



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 71 of 1982

An Act to amend the Building Societies Act, 1975-1981.

[Assented to 1 July 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the “Building Societies Act Amendment Act, 1982”. Short titles.

(2) The Building Societies Act, 1975-1981, is in this Act referred to as “the principal Act”.

(3) The principal Act, as amended by this Act, may be cited as the “Building Societies Act, 1975-1982”.

2. Section 3 of the principal Act is amended by inserting after the item:

DIVISION IV—RETURNS

the item:

DIVISION V—MANAGEMENT CONTRACTS

Amendment of
s. 3—
Arrangement
of Act.

3. Section 5 of the principal Act is amended—

(a) by inserting before the definition of “association” the following definition:

“amalgamation” of societies means—

(a) the merger of societies to form a new society;

or

(b) the merger of one or more societies (“the merging society or societies”) with another, resulting in extinction of the merging society or societies as separate corporate entities but without affecting the corporate identity of the society with which they merge;

and “to amalgamate” has a corresponding meaning;

Amendment of
s. 5—
Interpretation.

(b) by inserting after the definition of "board" the following definition:

"continuing society", in relation to an amalgamation, means a society with which another society or other societies are, under the terms of the amalgamation, to be merged but which is not to be extinguished by the amalgamation;;

and

(c) by inserting after the definition of "land" the following definition:

"merging society", in relation to an amalgamation, means a society that is, under the terms of the amalgamation, to merge with another society and is, upon completion of the merger, to be extinguished as a separate corporate entity:.

Repeal of
ss. 22, 23
and 23a and
substitution
of new sections.

4. Sections 22, 23 and 23a of the principal Act are repealed and the following sections are substituted:

Application for
amalgamation.

22. (1) An application for amalgamation may be made to the Registrar upon the authority of a special resolution of each of the societies concerned in the proposed amalgamation.

(2) An application under subsection (1)—

(a) must be made jointly by the societies concerned in the proposed amalgamation;

(b) must set out the terms on which the amalgamation is to take effect;

(c) must contain such information as may be prescribed;

and

(d) if the amalgamation is to result in the formation of a new society—must be accompanied by a copy of the proposed rules of the society to be formed by the amalgamation.

(3) A society that proposes to join in an application for amalgamation with one or more other societies shall send to each of its members a statement the contents of which have been approved by the Registrar concerning—

(a) the financial position of the society and any other society or societies with which it proposes to amalgamate;

(b) any interest that the officers of the society or of any other society concerned in the amalgamation may have in the amalgamation;

(c) any compensation or other consideration proposed to be paid to the officers of the society and of the other society or societies concerned;

(d) the payments (if any) to be made to members of the society and of the other society or societies concerned in consideration of the amalgamation;

and

(e) such other matters as the Registrar may direct.

(4) A statement under subsection (3) shall be sent so that it will in the ordinary course of post reach each member not later than the time at which he would receive notice of the meeting called to pass the special resolution authorizing the application for amalgamation.

(5) If three days before the day on which the meeting called to pass the special resolution is to be held, a society has received written notices of objection to the proposed amalgamation from ten per centum or more of its members, the motion for the special resolution shall not be placed before the meeting.

(6) The Registrar may, on the application of a society, authorize the society to join in an application under this section—

(a) notwithstanding that the application is not authorized by a special resolution of the society;

or

(b) notwithstanding that any other requirement of this section has not been complied with.

(7) The Registrar may give such notice (if any) of an application under subsection (6) as he thinks appropriate and may, before granting or refusing the application, hear any person who has, in the opinion of the Registrar, a proper interest in the matter.

23. (1) Where—

(a) a society is insolvent or the financial position of a society is such that it is, in the opinion of the Minister, in danger of becoming insolvent;

and

(b) another society agrees, by special resolution, to an amalgamation with the society referred to in paragraph (a),

the Minister may direct the society referred to in paragraph (a) to amalgamate with the society referred to in paragraph (b).

(2) The terms on which an amalgamation is to take effect in pursuance of a direction of the Minister under this section shall be as specified in the direction.

(3) Before calling a meeting to pass a special resolution referred to in subsection (1) (b), a society shall send to each of its members a statement the contents of which have been approved by the Registrar concerning—

(a) the financial position of the society and the society with which the amalgamation is proposed;

(b) any interest that the officers of the society may have in the amalgamation;

(c) any compensation or other consideration proposed to be paid to the officers of the society;

(d) the payments (if any) to be made to members of the society in consideration of the amalgamation;

and

(e) such other matters as the Registrar may direct.

Amalgamation
by direction
of the Minister.

