

LEGISLATIVE ASSEMBLY

Read 1° 11 November 1986

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Building Societies Act* 1986.

Building Societies (Amendment) Act 1986

The Parliament of Victoria enacts as follows:

Purpose.

5 **1.** The purpose of this Act is to amend the *Building Societies Act* 1986 to enable a building society incorporated in Victoria to merge with a building society incorporated in another State or Territory of the Commonwealth.

Act No. 8 of
1986.

Commencement.

2. This Act comes into operation on the day on which it receives the Royal Assent.

10 Insertion of new Division.

3. (1) After the Heading to Part 6 of the *Building Societies Act* 1986 insert:

“Division 1—Merger of building societies incorporated in Victoria”.

9—[281]—850/11.11.1986—2281/86—(Revision No. 5) (921)

(2) After section 108 of the *Building Societies Act 1986* insert:

“Division 2—Merger between a building society incorporated in Victoria and a foreign building society”

Application of Division.

“108A. This Division applies to a merger (whether by way of a partial or a total consolidation) between— 5

- (a) a building society; and
- (b) a foreign building society within the meaning of section 109—

that is approved, subject to any conditions, by the Minister and the Treasurer for the purposes of this Division.”. 10

Application for certificate.

“108B. (1) If a building society and a foreign building society propose to merge their assets, liabilities and undertakings they may after complying with this section apply for the issue of the relevant certificate under section 108C. 15

(2) The proposed merger must have been approved—

- (a) by special resolution of the building society and by a special resolution of the foreign building society made in accordance with this Act as if the foreign building society were a building society; or 20
- (b) if the Registrar determines that the building society or the foreign building society may approve the proposed merger by resolution of the board of directors, by a resolution of the board of directors. 25

(3) Unless the Registrar has given an exemption, the building society and the foreign building society must—

- (a) give to the Registrar a statement specifying—
 - (i) the financial position of the building society and the foreign building society; and 30
 - (ii) any interest that any director or officer of the building society or the foreign building society has in the proposed merger; and
 - (iii) any payment or compensation to be paid to any director, officer or member of the building society or the foreign building society; and 35
 - (iv) any other matter specified by the Registrar; and
- (b) at least 14 days before the holding of the meetings required under sub-section (2) publish a notice in a daily newspaper generally circulating in Victoria and in a daily newspaper generally circulating in the State or Territory of the 40

Commonwealth in which the foreign building society is incorporated specifying—

- 5 (i) that a merger of the whole or part of the assets, liabilities and undertakings of the building society and foreign building society is proposed; and
- (ii) that a copy of the statement prepared under paragraph (a) may be inspected at any branch of the building society or foreign building society; and
- 10 (c) make a copy of the statement available for inspection for a period of at least 14 days before the holding of the meetings.

(4) An application for the issue of the relevant certificate under section 108C must be made in the manner and form required by the Registrar.

15 (5) If a merger resulting in a merged building society which is to be incorporated in Victoria or another State or Territory of the Commonwealth is proposed the application must be accompanied by—

- 20 (a) two copies of the proposed rules of the proposed building society or proposed foreign building society as required by this Act or any corresponding legislation in another State or Territory of the Commonwealth; and
- (b) any other particulars required by the Registrar.”.

Registrar may issue certificate.

25 “108c. (1) If in respect of an application relating to a partial merger the Registrar is satisfied that the building society and the foreign building society have complied with section 108B the Registrar must—

- (a) register the appropriate resolutions; and
- (b) issue a certificate confirming the merger.

30 (2) If in respect of an application relating to a merger resulting in a merged building society to be incorporated in Victoria the Registrar is satisfied that—

- (a) the building society and the foreign building society have complied with section 108B; and
- (b) the proposed rules of the merged building society are adequate; and
- 35 (c) the certificates of incorporation of the building society and the foreign building society have been surrendered in the State or Territory of the Commonwealth where the building society or foreign building society is registered; and
- 40 (d) any requirements of any corresponding legislation in another State or Territory of the Commonwealth under which the foreign building society was incorporated have been complied with—

the Registrar must issue a new certificate of incorporation and cancel the registration of the building society.

(3) If in respect of an application relating to a merger resulting in a merged building society to be incorporated in another State or Territory of the Commonwealth the Registrar is satisfied that—

- (a) the building society and the foreign building society have complied with section 108B; and 5
- (b) the proposed rules of the merged building society are adequate; and
- (c) the certificates of incorporation of the building society and the foreign building society have been surrendered in the State or Territory of the Commonwealth where the building society or foreign building society is registered; and 10
- (d) any requirements of any corresponding legislation in another State or Territory of the Commonwealth under which the foreign building society was incorporated have been complied with— 15

the Registrar must issue a certificate of compliance and cancel the registration of the building society.

(4) If in respect of an application relating to a merger resulting in a merged building society which is the building society involved in the merger the Registrar is satisfied that— 20

- (a) the building society and the foreign building society have complied with section 108B; and
- (b) any requirements of corresponding legislation in another State or Territory of the Commonwealth under which the foreign building society was incorporated have been complied with— 25

the Registrar must issue a certificate of compliance.

