



ANALYSIS

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1982, No. 169

An Act to amend the Building Societies Act 1965

[17 December 1982]

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 1982, 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 (1) of the principal Act (as amended by section 2 (2) of the Building Societies Amendment Act 1970) is hereby amended by inserting, after the definition of the term “prescribed”, the following definition:

“ ‘Public security’ means a public security within the meaning of section 2 (1) of the Public Finance Act 1977:”.

(2) The said section 2 (1) is hereby further amended by repealing the definition of the term “special advance”.

(3) The said section 2 (1) is hereby consequentially amended by repealing the definition of the term “New Zealand Government securities” (as inserted by section 2 (2) of the Building Societies Amendment Act 1970).

(4) Section 2 (2) of the Building Societies Amendment Act 1970 is hereby consequentially amended by repealing so much as relates to the definition of the term “New Zealand Government securities”.

3. Purpose for which building society may be established—Section 9 of the principal Act is hereby amended by inserting, after the words “shares of members,”, the words “or on other or no security,”.

4. Advances on security of mortgage of land for residential purposes—(1) The principal Act is hereby amended by repealing section 35 (as amended by section 10 of the Building Societies Amendment Act 1980) and the cross-heading to that section, and substituting the following section:

“35. (1) Every society shall so conduct its business as to ensure that, of the total amount of advances made by it that are outstanding at any given time, at least 85 percent of those advances are by way of mortgage of land used for residential purposes.

“(2) Every officer of the society who does not take reasonable care to ensure that any advance authorised by the officer does not, at the time the advance is authorised, contravene subsection (1) of this section, commits an offence against this Act.

“(3) In this section, an advance shall be for residential purposes if it is related to the provision, alteration, or maintenance of a dwellinghouse (including any land, improvements, or appurtenances belonging to the dwellinghouse or usually enjoyed with it).

“(4) In subsection (3) of this section, the term “dwellinghouse” means a building used as a residence; and includes any unit of a multi-unit building used for residential purposes; and, in relation to a building or part of a building used partly for residential purposes and partly for the purposes of a business where at least 25 percent of the floor area of that building or part is used for residential purposes, the whole of that building or part of a building; and also includes any dwellinghouse on any rural land or other land which is not used principally for residential purposes.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 36 of the principal Act (as amended by section 5 of the Building Societies Amendment Act 1974):

- (b) Section 37 of the principal Act:
- (c) Section 38 of the principal Act (as amended by section 11 of the Building Societies Amendment Act 1980):
- (d) Section 5 of the Building Societies Amendment Act 1974:
- (e) Sections 10 and 11 of the Building Societies Amendment Act 1980.

5. Registered valuer not required to value certain securities—(1) Section 40 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) In subsection (1) (b) of this section the expression ‘appropriate report’ means a written report prepared and signed by a competent and prudent person who is experienced in the matters relevant to the determination of the value of the land and is not disqualified under this section for reporting on that land.”

(2) Section 40 (3) of the principal Act is hereby consequentially amended by omitting the words “of paragraphs (a) and (b)”.

6. Repeal of provisions relating to restrictions on second mortgages—(1) Section 47 of the principal Act (as amended by section 3 of the Building Societies Amendment Act 1970) is hereby repealed.

(2) Section 3 of the Building Societies Amendment Act 1970 is hereby consequentially repealed.

7. Advances on security other than mortgage of land or members' shares, or without security—The principal Act is hereby amended by inserting, after section 51 but before the heading “*Supplementary Provisions*”, the following heading and section:

“Unsecured or Other Advances

“51A. (1) Subject to this section, a society may make rules providing for the making of advances on security other than land or members' shares, or without security.

“(2) Notwithstanding anything to the contrary in the rules of a society, the total amount outstanding of advances made pursuant to subsection (1) of this section shall not, at any given time, exceed 5 percent of the total amount of advances made by the society that are outstanding at that time.

“(3) Every officer of the society who does not take reasonable care to ensure that any advance authorised by the officer does not, at the time the advance is authorised, contravene subsection (2) of this section, commits an offence against this Act.”

8. Designation of societies for investment by trustees—(1) Section 63 (4) of the principal Act (as amended by section 7 of the Building Societies Amendment Act 1974) is hereby amended by omitting the words “\$50,000 for any one trust”, and substituting the words “, for any one trust, the greater of a sum of \$50,000 or an amount certified by the secretary or principal executive officer of the society as not being more than 0.5 percent of the society’s assets at the time when the deposit is to be made”.

(2) The said section 63 is hereby further amended by adding the following subsection:

“(5) In subsection (4) of this section, a society’s assets means the net total of the society’s assets, as ascertained in accordance with section 2 (3) of this Act, after deducting—

- “(a) The total amount of any advances authorised but not yet paid over; and
- “(b) The total amount of any unearned premiums on advances made by way of mortgage; and
- “(c) The total of all amounts paid on borrowing shares, in any case where the society’s accounts show as assets the full amounts secured to the society by mortgages; and
- “(d) The amount of any fictitious assets; and
- “(e) The amount of any excess of the total book value of the society’s investments over their total market value.”

(3) Section 7 of the Building Societies Amendment Act 1974 is hereby consequentially repealed.

9. Investment of surplus funds—(1) Section 55 (1) of the principal Act is hereby amended by repealing paragraphs (a) and (b), and substituting the following paragraph:

“(a) In public securities; or”.

(2) The said section 55 (1) is hereby further amended by repealing paragraph (d), and substituting the following paragraph:

“(d) On deposit with a person for the time being authorised by the Reserve Bank of New Zealand to receive money on deposit as a short-term money market dealer; or”.

(3) Paragraph (g) of the said section 55 (1) (as amended by section 7 (3) of the Building Societies Amendment Act 1980) is hereby amended by omitting the words “April 1981.”, and substituting the words “April 1981; or”.

(4) The said section 55 (1) is hereby further amended by adding the following paragraph:

“(h) In such other securities as the Minister may from time to time approve.”.

(5) Section 56 (2) (b) of the principal Act is hereby consequentially amended by omitting the words “New Zealand Government securities”, and substituting the words “public securities”.

(6) Section 56 (2) (d) of the principal Act is hereby consequentially repealed.

10. Directors’ report—(1) Section 96 (2) of the principal Act is hereby amended by repealing paragraphs (a), (b), and (c), and substituting the following paragraphs:

“(a) The total amount advanced during the financial year by the society on security of mortgages on land used for residential purposes (within the meaning of section 35 of this Act), and the total number of such mortgages executed in favour of the society during that year:

“(b) The total amount advanced during the financial year by the society on security of mortgages on land not included in paragraph (a) of this subsection, and the total number of such mortgages executed in favour of the society during that year:

“(c) The total amount advanced during the financial year by the society on the security of members’ shares, and the total number of such advances made:

“(ca) The total amount advanced during the financial year by the society on security other than land or members’ shares, and the total number of such advances made:

“(cb) The total amount advanced during the financial year by the society without security, and the total number of such advances made:”.

(2) A directors’ report prepared under section 96 of the principal Act in respect of the financial year of a society during which this Act came into force shall contain the information required under the provisions repealed by subsection (1) of this section as well as the information required by the provisions enacted in substitution for those provisions.

11. Amendment of Third Schedule—The Third Schedule to the principal Act is hereby amended by repealing clause 3 and the heading to that clause, and substituting the following heading and clause:

“Advances

“3. Not less than 85 percent of all advances made by a society since its incorporation shall have been for residential purposes (within the meaning of section 35 of this Act).”

This Act is administered in the Treasury.
