

Friendly Societies and Credit Unions Amendment Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Business Law Reform Bill as reported from the Commerce Committee. The committee of the whole House divided it into the following bills:

- The Companies Amendment Bill (No 2), comprising Part 1 and the Schedule
 - The Dumping and Countervailing Duties Amendment Bill, comprising Part 2
 - The Financial Reporting Amendment Bill, comprising Part 3
 - This bill, comprising Part 4
 - The Insurance Companies' Deposits Amendment Bill, comprising Part 5.
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Key to symbols used in reprinted bill

As reported from a select committee

Subject to this Act,

Words inserted unanimously

Hon Lianne Dalziel

Friendly Societies and Credit Unions Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Friendly Societies and Credit Unions Amend-
ment Act **2006**.

2 Commencement

This Act comes into force on the day after the date on which it 5
receives the Royal assent.

- 43 Principal Act amended**
This Part amends the Friendly Societies and Credit Unions Act 1982.
- 44 Society may register as credit union** 5
- (1) Section 100 is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) the society has no fewer than 21 members who are—
- “(i) adults; or
- “(ii) charitable entities as defined by the Charities Act 2005; or 10
- “(iii) incorporated societies registered under the Incorporated Societies Act 1908; and”.
- (2) Section 100 is amended by repealing paragraph (d) and substituting the following paragraph: 15
- “(d) the rules of the society specify a common bond (as defined in **section 102**).”
- 45 Qualifications for admission to membership of credit union**
- Section 102 is amended by repealing subsections (1) and (2) 20 and substituting the following subsections:
- “(1) For the purposes of this **Part**, a credit union has a **common bond** if the qualification for membership is—
- “(a) following a particular occupation or particular occupations: 25
- “(b) residing in a particular locality or particular localities;
- “(c) being employed in a particular locality or particular localities;
- “(d) being employed by a particular employer or particular employers: 30
- “(e) being a member of a bona fide organisation or bona fide organisations or being otherwise associated with members of the organisation or organisations for a purpose other than that of forming a society to be registered as a credit union: 35
- “(f) any other qualification that can be objectively determined:

- “(g) a mixture of any qualifications in **paragraphs (a) to (f)**.
“(2) For the purposes of **subsection (1)**, a qualification can be objectively determined if it—
 “(a) includes every person who fulfills the qualification; and
 “(b) is able to be determined by a person who is not a member of the credit union; and
 “(c) does not depend on any person’s subjective judgement.”
- 46 Registration and rules of credit union** 10
Section 104(1) is amended by repealing paragraph (b) and substituting the following paragraph:
 “(b) the reference in section 12(1) to 7 adult members were a reference to 21 members and each of the 21 members is—
 “(i) an adult; or
 “(ii) a charitable entity as defined by the Charities Act 2005; or
 “(iii) an incorporated society registered under the Incorporated Societies Act 1908; and”.
- 47 Effect of rules on members of credit union** 20
Section 105 is amended by repealing subsection (4) and substituting the following subsection:
 “(4) Fees for admission to membership, or levies, or charges for management or other services are payable by a member to a credit union only if the rules of the credit union set out—
 “(a) the amount of the fees, levies, or charges; or
 “(b) the mechanism for charging the fees, levies, or charges.”
- 48 Membership of credit union, voting rights** 30
Section 106 is amended by repealing subsections (1) and (2) and substituting the following subsections:
 “(1) An individual, a charitable entity as defined by the Charities Act 2005, or an incorporated society registered under the Incorporated Societies Act 1908 can be a member of a credit union, except that— 35

