

[AS REPORTED FROM THE COMMERCE AND ENERGY  
COMMITTEE]

*House of Representatives, 3 December 1980.*

**Words inserted are shown in roman underlined with a double rule.**

*Right Hon. Mr Muldoon*

## BUILDING SOCIETIES AMENDMENT

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### 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 and commencement**—(1) This Act may be cited as the Building Societies Amendment Act 1980, and shall be read together with and deemed part of the Building Societies Act 1965\* (hereinafter referred to as the principal  
10 Act).

(2) Except as provided in sections 5 (4), 7 (6), and 9 (2) of this Act, this Act shall come into force on the day on which it receives the Governor-General's assent.

\*1965, No. 22

Amendments: 1970, No. 117; 1974, No. 44; 1978, No. 88

No. 108—2

Price 45c

**2. Interpretation**—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “board of directors”, the following definitions:

- “‘Bonus ballot’ means a ballot, held by or on behalf of a society, of eligible bonus balloting shares for the purpose of ascertaining which of the holders of those shares are entitled to receive any prizes arising in respect of those shares: 5
- “‘Bonus balloting shares’ means shares issued pursuant to section 31A of this Act:” 10

**3. Permanent and terminating societies**—The principal Act is hereby amended by repealing section 10, and substituting the following section:

“10. (1) A building society established under this Act may be either a permanent society or a terminating society. 15

“(2) A permanent society is a society that is not a terminating society.

“(3) A terminating society is a society—

“(a) Which by its rules is to terminate—

“(i) At a fixed date; or 20

“(ii) When a result specified in its rules is attained; or

“(b) Which has included in its capital any subscriptions paid in respect of groups of shares which are to terminate at the end of given periods or on the attainment of specified results. 25

“(4) No society shall, on or after the 1st day of April 1981, issue or re-issue any shares in groups which are to terminate at the end of given periods or on the attainment of specified results. 30

“(5) Notwithstanding subsection (1) of this section, no terminating society shall be first registered under this Act on or after the 1st day of April 1981.”

**4. Contents of rules**—(1) Section 17 (1) of the principal Act is hereby amended by inserting in paragraph (h), after the words “for advances”, the words “in terminating groups”. 35

(2) The said section 17 (1) is hereby further amended by adding the following paragraph:

“(t) In the case of a society which proposes to issue bonus balloting shares, the manner in which bonus ballots are to be conducted.”

5 (3) Section 17 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsections:

“(5) No society may in its rules provide, in respect of any shares issued by it on or after the 1st day of April 1981, a right to an advance by tender, auction, or ballot except  
10 by way of a bonus ballot.

“(5A) The rules of every society shall be deemed to authorise the society to issue any shares not inconsistent with the provisions of this Act:

15 Provided that any society that does issue shares not expressly authorised by its rules shall—

“(a) Before issuing the shares, give to the Registrar a statement in writing setting out the terms on which the shares are to be issued and on which they may be withdrawn:

20 “(b) Before the 31st day of March 1982, amend its rules pursuant to section 19 of this Act to expressly authorise the issue of shares not inconsistent with the provisions of this Act.

“(5B) Notwithstanding anything to the contrary in a  
25 society’s rules, no society shall, on or after the 1st day of April 1981, issue shares on terms which give the society any right—

“(a) To regard any share subscription paid by a member as forfeit:

30 “(b) To impose any fine or arrears fee upon any member in respect of those shares:

“(c) To make any deduction from any capital subscribed by a member on or after that date.”

35 (4) The said section 17 is hereby further amended by repealing subsections (6) and (7).

**5. Restriction on registration of names—**(1) Section 21 (1) of the principal Act is hereby amended by repealing paragraph (b).

40 (2) Section 21 of the principal Act is hereby amended by inserting, after subsection (1) (as amended by subsection (1) of this section), the following subsection:

“(1A) No society registered under this Act shall contain in its name the word ‘Bank’, ‘Bankers’, or ‘Banking’.”

(3) Section 21 of the principal Act is hereby further amended by adding the following subsection:

“(4) If any society fails to comply with any requirements of this Act in relation to the name of the society or to a change of name of the society, the society and every officer of the society in default commits an offence against this Act.” 5

(4) This section shall come into force on the 31st day of December 1981.

