



ANALYSIS

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1974, No. 44

An Act to amend the Building Societies Act 1965

[31 August 1974]

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 and commencement—(1) This Act may be cited as the Building Societies Amendment Act 1974, and shall be read together with and deemed part of the Building Societies Act 1965 (hereinafter referred to as the principal Act).

(2) Sections 2 and 3 of this Act shall come into force on the 1st day of October 1974.

(3) Except as provided in subsection (2) of this section, and subject to subsection (2) of section 5 of this Act, this Act shall come into force on its passing.

2. New sections inserted—The principal Act is hereby amended by inserting, after section 27 and before the heading “*Commencement of Business*”, the following heading and sections:

“Purchase of Shares in Terminating Societies

“27A. **Interpretation**—In sections 27B to 27E of this Act, unless the context otherwise requires,—

“‘Agreement’ means any agreement to purchase or subscribe for shares, made with the terminating society which issues the shares or its agent, or with any person who, whether directly or indirectly, is a representative of that terminating society, or with any person who is a broker of its shares:

“‘Notice to Purchaser’ means a copy of the form set out in Part I of the Seventh Schedule to this Act, which form shall comply with Part II of that Schedule and shall be duly completed by or on behalf of a terminating society in accordance with the instructions contained in that Part:

“‘Purchaser’, in relation to an agreement, includes a subscriber; and also includes any person acting for or on behalf of a purchaser or subscriber:

“‘Shares’ means a share or shares in a terminating group of a terminating society; but does not include such share or shares issued contemporaneously with, and as additional security or qualification for, an advance made by that terminating society on security by way of mortgage of land.

“27B. **Agreements to purchase shares**—(1) Every agreement—

“(a) Shall be in writing; and

“(b) Shall be signed by the purchaser and by or on behalf of all the other parties to it; and

“(c) Shall show the date on which it was made and an address to which a notice pursuant to section 27C of this Act may be delivered or sent.

“(2) A copy of the agreement together with a Notice to Purchaser shall be given to the purchaser at the time the agreement is made.

“(3) Every person who fails to comply with subsection (2) of this section commits an offence against this Act.

“27c. Right of purchaser to cancel agreement—(1) Where an agreement is made, the purchaser may cancel it at any time before the end of the period of 14 days from the day on which it was made by giving a notice in writing which, however expressed, indicates the intention of the purchaser to cancel or withdraw from the agreement.

“(2) Where there is a failure to comply with subsection (2) of section 27B of this Act, then for the purposes of subsection (1) of this section a period of 3 months shall be substituted for the period of 14 days specified in subsection (1) of this section.

“(3) Notice pursuant to subsection (1) of this section may be given by delivering it personally at the address shown in the agreement, or by posting it to that address in a prepaid letter. If the notice is posted pursuant to this subsection it shall be deemed to have been given at the time when it is posted.

“(4) Where a notice under this section is given by a purchaser who has entered into an agreement jointly with another purchaser or other purchasers, that notice shall be deemed to be notice given by all the joint purchasers who have entered into that agreement.

“27d. Effect of cancellation of agreement—(1) Where a notice of cancellation is given pursuant to section 27c of this Act—

“(a) The agreement to which it relates shall be deemed to have been rescinded and never to have had effect:

“(b) Any contract of guarantee relating to the agreement shall be deemed never to have had effect:

“(c) Any money paid under the agreement shall be repaid forthwith by the terminating society or other person to whom the money has been paid.

“(2) Any money repayable under paragraph (c) of subsection (1) of this section shall be recoverable as a simple contract debt. In any action for the recovery of any such money the purchaser shall, if successful, be entitled to recover from the terminating society or other person against whom the action is brought his full costs, fees, and other reasonable expenses including reasonable costs between solicitor and client.

“27e. No contracting out—(1) Sections 27A to 27D of this Act shall have effect notwithstanding anything to the contrary in any agreement, and, notwithstanding section 18 of this Act,

shall prevail over any rule to the contrary made by a terminating society (whether before or after the commencement of this section).

“(2) Any transaction entered into or any contract or arrangement made, whether orally or in writing, for the purpose of, or having the effect of, in any way, whether directly or indirectly, defeating, evading, avoiding, or preventing the operation of any provision of sections 27A to 27D of this Act shall be unenforceable except that any money paid as part of any such transaction or under any such contract or arrangement may be recovered by the purchaser from the person to whom it was paid.

“27F. **Seventh Schedule may be amended**—The Governor-General may from time to time, by Order in Council, amend the Seventh Schedule to this Act.”

3. Seventh Schedule added—The principal Act is hereby further amended by adding the Schedule set out in the Schedule to this Act.

4. Meaning of “special advance”—Section 35 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby further amended—

- (a) By omitting from paragraph (b) and paragraph (d) of subsection (1) the words “twenty thousand dollars”, and substituting in each case the expression “\$35,000”;
- (b) By omitting from paragraph (c) and paragraph (d) of that subsection the words “twenty-five thousand dollars”, and substituting in each case the expression “\$50,000”.

5. Restriction on amount of special advances—(1) Section 36 of the principal Act is hereby amended by omitting from subsection (1) the words “twenty per cent”, and substituting the expression “10 percent”.

