

CO-OPERATION (AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 12, 1967.

An Act to make further provision with respect to the law relating to co-operative building societies; for this and other purposes to amend the Co-operation, Community Settlement and Credit Act, 1923, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Co-operation (Amendment) Act, 1967".

Short title,
citation and
commence-
ment.

(2)

Co-operation (Amendment).

No. 12, 1967 (2) The Co-operation, Community Settlement and Credit Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Co-operation Act, 1923–1967.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 1, 1924. 2. (1) The Co-operation, Community Settlement and Credit Act, 1923, as amended by subsequent Acts, is amended—

Sec. 15A. (a) by omitting section 15A;

(Additional objects and powers.)

Sec. 16. (Objects.)

(b) (i) by omitting subsection one of section sixteen and by inserting in lieu thereof the following subsections :—

(1) The objects of a building society registered under this Act shall be the raising, by the subscriptions of its members and as otherwise authorised by this Act, of a fund for making loans to its members subject to the provisions of this Act and the regulations—

(a) upon the security of a mortgage over freehold or leasehold land; or

(b) upon the security of a mortgage over land of any tenure under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, and any other Act dealing with the disposition and holding of lands of the Crown.

(1A) A building society shall not, without the approval of the co-operative building advisory committee constituted under this Act make any loan on the security of a mortgage over land of a tenure prescribed by the regulations as a tenure not acceptable for the purposes of this section.

(1B)

Co-operation (Amendment).

(1B) Nothing in this section shall be construed as precluding a society from accepting such collateral security for further securing the money so lent as the board shall determine, including security of a class prescribed by subsection three of section 16A of this Act. No. 12, 1967

(1C) The Minister may, by order published in the Gazette upon the recommendation of the co-operative building advisory committee constituted under this Act and with the concurrence of the Treasurer, fix a rate of interest for the purposes of this subsection and a building society shall not, in respect of any loans made by it, charge a rate of interest in excess of the rate so fixed by the Minister under an order for the time being in force.

- (ii) by omitting subsection (2A) of the same section;
- (iii) by omitting subsection three of the same section;
- (c) by inserting next after section sixteen the following new sections :—

16A. (1) Subject to subsection two of this section, a building society shall not lend money on the security of a first mortgage over land unless—

- (a) where the amount of the loan exceeds twenty thousand dollars, it does not exceed seventy-five per centum of the valuation of the land over which security is to be taken; or
- (b) where the amount of the loan does not exceed twenty thousand dollars, it does not exceed eighty per centum of the value of the land over which security is to be taken.

(2)

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(2) A society may make a loan exceeding the amount authorised by paragraph (a) or (b), as the case may be, of subsection one of this section, if—

- (a) the society has first obtained the approval of the co-operative building advisory committee constituted under this Act; or
- (b) the society takes additional security as provided by subsection three of this section.

(3) The additional security that a society may take to comply with paragraph (b) of subsection two of this section shall comprise—

- (a) an indemnity issued pursuant to the Housing Indemnities Act, 1962, as amended by subsequent Acts;
- (b) an indemnity issued pursuant to this Act;
- (c) an indemnity or guarantee by—
 - (i) the Housing Loans Insurance Corporation constituted under the Housing Loans Insurance Act 1965 of the Parliament of the Commonwealth of Australia and any Act of that Parliament amending or replacing that Act; or
 - (ii) an insurance company carrying on business in conformity with the Insurance Act 1932 of that Parliament, as amended by subsequent Acts of that Parliament,

securing the repayment to the society of an amount equivalent to the amount by which the loan exceeds the amount of the maximum loan the society is authorised to make pursuant to paragraph (a) or (b), as the case may require, of subsection one of this section;

(d)

Co-operation (Amendment).