- “(a) section 39 (which relates to the membership of minors) applies to any credit union as if it were a society registered under Part 2; and
- “(b) no charitable entity as defined by the Charities Act 2005 or incorporated society registered under the Incorporated Societies Act 1908 can be an officer of a credit union. 5
- “(2) Members need have no more than \$10 in fully paid-up shares, although a credit union’s rules may allow for a deposit of more or less than \$10 in fully paid-up shares.” 10
- 49 Amalgamation of credit unions and transfer of engagements**
Section 135 is amended by repealing subsection (4) and substituting the following subsections:
- “(4) For the purposes of this section, section 83, as far as it is applicable and with any necessary modification, applies in respect of a credit union as if it were a society registered under Part 2. 15
- “(4A) The Registrar must not register a special resolution under section 82 if the proposed amalgamation or transfer of engagements would result in a breach of any provision of this Act.” 20
- 50 New section 138 substituted**
Section 138 is repealed and the following section substituted:
- “138 Registrar may apply to put credit union into liquidation** 25
On the application of the Registrar, the High Court may appoint a liquidator of a credit union for the liquidation of the credit union in accordance with the Companies Act 1993 if—
- “(a) the credit union is unable to pay sums due and payable to its members, or is able to pay such sums only by obtaining further subscriptions for shares or by defaulting in its obligations to creditors; or 30
- “(b) there has been, in relation to that credit union, failure to comply with any provision of, or any direction given under, this Act; or 35
- “(c) there is no longer a common bond between the members of the credit union; or

“(d) the liquidation of the credit union is in the public interest or is just and equitable having regard to the interests of all members of the credit union.”

**51 Cancellation or suspension of registration, and
dissolution of credit union**

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Section 140 is amended by repealing subsection (1) and substituting the following subsections:

- “(1) The Registrar may suspend a credit union’s registration for any term not exceeding 3 months, and may from time to time renew the suspension for any term not exceeding 3 months, or may cancel a credit union’s registration if there is no longer a common bond between the credit union’s members or the Registrar is satisfied that—
- “(a) registration has been obtained for the credit union by fraud or mistake; or 15
 - “(b) the credit union exists for an illegal purpose; or
 - “(c) the credit union has wilfully, and after notice from the Registrar, breached any of the provisions of this Act; or
 - “(d) the credit union has not commenced business within 1 year of registration or has voluntarily suspended business for more than 6 months; or 20
 - “(e) the credit union has fewer than 21 members; or
 - “(f) the credit union has ceased to exist; or
 - “(g) at the request of the credit union, there is good reason for the cancellation or suspension; or 25
 - “(h) there has been a failure by the credit union to comply with any direction of the Registrar given under this Act.
- “(1A) **Subsection (1)** is subject to the following provisions (as far as they are applicable and with any modifications necessary so that they apply to a credit union as if it were a society registered under Part 2):
- “(a) section 92(2) to (9):
 - “(b) section 93(1):
 - “(c) section 94(1) to (4) and (6):
 - “(d) section 95: 35
 - “(e) section 96.”

- 52 Associations of credit unions to be registered**
- (1) Section 143(3) is amended by repealing paragraph (e) and substituting the following paragraph:
“(e) to provide any other services specified in **subsection (4)**.”
- (2) Section 143 is amended by repealing subsection (4) and substituting the following subsection: 5
- “(4) Specified services for the purposes of **subsection (3)(e)** are—
- “(a) receiving deposits or subscriptions (other than subscriptions solely of an annual or periodic nature to be used for the Association’s purposes) from its component members for purposes specified in its rules: 10
- “(b) making loans to its component members:
- “(c) establishing and maintaining a central funding scheme for the benefit of its component members:
- “(d) levying its component members the amount or amounts for purposes and in the manner specified in its rules: 15
- “(e) providing, or administering any scheme providing, fidelity insurance, savings insurance, or loan protection insurance:
- “(f) undertaking training or education programmes for its component members or members of credit unions or the public: 20
- “(g) providing advisory services for its component members:
- “(h) arranging, providing, or co-ordinating data processing or computer services for its component members.” 25

Transitional provision

- 53 Proceedings in relation to section 135(4)(b), 138(c), or 140(1)(c)(ii)**
- Every application, investigation, proceeding, action, or other matter concerning a common bond that was commenced under section 135(4)(b), 138(c), or 140(1)(c)(ii) before the commencement of this **Part** may continue as if this **Part** had not been passed. 30

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**Friendly Societies and Credit
Unions Amendment**

Legislative history

14 November 2006

Divided from Business Law Reform Bill (Bill 64-2)
as Bill 64-3D
