

House of Representatives

Supplementary Order Paper

Tuesday, 1 May 2012

Regulatory Reform Bill

Proposed amendments

Hon John Banks, in Committee, to move the following amendments:

Clause 11: new section 44Q

In *clause 11, new section 44Q(1)*, delete “calendar” (line 17 on page 26).

Clause 30: new section 112C

In *clause 30, new section 112C(1)*, delete “calendar” (line 19 on page 59).

Clause 36

In *clause 36(1)*, after *new section 166(1)(eb)* (after line 18 on page 77), insert:

“(ec) prescribing any particulars that must be contained in the public register.”

Clause 48

Replace *clause 48(6) and (7)* (line 36 on page 81 to line 9 on page 82) with:

(6) Clause 7(1) of Schedule 1 is amended by inserting the following subclause after subclause (1):

“(1A) To avoid doubt, a postal vote may be cast using electronic means permitted by the board.”

Clause 84: new section 107A

After *new section 107A(3)* (after line 23 on page 97), insert:

“(3A) 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.”

New clause 91A

After *clause 91* (after line 8 on page 99), insert:

91A 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”.

Clause 126: new section 82C

In *clause 126, new section 82C(1)*, delete “calendar” (line 33 on page 121).

Clause 131

In *clause 131(1)*, after *new section 119(1)(hb)* (after line 7 on page 139), insert:

“(hc) prescribing any particulars that must be contained in the public register.”.

Explanatory note

This Supplementary Order Paper amends the following clauses of the Regulatory Reform Bill:

- *clauses 11, 30, and 126* (which amend the Agricultural Compounds and Veterinary Medicines Act 1997, the Animal Products Act 1999, and the Wine Act 2003, respectively), to remove a redundant word from a provision inserted in each Act:
- *clauses 36 and 131* (which amend the Animal Products Act 1999 and the Wine Act 2003, respectively), to add to each Act a power to make regulations prescribing particulars that must be contained in the public register kept under the Act:
- *clause 48* (which amends Schedule 1 of the Companies Act 1993), to clarify that shareholders of a company may cast a postal vote by electronic means permitted by the board:
- *clause 84* (which amends the Friendly Societies and Credit Unions Act 1982), to include a provision (*new section 107A(3A)*) that requires a credit

union to write down the value of its credit union securities if it incurs losses that exceed its retained earnings and reserves.

This Supplementary Order Paper also inserts a *new clause 91A*, which will add *new sections 117A to 117D* to the Friendly Societies and Credit Unions Act 1982. These new provisions deal with distributions, relating to credit union securities, to members of credit unions. They include a definition of distribution, impose obligations (which must be satisfied before a distribution can be authorised) on committees (or committees of management) of the credit unions, and specify a solvency test to be applied by committees in relation to distributions.
