

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 19 November 1970.

Words struck out by the Committee are shown with black rule at beginning and after last line; words inserted are shown with double rule before first line and after last line.

Hon. Mr Muldoon

BUILDING SOCIETIES AMENDMENT

ANALYSIS

Title	4. Societies to hold Government securities
1. Short Title	5. Restrictions on savings bank deposits
2. Interpretation	6. Determination of disputes by arbitration
3. Restrictions on second or subsequent mortgages	7. Repeal of provision for determination of disputes by Registrar
	8. Provisions as to shares held jointly

A BILL INTITULED

An Act to amend the Building Societies Act 1965

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 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).
- 10 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”.

*1965, No. 22

No. 85—2

Struck Out

(2) The said section 2 is hereby further amended by inserting in subsection (1), after the definition of the term "Minister", the following definition:

"'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:"

New

(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".

New

3A. 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

New

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”.

Struck Out

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

10 “55A. (1) For the purposes of this section, unless the context otherwise requires, the term ‘deposit’ means any money deposited with a society; and includes any sum—

15 “(a) Paid to a society in consideration of the issue of any debenture, deposit note, or other document acknowledging the indebtedness of a society to the holder; or

20 “(b) Appropriated by a society to any person, or to which any person has become entitled, whether by way of loan or otherwise, as a result of any ballot, tender, auction, or application, and for the time being retained by the society either under any provision of its rules, or under any arrangement with the person, by virtue of which the society pays or credits, or is required to pay or credit, to the person any amount by way of interest or dividend or any sum in lieu of interest or dividend; or

25 “(c) Paid to a society for any share in the society of any class or kind for the time being specified in any Order in Council under this section—

30 but does not include any savings bank deposit, within the meaning of section 57 of this Act, held by an authorised society within the meaning of that section.

35 “(2) The Governor-General may from time to time, by Order in Council, require every society to hold in New Zealand Government securities, during such periods or at such times as may be prescribed in the order, an amount at least equal to such percentage of its deposits as may be prescribed by the order, but not exceeding 25 percent.

40 “(3) Without limiting the generality of the foregoing provisions of this section, any such Order in Council may—

“ (a) Prescribe different percentages in respect of different periods or times, or in respect of different classes of deposits, or in different circumstances:

Struck Out

- “(b) Declare that any sum paid to a society for a share of any class or kind specified in the order shall be deemed to be a deposit for the purposes of the order: 5
- “(c) Exempt any society or class or classes of society, wholly or partially, from all or any of the provisions of the order, or provide for the granting, refusal, and revocation of any such exemption; and prescribe, or authorise the prescribing, variation, 10 or revocation of, conditions subject to which any such exemption is to apply:
- “(d) Be so made as to apply to deposits generally or to any specified class or classes or portion or portions of deposits, or to different classes or portions of 15 deposits at different times or in different circumstances:
- “(e) Be so made as to apply to deposits held by a society at the commencement of the order or at any time thereafter: 20
- “(f) Provide for the furnishing by societies of returns or certificates or other information in respect of deposits and holdings of New Zealand Government securities, and in respect of matters necessary for the purpose of ensuring compliance with the order; 25 and for the verification of such returns, certificates, and information:
 “Provided that no society shall be required to supply any information with respect to the identity or affairs of any particular person from whom or for whose benefit the society has accepted or holds any deposit: 30
- “(g) Authorise the Registrar to exercise any discretionary power or authority for the purposes of the order. 35
- “(4) 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 any Order in Council under this section; and securities held pursuant to any such order shall not be deemed to be securities held in compliance with the said subsection (7). 40
- “(5) If a society contravenes any provision of any Order in Council under 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.”

New

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

5 “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—

10 “(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

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

20 “(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:

25 “‘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:

35 “‘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.

40 “(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.

45

New

“(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. 5

“(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. 10 15

“(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). 20

“(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.” 25

5. 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.” 30

6. Determination of disputes by arbitration—(1) The principal Act is hereby amended by repealing section 109, and substituting the following section: 35

“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 40

“(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.

5 “(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 appoint-
ment under this section as a sole arbitrator, or as one of 2
10 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.”

15 (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 con-
tinued and completed as if this Act had not been passed.

20 (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
25 are altered, any provision in them that is incon-
sistent 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
30 society shall alter its rules by revoking any provision
that is inconsistent with the said section 109 (as so
substituted).

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

35 (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”:

40 (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
45 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. 5

(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: 10

- (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: 15
- (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). 20

8. 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”. 25