



ANALYSIS

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1993, No. 115

An Act to amend the Industrial and Provident Societies Act 1908 [28 September 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Industrial and Provident Societies Amendment Act 1993, 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) This Act shall come into force on the 1st day of July 1994.

2. Power to compromise with creditors and members—(1) Section 10A (1) of the principal Act (as inserted by section 4 of the Industrial and Provident Societies Amendment Act 1981) is hereby amended by omitting the words “being wound up”, and substituting the words “in liquidation”.

(2) Section 10A (2) of the principal Act (as so inserted) is hereby amended by omitting the words “the course of being wound up”, and substituting the word “liquidation”.

(3) Section 10A (5) of the principal Act (as so inserted) is hereby amended by omitting the definition of the term “creditor”, and substituting the following definition:

“‘Creditor’ includes every person who has a claim that in the liquidation of a registered society would be admitted as a claim in accordance with Part XVI of

the Companies Act 1993 (as applied by section 14 of the Industrial and Provident Societies Amendment Act 1952):”.

3. Dissolution of societies—(1) Section 15 of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraphs:

“(a) A society may be put into liquidation—

“(i) By the appointment by the High Court as liquidator of a named person or of an Official Assignee for the named district; or

“(ii) By the appointment of a named person as liquidator pursuant to a resolution of the members passed in the same manner as a resolution under section 241 (2) (a) of the Companies Act 1993,— and the provisions of Parts XVI and XVII of the Companies Act 1993 shall apply with such modifications as may be necessary in relation to any application to the Court to appoint a liquidator and in relation to the liquidation of the society:

“(ab) A society may be dissolved by an instrument of dissolution signed by three-fourths of the members:”.

(2) Section 15 (b) of the principal Act is hereby amended—

(a) By omitting the words “wound up”, and substituting the words “put into liquidation”; and

(b) By omitting the words “winding up”, in each place where they occur, and substituting, in the first place, the words “the liquidation”, and, in the second place, the word “liquidation”.

4. Industrial and Provident Societies Amendment Act 1952 amended—(1) Section 13 (1) of the Industrial and Provident Societies Amendment Act 1952 is hereby amended by omitting the words “course of being wound up, the debts which in every winding up are under the provisions of Part VI of the Companies Act 1955”, and substituting the words “liquidation, the debts which in every liquidation are under the provisions of Part XVI of, and the Seventh Schedule to, the Companies Act 1993”.

(2) Section 13 of the Industrial and Provident Societies Amendment Act 1952 is hereby amended by repealing subsection (2) (as amended by section 6 (1) of the Industrial and Provident Societies Amendment Act 1981), and substituting the following subsection:

“(2) In the application of clause 2 (b) of the Seventh Schedule to the Companies Act 1993, the reference to holiday pay becoming payable on the termination of employment before or by reason of the commencement of the liquidation shall be construed as a reference to holiday pay becoming payable on the termination of employment before or by reason of the appointment of the receiver or the taking possession of the property.”

(3) Section 13 of the Industrial and Provident Societies Amendment Act 1952 is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The periods of time referred to in Part XVI of, and the Seventh Schedule to, the Companies Act 1993 shall be taken from the date of the appointment of the receiver or on which possession of the property was taken, as the case may be.”

(4) Section 6 (1) of the Industrial and Provident Societies Amendment Act 1981 is hereby consequentially repealed.

(5) The Industrial and Provident Societies Amendment Act 1952 is hereby amended by repealing section 14 (as amended by section 2 (2) of the Industrial and Provident Societies Amendment Act 1979).

(6) Section 2 (2) of the Industrial and Provident Societies Amendment Act 1979 is hereby consequentially repealed.

5. Transitional provisions applying to liquidation of societies—(1) Nothing in section 2 or section 3 or section 4 of this Act applies to or affects the winding up of a registered society commenced before the commencement of this Act or anything done by or in relation to a registered society under Part VI of the Companies Act 1955 before the commencement of this Act, and sections 10A and 15 of the principal Act and section 14 of the Industrial and Provident Societies Amendment Act 1952 and Part VI of the Companies Act 1955, as in force before the commencement of this Act, shall continue to apply in relation thereto as if this Act had not been passed.

(2) In the liquidation of a registered society under Part XVI of the Companies Act 1993, nothing in any of sections 292 to 299 of that Act shall apply in relation to any transaction entered into by a society, or any matter that arose, before the commencement of this Act, but sections 309, 310, 311, 311A, 311B, and 311C of the Companies Act 1955, as in force before the commencement of this Act, shall continue to apply in respect of that transaction or matter as if this Act had not been passed.