



TASMANIA

**CO-OPERATIVE HOUSING SOCIETIES
AMENDMENT ACT 1996**

No. 35 of 1996

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 2 amended (Interpretation)
5. Section 3 substituted
 3. Registrar and other officers
6. Section 6A inserted
 - 6A. Financial returns
7. Section 7 amended (Inspection of books, &c.)
8. Sections 12B and 12C inserted
 - 12B. Supervision levy
 - 12C. Consultation
9. Section 43 substituted
 43. Notice of meeting
10. Sections 51B and 51C inserted
 - 51B. Surplus or deficit of funds

51C. Society may be placed under direction

11. Section 61 amended (Power of Treasurer to give guarantees)
12. *Tasmanian Office of Financial Supervision Act 1992* amended



CO-OPERATIVE HOUSING SOCIETIES AMENDMENT ACT 1996

No. 35 of 1996

An Act to amend the *Co-operative Housing Societies Act 1963*

[Royal Assent 16 December 1996]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Co-operative Housing Societies Amendment Act 1996*.

Commencement

2. This Act commences on a day to be proclaimed.

Principal Act

3. In this Act, the *Co-operative Housing Societies Act 1963** is referred to as the Principal Act.

Section 2 amended (Interpretation)

4. Section 2 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) after the definition of "Deputy Registrar" the following definition:

"distributable amount", in relation to a member, means –

- (a) an amount that bears the same proportion to any surplus or deficit of all the members' loan account interest funds reported by the society in the preceding year's financial statements that the interest debited to that member's loan account bears to the total interest debited to the loan accounts of all members during that year; or
- (b) an amount that bears the same proportion to any

* No. 83 of 1963. For this Act, as amended to 1 October 1979, see the continuing Reprint of Statutes. Subsequently amended by Nos. 19 and 46 of 1980, Nos. 9, 97 and 99 of 1982, No. 88 of 1983, No. 29 of 1984, No. 51 of 1985, No. 11 of 1986, No. 5 of 1990, No. 43 of 1991, No. 68 of 1994 and No. 71 of 1995.

surplus or deficit of all the members' loan account interest funds reported by the society in the preceding year's financial statements that the number of shares held by that member on the last day of the financial year bears to the total number of shares in the society held on that day; or

- (c) if the society does not report a surplus or a deficit, nil;
- (b) by omitting from subsection (1) the definition of "officer";
- (c) by omitting "section 45." from the definition of "special resolution" in subsection (1) and substituting "section 45;";
- (d) by inserting in subsection (1) after the definition of "special resolution" the following definitions:

"supervision levy" means a levy payable under section 12B;

"TOFS" means the Tasmanian Office of Financial Supervision established under the *Tasmanian Office of Financial Supervision Act 1992*.

- (e) by inserting after subsection (4) the following subsections:

(5) Subject to subsection (6), in this Act **"officer"**, in relation to a body corporate or society, includes –

- (a) a director, secretary, executive officer or employee of the body or society; and
- (b) a receiver and manager, appointed under a power contained in an instrument, of property of the body or society; and
- (c) an official manager, or deputy official manager, of the body or society; and
- (d) a liquidator of the body or society appointed in a voluntary winding-up of the body or society; and
- (e) a trustee or other person administering a compromise or arrangement made between the body or society and any other person.

(6) None of the following is an officer of the body corporate or society:

- (a) a receiver who is not also a manager;
- (b) a receiver and manager appointed by a court;
- (c) a liquidator appointed by a court.

Section 3 substituted

5. Section 3 of the Principal Act is repealed and the following section is substituted:

Registrar and other officers

3. (1) For the purposes of this Act, the Chief Executive Officer of TOFS is the Registrar of Co-operative Housing Societies.

(2) TOFS may appoint –

- (a) a person to be the Deputy Registrar of Co-operative Housing Societies; and
- (b) a person to be an officer for the purposes of this Act.

Section 6A inserted

6. After section 6 of the Principal Act the following section is inserted:

Financial returns

6A. (1) TOFS, by notice in writing, may require a society to prepare financial returns at quarterly intervals or at any other intervals TOFS considers desirable.

(2) A society must lodge the return with TOFS within any period specified in the notice.

Penalty: Fine not exceeding 10 penalty units.

Section 7 amended (Inspection of books, &c.)

7. Section 7(1) of the Principal Act is amended by omitting "or an employee, within the meaning of the *Tasmanian State Service Act 1984*,".

Sections 12B and 12C inserted

8. After section 12A of the Principal Act the following sections are inserted:

Supervision levy

12B. (1) TOFS, by notice in writing, may require a society formed after the commencement of the *Co-operative Housing Societies Amendment Act 1996* to pay a supervision levy towards the costs incurred by TOFS arising from the supervision and administration of the society.

(2) TOFS may fix the amount of the levy as –

- (a) a specified amount; or
- (b) a percentage of an amount to be determined, on a particular day, by reference to specified factors relating to societies; or
- (c) both a specified amount and such a percentage.

(3) If the levy is fixed, wholly or partly, in accordance with subsection (2)(b), TOFS may include in the determination directions as to how the levy is to be determined.

(4) TOFS may –

- (a) fix the amount of the levy differently for different societies; and
- (b) determine that the levy is not payable by a particular society.