- (d) a charge upon, and appropriate assignment ^{No. 12, 1967} of, a life insurance policy issued by a company registered under the Life Insurance Act 1945 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament, being a life insurance policy the surrender value of which, at the time the charge and assignment thereof became effective, was not less than the amount by which the loan exceeds the amount of the maximum loan the society is authorised to make pursuant to paragraph (a) or (b), as the case may require, of subsection one of this section; or
- (e) such form of additional security as may be prescribed.

(4) Approvals of the co-operative building advisory committee pursuant to subsection two of this section may be given subject to such terms and conditions as it thinks fit.

(5) If any loan is made in contravention of this section or any terms or conditions imposed by the co-operative building advisory committee pursuant to subsection four of this section, the members of the board who authorised the loan shall be jointly and severally liable for any loss on the loan occasioned to the society.

16B. (1) In this Act "special loan" means a ^{Meaning of} loan made by a building society on the security of ^{"special loan".} a mortgage over land, being a loan of one of the following descriptions, that is to say—

- (a) a loan of any amount to a body corporate;
- (b) a loan to a person other than a body corporate of a sum exceeding thirty thousand dollars or, where some other sum is prescribed, the prescribed sum;

(c)

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- (c) a loan of a sum exceeding ten thousand dollars or, where some other sum is prescribed, the prescribed sum, secured by mortgage over vacant land; or
- (d) a loan of any amount to a person other than a body corporate, being a person who, after the loan is made, is indebted to the society in respect of such loan and any other moneys whatsoever, whether immediately repayable or not, in an aggregate sum of not less than thirty thousand dollars or, where a sum has been prescribed pursuant to paragraph (b) of this subsection, the prescribed sum.

(2) Where a member transfers or conveys to another person his interest in any property which is the subject of a mortgage to the society such transfer or conveyance shall for the purposes of this Act relating to special loans be treated as a loan made by the society to that other person of an amount equal to the amount of the mortgage debt remaining unpaid immediately after the transfer or conveyance together with any arrears of interest then outstanding.

(3) A loan made jointly to two or more persons shall, for the purposes of this Act, be taken to be a special loan if a loan of the like amount made under the like conditions to any one of those persons would be a special loan.

Proportion
of special
loans.

16c. (1) Subject to this Act, a building society shall so conduct its business as to ensure that special loans are not made by it except as authorised by this section.

(2)

Co-operation (Amendment).

(2) At the end of each financial year a society shall review the loans made by it which are outstanding at the end of that year, and shall ascertain—

- (a) the total amount of those loans which at that time has not been repaid to the society, together with any arrears of interest in respect of those loans; and
- (b) the proportion of that amount not repaid which is in respect of special loans and any arrears of interest thereon.

(3) If the proportion ascertained at the end of a financial year in accordance with paragraph (b) of subsection two of this section (in this section referred to, in relation to that year, as "the ascertained proportion" for that year) does not exceed ten per centum the society may make special loans in the next following financial year, but so that the total amount of special loans made by it in that following financial year does not exceed ten per centum of the total amount of all loans made by the society during that following financial year.

(4) If the ascertained proportion for a financial year exceeds ten per centum but does not exceed twenty-five per centum the society may make special loans in the next following financial year, but so that the total amount of special loans made by it in that following financial year does not exceed two and one-half per centum of the total amount of all loans made by the society in that following financial year.

(5) If the ascertained proportion for a financial year exceeds twenty-five per centum the society shall not make any special loans in the next following financial year.

(d)

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

Subst.
sec. 17B.

Mortgages
by minors.

- (d) (i) by omitting from subsection (2B) of section 17A the words "five hundred thousand" and by inserting in lieu thereof the words "one million";
- (ii) by omitting from subsection four of the same section the words "five hundred thousand" and by inserting in lieu thereof the words "one million";
- (e) by omitting section 17B and by inserting in lieu thereof the following section :—

17B. (1) Where a member of a building society, being a member under the age of twenty-one years, executes a mortgage in favour of the society to secure the repayment of moneys lent by the society to such member, and such member—

- (a) is married; or
- (b) being unmarried, is of the age of eighteen years or over at the time he executes the mortgage,

such member shall be subject to the same liabilities and obligations and have the same rights, in respect of the mortgage and any contract entered into by such member for the purchase of the land the subject of the mortgage or for the erection thereon of any dwelling, as if he had been of the full age of twenty-one years at the time of the execution of the mortgage and at the time of the execution of the contract.