(2) The amendment made in subsection (1) of this section shall apply with respect to special advances made by a society during every financial year commencing after the passing of this Act.

(3) Notwithstanding subsection (1) and subsection (2) of this section, a society may, during its financial year first commencing after the passing of this Act, make special

advances which in total do not exceed 10 percent of the total amount of all advances made by it by way of mortgage on the security of land during that financial year.

6. Home ownership accounts and farm ownership accounts—The principal Act is hereby further amended by inserting, after section 57, the following section:

“57A. (1) Any society which is for the time being designated under section 63 of this Act as a society with which trustees may invest trust funds by way of deposit, may, with the approval of the Governor-General by Order in Council, accept deposits from its members in home ownership accounts or farm ownership accounts (any such society being hereinafter referred to in this section as an approved society).

“(2) Home ownership accounts or farm ownership accounts may be opened with and operated by an approved society upon such terms and conditions as may be specified in regulations made under this Act.

“(3) Nothing in section 57 of this Act shall apply to deposits in home ownership accounts and farm ownership accounts under this section.

“(4) It shall not be lawful for any society, other than an approved society, to accept or hold itself out as willing to accept deposits in home ownership accounts or farm ownership accounts.

“(5) If any 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.”

7. Designation of societies for investments by trustees—Section 63 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby further amended—

(a) By omitting from paragraph (a) of subsection (2) the words “two hundred thousand dollars”, and substituting the expression “\$400,000”:

(b) By omitting from subsection (4) the words “twenty thousand dollars”, and substituting the expression “\$50,000”.

SCHEDULE

Section 3

“SEVENTH SCHEDULE Sections 27A, 27B (2)

PART I

NOTICE TO PURCHASER

of shares in [Insert name of Terminating Society]

RIGHT OF CANCELLATION. You have for a short time a legal right to cancel the agreement you have just made with this Society.

You can do this by giving, before the end of the period of 14 days beginning with the day after the day on which you signed the agreement, a notice in writing stating that you wish to cancel the agreement. You can give the notice by posting it in a prepaid letter, or by delivering it personally, to the address given in the agreement.

If you cancel the agreement any money you have already paid must be refunded to you.

FURTHER INFORMATION. The following further information may be of assistance to you—

WITHDRAWAL OF SUBSCRIPTIONS. The conditions relating to withdrawal of subscriptions paid on shares are set out in full in the rules of the Society. A copy of the rules may be obtained from the Society.

The general rule is that a member does not have the right to withdraw any subscriptions paid until the shares have been current and paid up for a period of *[Insert period]* years.

[This paragraph is to be used by a Society in any case where its rules do not allow a member to surrender his shares as of right to the Society for a cash payment before the time the member becomes entitled to withdraw his subscriptions in full.]

or

The general rule is that a member does not have the right to withdraw subscriptions in full until the shares have been current and paid up for a period of *[Insert period]* years. Before the expiry of that period, a member has the right to surrender his shares to the Society subject to losing a proportion of the subscriptions paid, calculated on the following basis:

Number of Years for Which the Shares Have Been Current and Paid Up	Loss on Surrender as a Percentage of Subscriptions Paid

[This paragraph is to be used instead of the paragraph above only where the rules of a Society allow a member, as of right, to surrender his shares to the Society for a cash payment before the time the member becomes entitled to withdraw his subscriptions in full.]

SCHEDULE—*continued*“SEVENTH SCHEDULE—*continued*”

FINES. If a member does not keep up the payment of subscriptions as required by the rules, the Society has power to fine that member at the rate specified in the rules.

[*This paragraph may be omitted if the rules of the Society do not provide for fines*]

FORFEITURE OF SUBSCRIPTIONS. If the subscriptions payable on any shares fall into arrears for a period which is stated in the rules, the Society has power to treat all subscriptions a member may have paid on those shares as being forfeited to the Society.

REINSTATEMENT OF FORFEITED SUBSCRIPTIONS. If any subscriptions are forfeited to the Society, the member has the right (within the period stated in the rules) to have them reinstated, subject either to the payment of arrears or on such other terms as may be expressed in the rules.

PART II

Requirements as to Notice to Purchaser

1. The notice set out in Part I of this Schedule shall be completed by a terminating building society in accordance with the instructions contained in the notice.

2. The completed notice shall be either—

- (a) Printed on paper separate from, and not bound into, any other printed matter; or
- (b) Printed in a Society's form of agreement to purchase shares in such manner as to show at least the heading and first paragraph of the notice close to, and on the same page as, the signature of the purchaser.

3. The notice shall be legible, and shall be capable of being read easily by a person with normal vision.

4. The expressions ‘NOTICE TO PURCHASER’, ‘RIGHT OF CANCELLATION’, ‘FURTHER INFORMATION’, ‘WITHDRAWAL OF SUBSCRIPTIONS’, ‘FINES’ (if applicable), ‘FORFEITURE OF SUBSCRIPTIONS’, and ‘REINSTATEMENT OF FORFEITED SUBSCRIPTIONS’, shall be in bold capital letters.”

This Act is administered in the Treasury.