(4) A statement under subsection (3) shall be sent so that it will in the ordinary course of post reach each member not later than the time at which he would receive notice of the meeting called to pass the special resolution agreeing to the amalgamation.

(5) If three days before the day on which the meeting called to pass the special resolution is to be held, the society has received written notices of objection to the proposed amalgamation from ten per centum or more of its members, the motion for the special resolution shall not be placed before the meeting.

(6) The Registrar may, on the application of a society, authorize the society to agree, by special resolution, to an amalgamation under this section notwithstanding that a requirement of this section has not been complied with.

(7) The Registrar may give such notice (if any) of an application under subsection (6) as he thinks appropriate and may, before granting or refusing the application, hear any person who has, in the opinion of the Registrar, a proper interest in the matter.

(8) Where an amalgamation under this section is to result in the formation of a new society, the first rules of the society to be formed by the amalgamation shall be as determined by the Minister.

Amalgamation
resulting in
the formation
of a new
society.

23a. (1) Where due application for the amalgamation of societies is made under this Division or the Minister directs such an amalgamation, and the amalgamation is such as to result in the formation of a new society, then, subject to subsection (2), the Registrar shall—

(a) register the society formed by the amalgamation and the rules of the society and issue a certificate of incorporation in the prescribed form in respect of the society;

and

(b) cancel the registration of the societies that were parties to the amalgamation.

(2) A society shall not be registered under subsection (1) in pursuance of an application for amalgamation unless—

(a) it will, upon registration, have a share capital of not less than two million dollars of which not less than one million dollars is available on terms that—

(i) do not require repayment before the expiration of ten years from the date of registration of the society;

and

(ii) prohibit repayment except with the consent of the Registrar;

and

(b) the Registrar is satisfied—

(i) that the proposed rules of the society are not contrary to this Act;

- (ii) that there are reasonable grounds for believing that the society, if registered, will be able to carry out its objects successfully;

and

- (iii) that there is no good reason why the society or the proposed rules should not be registered.

(3) The Registrar may, if satisfied that there is good reason in the public interest for doing so, grant an exemption from the requirements of subsection (2) (a).

(4) Upon issue of the certificate of incorporation, the society—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) shall in its corporate name be capable of suing and being sued;
- (c) shall, subject to this Act and the rules of the society, be capable of acquiring, holding, dealing with and disposing of real and personal property;

and

- (d) shall have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act and the rules of the society.

(5) Upon the issue of the certificate of incorporation the property of each society that was a party to the amalgamation shall, by virtue of this Act, and without any conveyance, transfer or assignment, vest in the society formed by the amalgamation.

(6) For the purposes of this section, a reference to property includes all estates and interests in property, whether real or personal, vested or contingent.

(7) Upon production of the certificate of the Registrar, and of the appropriate duplicate certificates of title (if any), the Registrar-General shall make such entries or notations upon existing certificates of title, or shall issue such new certificates of title as are necessary to evidence the vesting of any estate or interest in land under this section.

(8) Property vested in, or transferred to, a society by virtue of or in pursuance of this section shall be subject to any debt, liability or obligation affecting that property.

(9) All debts and liabilities, whether certain or contingent, of a society that is a party to the amalgamation shall, upon registration of the society formed by the amalgamation, become and be debts and liabilities of that society.

23b. (1) Where due application for the amalgamation of societies is made under this Division, or the Minister directs such an amalgamation, and the amalgamation is such as to result in the merger of one or more societies with another society but not in the formation of a new society, the Registrar shall—

Amalgamation
by merger.

- (a) issue a certificate of amalgamation to the continuing society;
- and

(b) cancel the registration of the merging society or merging societies.

(2) Upon issue of a certificate of amalgamation the property of each merging society shall, by virtue of this Act, without any conveyance, transfer or assignment, vest in the continuing society.

(3) For the purposes of this section, a reference to property includes all estates and interests in property, whether real or personal, vested or contingent.

(4) Upon production of the certificate of amalgamation, and of the appropriate duplicate certificates of title (if any), the Registrar-General shall make such entries or notations upon existing certificates of title, or shall issue such new certificates of title as are necessary to evidence the vesting of an estate or interest in land under this section.

(5) Property vested in, or transferred to, a society by virtue of or in pursuance of this section shall be subject to any debt, liability or obligation affecting that property.

(6) All debts and liabilities, whether certain or contingent, of a merging society shall, upon the issue of the certificate of amalgamation, become and be debts and liabilities of the continuing society.

(7) An amalgamation under this section does not affect the corporate identity of the continuing society.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor