



ANALYSIS

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1970, No. 117

An Act to amend the Building Societies Act 1965

[27 November 1970]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Building Societies Amendment Act 1970, and shall be read together with and deemed part of the Building Societies Act 1965 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by adding to the definition of the term “land”, in subsection (1), the words “or under a deferred payment licence within the meaning of the Land Act 1948”.

(2) The said section 2 is hereby further amended by inserting in subsection (1), in their appropriate alphabetical order, the following definitions:

“‘Local authority securities’ means debentures, stock, or other securities issued by any local authority within the meaning of Part I of the Local Authorities Loans

Act 1956, whether by virtue of section 2 of that Act or of any Order in Council thereunder or by virtue of any other Act:

“‘New Zealand Government securities’ means securities issued by the Government of New Zealand that are registered in a register kept in New Zealand pursuant to the New Zealand Loans Act 1953:”.

3. Restrictions on second or subsequent mortgages—

(1) Section 47 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Subsection (1) of this section shall not apply in any case where all the prior mortgages at the time of the making of the advance are in favour of the society.”

(2) The said section 47 is hereby further amended by omitting from subsection (1) the words “a prior mortgage”, and substituting the words “any prior mortgage or mortgages”.

(3) The said section 47 is hereby further amended by omitting from subsection (2) the words “or of the terms or conditions of any exemption granted thereunder”.

4. Investment and banking of surplus funds—(1) Section 55 of the principal Act is hereby amended by repealing paragraph (c) of subsection (1), and substituting the following paragraph:

“(c) In local authority securities; or”.

(2) The said section 55 is hereby further amended by omitting from subsection (3) the words “any investment made before the commencement of this Act under section 27 of the Building Societies Act 1908”, and substituting the words “any investment lawfully made before the commencement of the Building Societies Amendment Act 1970”.

5. Societies to hold certain public securities—The principal Act is hereby amended by inserting in Part IV, after section 55, the following section:

“55A. (1) For the purposes of this section—

“‘Assets’, in relation to any society, means the net total of the society’s assets, as ascertained in accordance with subsection (3) of section 2 of this Act, after deducting—

“(a) The sum of \$50,000; and

“(b) The amount of any fictitious assets, within the meaning of any regulations for the time being in force under this Act relating to the society’s balance sheet; and

“(c) In the case of a terminating society, the total of all amounts for the time being on deposit with any permanent society; and

“(d) In the case of an authorised society within the meaning of section 57 of this Act, an amount equal to the total of all savings bank deposits (within the meaning of that section) for the time being held by it:

“‘Base year’, in relation to any society, means the financial year of that society first ending after the commencement of this section:

“‘Qualifying public securities’ means New Zealand Government securities and local authority securities for the time being held by a society, after deducting the amount, if any, of local authority securities held in excess of 2 percent of its assets and, in the case of an authorised society within the meaning of section 57 of this Act, the minimum amount of New Zealand Government securities required to be held pursuant to subsection (7) of that section:

“‘Ratio deficit’, where the qualifying public securities held by a society are less than 5 percent of its assets, means the percentage which is the difference between 5 percent and the percentage of assets which are held in qualifying public securities.

“(2) Subject to the provisions of this section, every society shall at all times hold at least 5 percent of its assets for the time being in qualifying public securities, of which New Zealand Government securities shall comprise at least 3 percent of its assets.

“(3) Every society that has a ratio deficit at the end of the base year shall, by the end of each of its 5 financial years immediately following the base year, adjust its investments in qualifying public securities so that its ratio deficit will be not greater than the ratio deficit at the end of the base year reduced by one-fifth for each financial year ending after the base year.

“(4) Notwithstanding anything in this section, if at any time, in the opinion of the Minister, the financial stability of any society is for any reason endangered, that society may reduce the percentage of qualifying public securities which it is required to hold under this section to such lower percentage, and on such terms and conditions, as the Minister may from time to time approve in writing.

“(5) New Zealand Government securities held by a society pursuant to subsection (7) of section 57 of this Act shall not be deemed to be securities held in compliance with this section; and New Zealand Government securities held pursuant to this section shall not be deemed to be securities held in compliance with the said subsection (7).

“(6) If a society contravenes any provision of this section that is applicable to it, the society, and every officer of the society who is in default, shall be guilty of an offence against this Act.”

6. Restrictions on savings bank deposits—Section 57 of the principal Act is hereby amended by adding the following subsection:

“(12) If a society contravenes any of the provisions of subsections (3) to (7) of this section, the society, and every officer of the society who is in default, shall be guilty of an offence against this Act.”

7. Determination of disputes by arbitration—(1) The principal Act is hereby amended by repealing section 109, and substituting the following section:

“109. (1) This section shall have effect where a society’s rules direct that disputes shall be referred to arbitration.

“(2) Every such reference to arbitration shall be—

“(a) To a sole arbitrator agreed on by the parties to the dispute; or

“(b) If the parties do not agree on a sole arbitrator, to 2 arbitrators, one to be appointed by each party to the dispute, with power to the 2 arbitrators to appoint an umpire.

“(3) No such arbitrator or umpire shall be beneficially interested, whether directly or indirectly, in the funds of the society.

“(4) The Registrar may, if he thinks fit, accept appointment under this section as a sole arbitrator, or as one of 2 arbitrators or as an umpire.

“(5) For the purposes of any such arbitration, this section shall be deemed to be a submission within the meaning of the Arbitration Act 1908, and the provisions of that Act, so far as they are applicable, shall apply accordingly.”

(2) Section 109 of the principal Act, as substituted by subsection (1) of this section, shall not affect any arbitration that has been commenced, but not completed, before the passing of this Act, and any such arbitration may be continued and completed as if this Act had not been passed.

(3) Where at the passing of this Act the rules of any society direct that any disputes shall be referred to arbitration, the following provisions shall apply:

- (a) Subject to subsection (2) of this section, until the rules are altered, any provision in them that is inconsistent with section 109 of the principal Act (as substituted by subsection (1) of this section) shall have no effect:
- (b) Not later than the 31st day of December 1971, the society shall alter its rules by revoking any provision that is inconsistent with the said section 109 (as so substituted).

8. Repeal of provision for determination of disputes by Registrar—(1) Section 110 of the principal Act is hereby repealed.

(2) The principal Act is hereby consequentially amended—

- (a) By omitting from paragraph (p) of subsection (1) of section 17 the words “or to the Registrar”:
- (b) By omitting from subsection (3) of section 108 the words “or by the Registrar”:
- (c) By omitting from section 112 the words “or by the Registrar”, and also the words “the Registrar” where they secondly appear:
- (d) By omitting from subsection (1) of section 113 the words “or the Registrar where the dispute is referred to him”.

(3) The repeal by subsection (1) of this section of section 110 of the principal Act, and the amendments made by subsection (2) of this section, shall not affect any dispute that has been referred to the Registrar, but not determined, under the said section 110 before the passing of this Act, and any such dispute may be dealt with and determined as if this Act had not been passed.

(4) Where at the passing of this Act the rules of any society direct that any disputes shall be referred to the Registrar, the following provisions shall apply:

- (a) Subject to subsection (3) of this section, until the rules are altered, they shall be deemed to direct that those disputes shall be referred to arbitration, and not to the Registrar:
- (b) Not later than the 31st day of December 1971, the society shall alter its rules by revoking every provision for the reference of disputes to the Registrar and making such other provision for the settlement of disputes as is authorised by paragraph (p) of subsection (1) of section 17 of the principal Act (as amended by paragraph (a) of subsection (2) of this section).

9. Provisions as to shares held jointly—Section 127 of the principal Act is hereby amended by omitting from the proviso to subsection (3) the words “or of the annual return”.

This Act is administered in the Treasury.