(5) TOFS, in determining the levy, may –

- (a) require it to be paid in one amount by a specified time; or
- (b) permit it to be paid by specified instalments.

(6) If TOFS permits the levy to be paid by instalments, it may –

- (a) allow a discount for payment in one amount by a specified time; or
- (b) require payment of an additional amount or percentage, by way of interest, in the instalments.

(7) TOFS may require the payment of an amount, by way of late payment charge, interest or both, in relation to any amount of levy not paid as required by the determination.

(8) TOFS may include in the determination directions as to how any amount of late payment charge or interest is to be determined.

(9) Any amount of levy is, when due and payable, a debt due and payable by the society concerned to TOFS, and may be sued for and recovered in a court of competent jurisdiction.

(10) TOFS, on the application of a society, may vary –

- (a) an amount of levy payable by the society; or
- (b) the time within which the society is to pay an amount of levy.

(11) An amount paid by a society as levy is an expense in the accounts of the society.

(12) TOFS is to include provision for the levy in the draft budget required under section 28 of the *Tasmanian Office of Financial Supervision Act 1992*.

(13) In this section, "levy" includes late payment charge and interest in relation to levy.

Consultation

12C. In determining the amount to be paid as supervision levy TOFS, if it is appropriate and practicable to do so, may consult with any industry body or society.

Section 43 substituted

9. Section 43 of the Principal Act is repealed and the following section is substituted:

Notice of meeting

43. (1) A society must give to each of its members –

- (a) not less than 7 days' notice of any meeting other than the annual general meeting; and
- (b) not less than 14 days' notice of its annual general meeting.

Penalty: Fine not exceeding 20 penalty units.

(2) The society is to publish notice of the meeting in a newspaper circulating generally in the area of the State in which the society operates –

(a) in the case of an annual general meeting, 14 days before the date of the meeting; and

(b) in the case of any other meeting, 7 days before the date of the meeting.

(3) The notice is to specify –

(a) the place, date and time of the meeting; and

(b) the nature of any special business to be transacted; and

(c) the terms of any special resolution to be proposed.

(4) The society is to display a copy of the notice in a conspicuous place at the registered office and any other office of the society for a period of not less than 14 days immediately before the date of the meeting.

(5) The failure of the society to give a member notice of a meeting does not invalidate the meeting.

(6) A society must not fail to give, publish or display notice of a meeting in accordance with this section.

Penalty: Fine not exceeding 20 penalty units.

Sections 51B and 51C inserted

10. After section 51A of the Principal Act the following sections are inserted in Division 2 of Part VI:

Surplus or deficit of funds

51B. (1) Subject to subsection (2), a society, within 28 days after its annual general meeting or within any further period TOFS approves, must apportion any distributable amount arising at the end of a financial year among those people who were members of the society on the last day of that financial year.

Penalty: Fine not exceeding 20 penalty units.

(2) The Board of a society may determine not to apportion the distributable amount if the member would receive a credit or debit of –

- (a) an amount of \$50 or less; or
- (b) any other amount TOFS approves.

(3) Any apportionment of the distributable amount is to be by way of crediting or debiting each member's loan account.

(4) If an officer of a society is an officer of another society, the officer must not use any surplus funds in the society to cover any deficit in the other.

Penalty: Fine not exceeding 20 penalty units.

Society may be placed under direction

51C. (1) TOFS, by notice in writing given to a society, may place the society under direction if TOFS is of the opinion that –

- (a) the society has contravened this Act and, after being given written notice by TOFS of the contravention, has continued or repeated the contravention; or

- (b) the society is trading unprofitably or has an accumulated deficit in its profit and loss appropriation account; or
- (c) the society's affairs are being conducted in an improper or financially unsound way.

(2) TOFS may revoke the direction by notice in writing given to the society.

(3) TOFS may do all things it considers necessary to ensure that the objects of a society under its direction are achieved.

(4) Without limiting subsection (3), TOFS may do any one or more of the following:

- (a) arrange for the society to be audited by an auditor appointed by TOFS at the society's expense;
- (b) direct the society to change any practice that TOFS considers undesirable or unsound;
- (c) direct the society to cease or limit the exercise of any of its powers;
- (d) remove any or all of the directors of the society and appoint another director or directors;
- (e) remove any auditor of the society and appoint another;
- (f) give any direction as to how the society's affairs are to be conducted.

(5) A director or auditor appointed under this section holds office for any term TOFS directs.

(6) A society must not –

- (a) fail to comply with any direction or order given by TOFS under this section; or
- (b) hinder the exercise by TOFS of any of its powers under this section.

Penalty: Fine not exceeding 100 penalty units.

Section 61 amended (Power of Treasurer to give guarantees)

11. Section 61 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(3) A guarantee may be in any form, and subject to any conditions, that the Treasurer considers appropriate.

Tasmanian Office of Financial Supervision Act 1992
amended

12. Section 25(1) of the *Tasmanian Office of Financial Supervision Act 1992* is amended by inserting "or in relation to co-operative housing societies" after "legislation".

*[Second reading presentation speech made in:–
House of Assembly on 22 October 1996
Legislative Council on 5 November 1996]*