(5) If in respect of an application relating to a merger resulting in a merged building society which is the foreign building society involved in the merger the Registrar is satisfied that— 30

- (a) the building society and the foreign building society have complied with section 108B; and
- (b) the certificate of incorporation of the building society has been surrendered—

the Registrar must issue a certificate of compliance and cancel the registration of the building society.”. 35

When merger takes effect.

“108D. (1) A merger takes effect upon the issue of the relevant certificate under section 108C.

(2) If a partial merger is effected the following provisions apply on and from the issue of the certificate: 40

- (a) The property and assets the subject of the merger are by force of this section vested in the nominated building society;

- (b) The debts and liabilities relating to the property and assets the subject of the merger are by force of this section vested in the nominated building society;
- 5 (c) The nominated building society is by force of this section substituted as a party to any proceedings pending in any court relating to the property and assets the subject of the merger;
- 10 (d) The nominated building society is by force of this section substituted as a party to any arrangement or contract relating to the property and assets the subject of the merger.
- (3) If a merger is effected resulting in a merged building society which is a newly incorporated building society or foreign building society the following provisions apply on and from the issue of the certificate:
- 15 (a) Any person who was a member of the building society or foreign building society involved in the merger immediately before the issue of the certificate is a member of the merged building society in accordance with its rules;
- 20 (b) Any person who was a depositor, lender or other creditor of the building society or foreign building society involved in the merger immediately before the issue of the certificate is a depositor, lender or other creditor of the merged building society on the same terms and conditions;
- 25 (c) Any person who was a borrower from the building society or foreign building society involved in the merger immediately before the issue of the certificate is a debtor of the merged building society on the same terms and conditions;
- 30 (d) The duties, responsibilities and obligations imposed immediately before the issue of the certificate upon the building society and the foreign building society involved in the merger and the immunities, rights and privileges of or vested in, exercisable by or available to the building society and the foreign building society involved in the merger immediately before the issue of the certificate are transferred to the merged building society and thereafter the merged building society is subject to all those duties, responsibilities and obligations and entitled to all those immunities, rights and privileges;
- 35 (e) The property and assets that immediately before the issue of the certificate were vested in the building society and the foreign building society involved in the merger are by force of this section vested in the merged building society;
- 40 (f) The debts and liabilities of the building society and the foreign society involved in the merger immediately before the issue of the certificate are by force of this section debts and liabilities of the merged building society;
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- (g) The merged building society is by force of this section substituted as a party to any proceedings pending in any court to which the building society or the foreign building society involved in the merger was a party immediately before the issue of the certificate; 5
- (h) The merged building society is by force of this section substituted as a party to any arrangement or contract entered into by or on behalf of the building society or the foreign building society involved in the merger as a party and in force immediately before the issue of the certificate; 10
- (i) Any reference to the building society or the foreign building society involved in the merger in any agreement, instrument, deed or other document whatsoever is to be construed as a reference to the merged building society unless inconsistent with the context or subject-matter so far as it relates to any period after the issue of the certificate. 15
- (4) If a merger is effected resulting in a merged building society which is either the building society or foreign building society involved in the merger, the following provisions apply on and from the issue of the certificate: 20
- (a) Any person who was a member of the building society or foreign building society which ceases to exist immediately before the issue of the certificate is a member of the merged building society in accordance with its rules; 25
- (b) Any person who was a depositor, lender or other creditor of the building society or foreign building society which ceases to exist immediately before the issue of the certificate is a depositor, lender or other creditor of the merged building society on the same terms and conditions; 30
- (c) Any person who was a borrower from the building society or foreign building society which ceases to exist immediately before the issue of the certificate is a debtor of the merged building society on the same terms and conditions; 35
- (d) The duties, responsibilities and obligations imposed immediately before the issue of the certificate upon the building society or foreign building society which ceases to exist and the immunities, rights and privileges of or vested in, exercisable by or available to the building society or foreign building society which ceases to exist immediately before the issue of the certificate are transferred to the merged building society and thereafter the merged building society is subject to all those duties, responsibilities and obligations and entitled to all those immunities, rights and privileges; 40
- (e) The property and assets that immediately before the issue of the certificate were vested in the building society or foreign 45

building society which ceases to exist are by force of this section vested in the merged building society;

- 5 (f) The debts and liabilities of the building society or foreign building society which ceases to exist immediately before the issue of the certificate are by force of this section debts and liabilities of the merged building society;
- 10 (g) The merged building society is by force of this section substituted as a party to any proceedings pending in any court to which the building society or foreign building society which ceases to exist was a party immediately before the issue of the certificate;
- 15 (h) The merged building society is by force of this section substituted as a party to any arrangement or contract entered into by or on behalf of the building society or foreign building society which ceases to exist as a party and in force immediately before the issue of the certificate;
- 20 (i) Any reference to the building society or foreign building society which ceases to exist in any agreement, instrument, deed or other document whatsoever is to be construed as a reference to the merged building society unless inconsistent with the context or subject-matter so far as it relates to any period after the issue of the certificate.”.’