**6. Members under age of 20**—Section 25 of the principal Act (as amended by section 6 of the Age of Majority Act 1970) is hereby amended by omitting the words “that age he cannot”, and substituting the words “the age of 18 years he cannot vote or”.

**7. Miscellaneous provisions relating to terminating societies**—(1) The principal Act is hereby amended— 15

(a) By repealing the heading appearing before section 27A and repealing sections 27A to 27F (as inserted by section 2 of the Building Societies Amendment Act 1974): 20

(b) By repealing the Seventh Schedule (as added by section 3 of that Act):

(c) By repealing section 31 and subsections (2) and (3) of section 36.

(2) Section 52 (1) of the principal Act is hereby amended— 25

(a) By inserting, after the words “every member”, the words “of a terminating group”:

(b) By omitting the words “of which he is a member”, and substituting the words “in which his share or shares were originally issued”. 30

(3) Section 55 (1) (g) of the principal Act is hereby amended by adding the words “and subject also to the deposit having been made before the 1st day of April 1981”. 35

(4) Section 56 of the principal Act is hereby amended—

(a) By omitting from subsection (2) the words “In the case of a permanent society,”:

(b) By repealing subsection (3):

(c) By omitting from subsections (4) and (5) the words “subsections (2) and (3)”, and substituting in each case the words “subsection (2)”. 40

(5) Sections 2 and 3 of, and the Schedule to, the Building Societies Amendment Act 1974 are hereby consequentially repealed.

(6) Subsections (1) and (5) of this section shall come into force on the 1st day of April 1981.

**8. Minimum subscription by founding members—**

(1) Section 29 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) A society incorporated after the commencement of this Act shall not commence any business or borrow any money unless there has been produced to the Registrar evidence satisfying him that all those members who signed copies of the rules for sending to the Registrar under section 13 of this Act—

“(a) Have each been issued with shares in the society to the value of \$1,000 or more on terms that conform to the requirements of the Second Schedule to this Act; and

“(b) Have together received shares issued under paragraph (a) of this subsection to a total value of at least \$200,000; and

“(c) Have fully paid to the society in cash the value of the shares issued to them—

and that the Registrar has issued to the society his certificate that the requisite evidence has been so produced.”

(2) Nothing in subsection (1) of this section shall apply in respect of any society properly carrying on business as such at the coming into force of that subsection.

**9. Bonus balloting shares and bonus ballots—**(1) The principal Act is hereby amended by inserting, after section 31 but before the heading “*Union or Transfer of Engagements*”, the following heading and section:

*“Bonus Balloting Shares and Bonus Ballots*

“31A. (1) Subject to this section and to any regulations made under section 137 of this Act, a society may, from time to time, issue shares (to be called bonus balloting shares) to any persons who may subscribe for them.

“(2) All subscriptions on bonus balloting shares, and such other money as may be prescribed, shall form a separate fund in each society that issues them.

“(3) A proportion of the annual earnings of the bonus balloting shares fund shall, from time to time, be distributed as prizes to holders of the shares pursuant to a bonus ballot. 5

“(4) For the purposes of subsection (3) of this section, the proportion of annual earnings to be distributed as prizes shall not, in any financial year, exceed—

“(a) An amount equal to 2 percent of the total fund held in that financial year; or 10

“(b) An amount equal to 20 percent of the total sum distributed to holders of bonus balloting shares in respect of that financial year by way of prizes under subsection (3) of this section and interest on the shares,— 15

whichever is the less.

“(5) All prizes under this section shall be paid in cash.

“(6) Notwithstanding subsection (5) of this section, it shall not be unlawful for a society, at the request of a prizewinner and instead of a cash prize, to advance money to that prizewinner, on the security of a mortgage of land, on such terms and conditions as may be agreed and as will yield to the prizewinner benefits approximately equivalent in value to the cash prize. 20 25

“(7) The provisions of this section shall apply notwithstanding anything to the contrary in the Gaming and Lotteries Act 1977.

“(8) For the purposes of the Income Tax Act 1976—

“(a) A prize taken in cash shall be assessable income in the nature of interest of the prizewinner derived on the day on which the bonus ballot from which the prize arose was held: 30

“(b) A prize taken in the form of an advance under subsection (6) of this section shall be assessable income in the nature of interest of the prizewinner of an amount equivalent to the cash prize to which he would otherwise have been entitled derived on the day on which the advance or the first of any advances was made.” 35 40

(2) This section shall come into force on the 1st day of April 1981.

