- 25 (a) that are applied to societies by or under this Act;
- (b) that relate to the role of a society in the formation of a company;
- (c) that relate to substantial shareholdings (by or involving a society) in a company;
- 30 (d) that confer or impose powers, authorities, duties or functions on a society as a member or former member of a corporation; or
- (e) that confer or impose powers, authorities, duties or functions on a society as a person having dealings with a corporation (not being dealings in securities of the society).

Application of Securities Industry (New South Wales) Code

35 33C. (1) The provisions of the Securities Industry (New South Wales) Code do not apply to a society, or to an officer or employee of a society, in relation to securities of the society, except provisions that are applied to societies by or under this Act.

SCHEDULE 1—AMENDMENTS—*continued*

(2) An officer or employee of a society obtains the benefit of this section only when acting in his or her capacity as officer or employee.

Regulations applying companies and securities legislation

5 33D. (1) The regulations under this Act may—

- (a) apply any provisions of the Companies (New South Wales) Code or the Securities Industry (New South Wales) Code to societies, with or without specified modifications; or
- 10 (b) make provision in relation to societies for any matter for which those Codes make provision, with or without modification.

(2) Such a regulation may create an offence with a penalty not exceeding the maximum penalty provided under the corresponding provision of those Codes.

15 (3) If a regulation applies a provision of a Code to societies, the provision applies accordingly.

Effect of regulations on other provisions

20 33E. (1) This Division operates in addition to and does not derogate from any other power under this Act to make regulations applying provisions of those Codes.

(2) Regulations under this Division cannot make or apply provisions which are inconsistent with a provision of this Act.

(2) Section 106 (**Recovery of penalties**)—

25 (a) Section 106 (1)—
After “summarily”, insert “before a Local Court constituted by a Magistrate sitting alone”.

(b) Section 106 (3), (4)—
After section 106 (2), insert:

30 (3) If the maximum penalty for an offence against the regulations is \$10,000 or more, proceedings for the offence may also be dealt with summarily before the Supreme Court in its summary jurisdiction.

35 (4) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against the regulations is \$10,000 or the maximum penalty provided for the offence, whichever is the lesser.

(3) Section 119 (**Regulations**)—

Section 119 (1) (b)—

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SCHEDULE 1—AMENDMENTS—*continued*

After "\$100", insert "(except as is otherwise expressly authorised by this Act)".

- (4) Schedule 3, Part 1 (**Provisions of this Act applicable to certain building societies not registered under this Act**)—

5 After "24,", insert "33A-33E,".

**PERMANENT BUILDING SOCIETIES (FURTHER
AMENDMENT) ACT 1987 No. 255**

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TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 18, 1967

SCHEDULE 1—AMENDMENTS

**PERMANENT BUILDING SOCIETIES (FURTHER AMENDMENT)
ACT 1987 No. 255**

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Act No. 255, 1987

An Act to amend the Permanent Building Societies Act 1967 with respect to the application to certain building societies of companies and securities legislation. [Assented to 16 December 1987]

Permanent Building Societies (Further Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Permanent Building Societies (Further Amendment) Act 1987.

Amendment of Act No. 18, 1967

2. The Permanent Building Societies Act 1967 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

(1) Part III, Division 1A—

After Division 1, insert:

**Division 1A—Application of companies and securities legislation
Interpretation**

33A. A reference in this Division to a Code or to provisions of a Code includes a reference to regulations under the Code or the provisions concerned.

Application of Companies (New South Wales) Code

33B. (1) The provisions of Divisions 1 and 6 of Part IV of the Companies (New South Wales) Code do not apply to a society, except provisions that are applied to societies by or under this Act.

(2) Other provisions of the Companies (New South Wales) Code do not apply to a society, except provisions—

- (a) that are applied to societies by or under this Act;
- (b) that relate to the role of a society in the formation of a company;
- (c) that relate to substantial shareholdings (by or involving a society) in a company;
- (d) that confer or impose powers, authorities, duties or functions on a society as a member or former member of a corporation; or
- (e) that confer or impose powers, authorities, duties or functions on a society as a person having dealings with a corporation (not being dealings in securities of the society).

Application of Securities Industry (New South Wales) Code

33C. (1) The provisions of the Securities Industry (New South Wales) Code do not apply to a society, or to an officer or employee of a society, in relation to securities of the society, except provisions that are applied to societies by or under this Act.

SCHEDULE 1—AMENDMENTS—*continued*

(2) An officer or employee of a society obtains the benefit of this section only when acting in his or her capacity as officer or employee.

Regulations applying companies and securities legislation

33D. (1) The regulations under this Act may—

- (a) apply any provisions of the Companies (New South Wales) Code or the Securities Industry (New South Wales) Code to societies, with or without specified modifications; or
- (b) make provision in relation to societies for any matter for which those Codes make provision, with or without modification.

(2) Such a regulation may create an offence with a penalty not exceeding the maximum penalty provided under the corresponding provision of those Codes.

(3) If a regulation applies a provision of a Code to societies, the provision applies accordingly.

Effect of regulations on other provisions

33E. (1) This Division operates in addition to and does not derogate from any other power under this Act to make regulations applying provisions of those Codes.

(2) Regulations under this Division cannot make or apply provisions which are inconsistent with a provision of this Act.

(2) Section 106 (**Recovery of penalties**)—

(a) Section 106 (1)—

After “summarily”, insert “before a Local Court constituted by a Magistrate sitting alone”.

(b) Section 106 (3), (4)—

After section 106 (2), insert:

(3) If the maximum penalty for an offence against the regulations is \$10,000 or more, proceedings for the offence may also be dealt with summarily before the Supreme Court in its summary jurisdiction.

(4) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against the regulations is \$10,000 or the maximum penalty provided for the offence, whichever is the lesser.

(3) Section 119 (**Regulations**)—

Section 119 (1) (b)—

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SCHEDULE 1—AMENDMENTS—*continued*

After "\$100", insert "(except as is otherwise expressly authorised by this Act)".

- (4) Schedule 3, Part 1 (**Provisions of this Act applicable to certain building societies not registered under this Act**)—

After "24," insert "33A-33E,".

