



Friendly Societies and Credit Unions Amendment Act 2012

Public Act 2012 No 64
Date of assent 30 August 2012
Commencement see section 2

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act amended	2
4 Membership of credit union, voting rights	2
5 New section 107A inserted	2
107A Credit union may offer credit union securities	2
6 Section 108 repealed	3
7 New section 109 substituted	3
109 Power of credit union to borrow money	3
8 New section 110 substituted	3
110 Credit union may make loans to members	3
9 Section 111 repealed	3
10 Credit union may hold land for limited purposes	3
11 Officers of credit union to give security	4
12 Investment of surplus funds	4
13 New heading and sections 117A to 117D inserted	4
<i>Distribution to members</i>	
117A Meaning of distribution	4
117B Distribution must be authorised	5
117C Distribution must not be authorised unless credit union solvent	5
117D Solvency test	5

14	Section 119 repealed	6
15	Guarantee funds	6
16	Liability of members on winding up	6
17	Registration of Association	6
18	Consequential revocation of Friendly Societies and Credit Unions (Limit on Shareholdings) Order 2000	7

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Friendly Societies and Credit Unions Amendment Act 2012.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This Act amends the Friendly Societies and Credit Unions Act 1982.
- 4 Membership of credit union, voting rights**
 - (1) Section 106(3) is repealed.
 - (2) Section 106(7) is amended by omitting “, subject to section 110(6) of this Act,”.
- 5 New section 107A inserted**
The following section is inserted after section 107:

“107A Credit union may offer credit union securities

“(1) A credit union may, if authorised by and in accordance with its rules and trust deed, offer credit union securities to members for subscription.

“(2) Credit union securities—

“(a) are transferable only between members; and

“(b) confer no voting rights upon holders.

“(3) In the event of a credit union being wound up, claims for credit union securities must not be paid until all creditors’ claims and

claims relating to the shares referred to in section 107 have been paid.

“(4) In the event of a credit union incurring losses that exceed its retained earnings and reserves, the value of the credit union securities must be written down accordingly.

“(5) To avoid doubt,—

“(a) an offer of securities under subsection (1) is an offer to the public and subject to the provisions of the Securities Act 1978:

“(b) credit union securities do not include shares under section 107.”

6 Section 108 repealed

Section 108 is repealed.

7 New section 109 substituted

Section 109 is repealed and the following section substituted:

“109 Power of credit union to borrow money

A credit union may borrow money if the borrowing is authorised by, and in accordance with, its rules and trust deed.”

8 New section 110 substituted

Section 110 is repealed and the following section substituted:

“110 Credit union may make loans to members

A credit union may make loans to members for such purposes and upon such security (or without security) and conditions as the rules of the credit union may provide either generally or specifically.”

9 Section 111 repealed

Section 111 is repealed.

10 Credit union may hold land for limited purposes

(1) The heading to section 113 is amended by omitting “**for limited purposes**”.

(2) Section 113(1) is amended by omitting “, for the purpose of conducting its business thereon or therein but, subject to subsection (4) of this section, for no other purpose,” and substi-

tuting “, if authorised by and in accordance with its rules and trust deed,”.

- (3) Section 113(3) to (6) are repealed.

11 Officers of credit union to give security

- (1) Section 114 is amended by repealing subsection (2) and substituting the following subsection:

- “(2) If an officer of a credit union is required to give security in accordance with subsection (1), the officer must do so by—
- “(a) becoming bound by 1 or more sureties in such sum as the credit union directs; or
 - “(b) giving the security of a guarantee society in such sum as the credit union directs; or
 - “(c) including a sum, agreed to by the credit union, within the risks insured by the insurance policy required under section 133.”

- (2) Section 114(5) is repealed.

12 Investment of surplus funds

- (1) Section 117(2) is amended by omitting “in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds” and substituting “if the investment is authorised by, and in accordance with, its rules and trust deed”.
- (2) Section 117(5) is amended by omitting “without the prior approval of the Registrar” and substituting “unless authorised by the rules of the credit union”.

13 New heading and sections 117A to 117D inserted

The following heading and sections are inserted after section 117:

“Distribution to members

“117A Meaning of distribution

- “(1) In sections 117B to 117D, unless the context otherwise requires, **distribution**, in relation to a distribution by a credit union to a member, means—
- “(a) the direct or indirect transfer of money or property to or for the benefit of the member; or

“(b) the incurring of a debt to or for the benefit of the member.

“(2) For the purposes of subsection (1),—

“(a) the distribution must relate to credit union securities held by the member to whom the distribution is being made; and

“(b) a transfer may be made, or a debt incurred, by means of a purchase of property, the redemption or other acquisition of credit union securities or shares, a distribution of indebtedness, or by some other means.

“Compare: 1993 No 105 s 2

“117B Distribution must be authorised

A distribution must be authorised in writing by the committee, or committee of management, as the case may be, of the credit union.

“Compare: 2008 No 1 s 40

“117C Distribution must not be authorised unless credit union solvent

The committee, or committee of management, as the case may be, of the credit union must not authorise a distribution unless the committee is satisfied on reasonable grounds that, immediately after the distribution is made, the credit union will be solvent.

“Compare: 2008 No 1 s 41

“117D Solvency test

“(1) A credit union is solvent for the purposes of the payment of a distribution if—

“(a) the credit union is able to pay its debts as they become due in the normal course of business; and

“(b) the value of the credit union’s assets is greater than its liabilities, including its contingent liabilities.

“(2) In determining whether the value of the credit union’s assets is greater than its liabilities, the committee, or committee of management, as the case may be, of the credit union—

“(a) must have regard to all circumstances that the committee knows or ought to know affect, or may affect, the

- value of the credit union's assets and the value of its liabilities, including its contingent liabilities; and
- “(b) may rely on valuations of assets or estimates of liabilities that are reasonable in the circumstances.
- “(3) In determining, for the purposes of this section, the value of a contingent liability, account may be taken of—
- “(a) the likelihood of the contingency occurring; and
- “(b) any claim that the credit union is entitled to make and can reasonably expect to be met to reduce or extinguish a contingent liability.
- “Compare: 2008 No 1 s 42”.

14 Section 119 repealed
Section 119 is repealed.

15 Guarantee funds

- (1) Section 134(1)(a) is amended by omitting “, in the opinion of the Registrar,”.
- (2) Section 134(3) is amended by omitting “, but subject in all cases to the approval of the Registrar”.
- (3) Section 134(5) is amended by omitting “, but subject in all cases to the approval of the Registrar”.
- (4) Section 134(6) is repealed.

16 Liability of members on winding up

Section 141(d) is amended by inserting “and the credit union securities referred to in section 107A” after “unpaid on the shares”.

17 Registration of Association

Section 146(3) is amended by repealing paragraph (e) and substituting the following paragraph:

“(e) sections 124 and 142.”

18 Consequential revocation of Friendly Societies and Credit Unions (Limit on Shareholdings) Order 2000

The Friendly Societies and Credit Unions (Limit on Shareholdings) Order 2000 (SR 2000/135) is consequentially revoked.

Legislative history

22 August 2012	Divided from Regulatory Reform Bill (Bill 269–2) by committee of the whole House as Bill 269–3G
23 August 2012	Third reading
30 August 2012	Royal assent

This Act is administered by the Ministry of Business, Innovation, and Employment.