**10. Meaning of “special advance”**—(1) Section 35 (1) of the principal Act (as amended by section 4 of the Building Societies Amendment Act 1974) is hereby amended—

- 5 (a) By omitting from paragraph (b) and paragraph (d) the expression “\$35,000”, and substituting in each case the expression “\$50,000”:  
(b) By omitting from paragraph (c) and paragraph (d) the expression “\$50,000”, and substituting in each case the expression “\$70,000”.
- 10 (2) Section 4 of the Building Societies Amendment Act 1974 is hereby consequentially repealed.

**11. Special advances to purchasers of mortgaged property**—Section 38 (2) (a) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby  
15 amended by omitting the words “twenty thousand dollars” and “twenty-five thousand dollars”, and substituting respectively the expressions “\$50,000” and “\$70,000”.

**12. Assistance to other building societies**—Section 60 of the principal Act is hereby amended by adding, as subsections  
20 (2) to (7), the following subsections:

- “(2) Subject to this section, a society, or any 2 or more societies, may enter into arrangements with a person carrying on the business of insurance, for the purpose of making funds available—
- 25 “(a) To assist any society that, in the opinion of the Registrar, is in financial difficulties:  
“(b) To meet losses incurred by persons investing in, or lending money to, any society.
- “(3) Any 2 or more societies may together enter into any  
30 other kind of arrangements for the purposes specified in subsection (2) of this section.
- “(4) Subject to this section and notwithstanding anything to the contrary in a society’s rules, a society shall have power to make contributions under arrangements made in accordance with this section.  
35 “(5) Arrangements under this section may provide for the vesting of a fund in trustees appointed under the arrangements.
- “(6) Arrangements under this section may provide for  
40 the incorporation of a company under the Companies Act 1955; and, notwithstanding section 55 of this Act, a society shall, out of its surplus funds, have power to subscribe for or purchase shares in, or deposit money with, any company so incorporated.

“(7) Arrangements under this section shall not come into force, and no contribution, subscription, or deposit shall be made thereunder by a society, until the arrangements have been approved by the Registrar; and the Registrar shall not approve arrangements under this section unless they provide that any variation of their terms shall also require the approval of the Registrar.” 5

**13. Designation of societies for investments by trustees—**

(1) Section 63 (2) (a) of the principal Act (as amended by section 7 (a) of the Building Societies Amendment Act 1974) is hereby amended by omitting the expression “\$400,000”, and substituting the expression “\$1,000,000”. 10

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

**14. Small societies—**The principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended— 15

(a) By omitting from section 70 (1) the words “two hundred thousand dollars”, and substituting the expression “\$1,000,000”. 20

(b) By omitting from section 71 (3) the words “two hundred thousand dollars”, and substituting the expression “\$1,000,000”.

**15. Persons entitled to notice of meetings—**(1) Section 78 (2) of the principal Act is hereby amended by omitting from paragraph (b) of the proviso the word “advertisement.”, and substituting the words “advertisement; or”. 25

(2) The said section 78 (2) is hereby further amended by adding, to the proviso, the following paragraph:

“(c) If, subject to such conditions or requirements as may be prescribed, the notice is published in major daily newspapers circulating generally in those parts of New Zealand where the members reside.”. 30

**16. Special resolutions—**Section 81 (2) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended— 35

(a) By omitting the words “all the members”, and substituting the words “all the members aged 18 years or more”;

(b) By omitting the words “two dollars”, and substituting the expression “\$50”. 40



**17. Right to receive copies of accounts and reports—**

(1) Section 97 (1) of the principal Act is hereby amended by adding the words “or, subject to the society’s rules and to such conditions or requirements as may be prescribed, published  
5 in major daily newspapers circulating generally in those parts of New Zealand where the members reside.”

(2) Section 97 of the principal Act is hereby amended by inserting, in subsections (3) and (4) (b) after the word “depositor” wherever it appears, the words “or member (if  
10 they have not been sent to him under subsection (1) of this section)”.

**18. Offences punishable on summary conviction—**Section 135 (2) of the principal Act is hereby amended by omitting the words “one year”, and substituting the words “2 years”.

15 **19. Regulations—**Section 137 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) Regulating bonus ballots and bonus balloting shares.”.