



## ANALYSIS

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1983, No. 55

**An Act to amend the Industrial and Provident Societies Act 1908** [6 December 1983]

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 Industrial and Provident Societies Amendment Act 1983, and shall be read together with and deemed part of the Industrial and Provident Societies Act 1908 (hereinafter referred to as the principal Act).

**2. Powers of inspection of Registrar**—The principal Act is hereby amended by repealing section 13A (as inserted by section 5 of the Industrial and Provident Societies Amendment Act 1981), and substituting the following section:

“13A. (1) Subject to subsection (3) of this section, the Registrar or any person authorised by him may, for the purpose of ascertaining whether a registered society or any officer of a registered society is complying or has complied with this Act, or of ascertaining whether the Registrar should exercise any of his rights or powers under this Act, or of detecting offences against this Act—

“(a) Require a registered society or any officer of a registered society to produce for inspection any registers, records, accounts, books, or papers that are kept by the registered society; and

“(b) In any case where the Registrar or the person authorised by him considers that the aforesaid purpose cannot be achieved by inspecting only the documents specified in paragraph (a) of this subsection, or where such documents are not produced for inspection, require any person (including any officer employed in or in connection with any Government Department) to produce for inspection any registers, records, accounts, books, or papers that contain information relating to any money or other property that is or has been managed, supervised, controlled, or held in trust by or for the registered society; and

“(c) Inspect and make records of any such registers, records, accounts, books, or papers; and

“(d) For the purpose of making records thereof, take possession of and remove from the premises where they are kept, for such period of time as is reasonable in the circumstances, any such registers, records, accounts, books, or papers.

“(2) Nothing in subsection (1) of this section limits or affects the Inland Revenue Department Act 1974 or the Statistics Act 1975.

“(3) No person authorised by the Registrar for the purposes of subsection (1) of this section may require the production of a document or make an inspection under that subsection unless he has first made a declaration in the prescribed form that he will not, except in accordance with subsections (4) and (5) of this section, or for the purposes of this Act, or in the course of any criminal proceedings, make a record of, or divulge, or communicate to any other person any information that he acquires by an inspection under that subsection.

“(4) A person who has made an inspection under subsection (1) of this section shall give, divulge, or communicate any records or information that he has acquired in the course of the inspection to such of the following persons as may require such records or information, namely:

“(a) The Registrar:

“(b) A Deputy Registrar:

“(c) A District Registrar:

“(d) An Assistant Registrar.

“(5) A person who has made an inspection under subsection (1) of this section shall, upon being directed to do so by a person for the time being holding the office of Registrar or Deputy Registrar, give, divulge, or communicate any records or information that he has acquired in the course of the inspection to such of the following persons as that Registrar or Deputy Registrar specifies, namely:

“(a) The Minister of Justice:

“(b) The Secretary for Justice:

“(c) Any person authorised by that Registrar or Deputy Registrar to receive such records or information.

“(6) Notwithstanding anything in subsections (4), (5), and (7) of this section, the Registrar shall maintain and aid in maintaining the secrecy of all matters that come to his knowledge as a result of any inspection made under subsection (1) of this section, and shall not communicate any such matters to any person except—

“(a) For the purpose of or relating to—

“(i) Carrying this Act into effect; or

“(ii) Any criminal proceedings; or

“(iii) The enactment or proposed enactment of legislation relating to a particular registered society or group of registered societies; or

“(iv) The liquidation of any registered society to which an inspection under subsection (1) of this section relates; or

“(b) To the Official Assignee in bankruptcy; or

“(c) To any person to whom it is desirable that such matters should be communicated in the public interest; or

“(d) To any person who the Registrar is satisfied has a proper interest in receiving such matters.

“(7) The Minister of Justice or the Secretary for Justice may, by written notice to that person, require a person for the time being holding the office of Registrar or Deputy Registrar to give a direction under subsection (5) of this section; and that person shall comply with any such requirement.

“(8) If any person makes a record of, or divulges, or communicates to any other person, otherwise than in accordance with this section, or for the purposes of this Act, or in the course of any criminal proceedings, any information that he has acquired in the course of an inspection under subsection (1) of this section, he commits an offence and shall be liable to a fine not exceeding \$200.

“(9) If any registered society refuses or fails to produce for inspection to the Registrar, or to any person authorised by the

Registrar for the purposes of subsection (1) of this section, any document that the Registrar or authorised person has under that subsection required it to produce, the registered society commits an offence and shall be liable to a fine not exceeding \$1,000.

“(10) If any officer of a registered society or other person refuses or fails to produce for inspection to the Registrar, or to any person authorised by the Registrar for the purposes of subsection (1) of this section, any document within the power and control of that officer or person that the Registrar or authorised person has under that subsection required him to produce, that officer or person commits an offence and shall be liable to a fine not exceeding \$1,000.

“(11) Any person who wilfully obstructs or hinders the Registrar, or any person authorised by the Registrar for the purposes of subsection (1) of this section, while the Registrar or authorised person is making an inspection, or a record, or taking possession of, or removing any documents pursuant to that subsection, commits an offence and shall be liable to a fine not exceeding \$1,000.”

**3. Special resolutions, and proceedings which may be taken thereon**—Section 14 of the principal Act is hereby amended by repealing paragraph (h), and substituting the following paragraph:

“(h) Where a society is registered as a company, or amalgamates with, or transfers all its engagements to a company:

“(i) The registry of such society under this Act shall cease and be cancelled by the Registrar; and

“(ii) All property (both real and personal), rights, interests, liabilities, contracts, engagements, and authorities of the society shall be the property (both real and personal), rights, interests, liabilities, contracts, engagements, and authorities of the company and shall be held or enforceable by, or in favour of the company, or against the company in priority against the property of the company over all other rights or claims against, or liabilities of, such company; and

“(iii) Any action, arbitration, or proceeding pending or existing against the society may be prosecuted, continued, and enforced against the company.”

**4. Legal professional privilege not affected**—The principal Act is hereby amended by inserting, after section 23, the following section:

“23A. Nothing in this Act limits or affects legal professional privilege.”

**5. Conversion of company into society**—Section 2 of the Industrial and Provident Societies Amendment Act 1919 is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) Upon the conversion of a company into a registered society:

“(a) The registration of the company under the Companies Act 1955 shall cease and shall be cancelled by the Registrar of Companies; and

“(b) All property (both real and personal), rights, interests, liabilities, contracts, engagements, and authorities of the company shall be the property (both real and personal), rights, interests, liabilities, contracts, engagements, and authorities of the society and shall be held or enforceable by, or in favour of the society, or against the society in priority against the property of the society over all other rights, or claims against, or liabilities of, such society; and

“(c) Any action, arbitration, or proceeding pending or existing against the company may be prosecuted, continued, and enforced against the society.”