(2) Any guarantee or surety given by any person in respect of any mortgage or contract referred to in subsection one of this section shall be as binding and effectual as if the person who executed the mortgage or contract was of the full age of twenty-one years at the time when the mortgage or contract, as the case may be, was executed and the time when the guarantee or surety was given.

(f)

Co-operation (Amendment).

- (f) by omitting section 18A and by inserting in lieu No. 12, 1967 thereof the following section :—

Subst.
sec. 18A.

18A. (1) A building society shall not make a loan to a member unless there has first been obtained a valuation of the land proposed to be mortgaged by the member and any buildings erected or to be erected thereon. Valuers.

(2) Such valuation shall—

(a) in the case of a loan to erect a building, be made by a valuer approved by the registrar ;
or

(b) in the case of a loan to be secured over land on which a building is already erected, or over vacant land, be made by—

(i) the Valuer-General ;

(ii) a valuer approved by the registrar ;

(iii) a person who holds the Diploma of Qualified Real Estate Valuer of the Real Estate Institute of New South Wales ;

(iv) a Fellow or Associate of the Commonwealth Institute of Valuers (Incorporated) ; or

(v) a person having such other qualifications as a valuer as may be prescribed.

(3) The registrar may, in approving any person as a valuer for the purposes of this section, impose such conditions and limitations on such approval as he may think fit.

(g)

Co-operation (Amendment).

- No. 12, 1967**
New sec.
18H.
Advertising
by proposed
building
society.
- (g) by inserting next after section 18G the following new section :—
- 18H. No person shall by advertisement in any form seek members, capital or deposits in or for a proposed non-terminating building society unless the contents of such advertisement shall have first been approved by the registrar.
- New sec.
66A.
Indemnity
against
losses and
preservation
of liquidity.
- (h) by inserting next after section sixty-six the following new section :—
- 66A. (1) Subject to this section, a society or any two or more societies may enter into arrangements with any person carrying on the business of insurance, or with an association of which it is a member, for the purpose of making funds available to meet losses incurred by persons investing in, or lending money to, a society which is a party to the arrangements or for the purpose of guaranteeing the liquidity of the society; and any two or more societies may enter into any other kind of arrangements for those purposes.
- (2) Subject to this section, a society shall have power to make contributions or deposits under arrangements made in accordance with this section.
- (3) Arrangements under this section may in particular provide for the vesting of a fund in trustees appointed under the arrangements.
- (4) Arrangements under this section and any variation thereof shall not come into force, and no contributions shall be made thereunder by a society, until they have been approved by the registrar.
- Sec. 75.
(Inspection.)
Sec. 80.
(Special
resolution.)
- (i) by omitting subsection two of section seventy-five;
- (j) by inserting at the end of subsection three of section eighty the words "Such copy shall be sent to the registrar within such time and in such manner as may be prescribed.";

(k)

Co-operation (Amendment).

- (k) by inserting next after subsection five of section No. 12, 1967 ninety-one the following new subsections : —

Sec. 91.
(Settlement.)

(5A) The registrar or person deputed by him to hear a dispute may, at any stage of the hearing of the dispute, and shall, if so directed by the Supreme Court or a Judge thereof, state a case for the opinion of the Supreme Court on any question of law arising on the hearing by him of the dispute.

(5B) Any person who fails to comply with a requirement of the registrar, or person deputed by him pursuant to subsection five of this section, shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

- (l) by omitting from subsection three of section one hundred and seventeen the words "shall be authorised at his discretion to" and by inserting in lieu thereof the words "or any such inspector so authorised may, at his discretion,"

Sec. 117.
(Inspection by registrar.)