

1992
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

**Financial Institutions (Consequential
Amendments) Bill 1992**

**A BILL
FOR**

**An Act to amend various Acts and regulations in
consequence of the *Financial Institutions (Application
of Laws) Act 1992* and the *Financial Institutions
(Supervisory Authority) Act 1992*, and for other
purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Financial Institutions (Consequential
Amendments) Act 1992*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

82033 (T33/92)

(2) The remaining provisions commence on the commencement day within the meaning of the *Financial Institutions (Application of Laws) Act 1992*.

Amendments of Acts

5 3. The Acts specified in Schedule 1 are amended as set out in that Schedule.

Amendments of regulations

4. The regulations specified in Schedule 2 are amended as set out in that Schedule.

SCHEDULE 1

Section 3

AMENDMENTS OF ACTS

Agents Act 1968

Subsection 5 (1)—

Insert the following definition:

“Financial Institutions (ACT) Code’ means the provisions applying because of section 8 of the *Financial Institutions (Application of Laws) Act 1992*;”.

Paragraphs 5 (1B) (c) and (d)—

Omit the paragraphs, substitute the following paragraphs:

- “(c) a building society, or a foreign building society, within the meaning of the Financial Institutions (ACT) Code;
- (d) a credit union, or a foreign credit union, within the meaning of the Financial Institutions (ACT) Code; or”.

Co-operative Societies Act 1939

Long title

Omit “Co-operative Societies”, substitute “co-operative trading societies and co-operative housing and services societies”.

Subsection 4 (1) (definition of “authorized bill of exchange”)—

Omit paragraph (d), substitute the following paragraph:

- “(d) that has only been endorsed (if at all), prior to its transfer to the society, by—

SCHEDULE 1—continued

- (i) an excluded corporation within the meaning of subsection 65 (1) of the Corporations Law; or
- (ii) a building society;”.

Subsection 4 (1) (definition of “Commission”)—

Omit “Corporate Affairs”, substitute “Australian Securities”.

Subsection 4 (1) (definition of “related corporation”)—

- (a) Omit “section 7 of the Companies Act”, substitute “section 50 of the Corporations Law”.
- (b) Omit “Act” (last occurring), substitute “Law”.

Subsection 4 (1) (definition of “building society”)—

Omit the definition, substitute the following definition:

“‘building society’ has the same meaning as in the Financial Institutions (ACT) Code;”.

Subsection 4 (1) (definitions of “Companies Act”, “credit society”, “Insurance Corporation”, “permanent building society”, “prescribed period”, “primary loan”, “primary object”, “relevant date” and “secondary object”)—

Omit the definitions.

Subsection 4 (1)—

Insert the following definitions:

“‘credit union’ has the same meaning as in the Financial Institutions (ACT) Code;

‘Financial Institutions (ACT) Code’ means the provisions applying because of section 8 of the *Financial Institutions (Application of Laws) Act 1992*;

‘special resolution’ has the meaning given by section 48;”.

Paragraph 4 (2) (a)—

Add at the end “and”.

Paragraph 4 (2) (b)—

- (a) Omit “-1974”.
- (b) Omit “; and”.

SCHEDULE 1—continued

Paragraph 4 (2) (c)—

Omit the paragraph.

Subsection 4 (4) (definition of “corporation”)—

Omit from paragraph (b) “*Corporations Act 1989* of the Commonwealth”, substitute “Corporations Law”.

Section 5C—

Repeal the section.

Subsection 6 (1)—

Omit “in order to enable him to determine”, substitute “for the determination of”.

Subsection 6 (2)—

Omit “to him”.

Paragraph 6 (2) (b)—

Omit “transmitted to him”, substitute “given to the Registrar”.

Subsection 7 (11)—

Omit all the words after “society”.

Section 7—

Add at the end the following subsection:

“(12) Subsections (5), (6) and (7) apply to a special general meeting called under subsection (11).”.

Paragraph 9 (c)—

Omit “his office and obtain from him”, substitute “the Registrar’s office and obtain from him or her”.

Subsections 11 (1) and (2)—

Omit the subsections, substitute the following subsections:

“(1) Where the Registrar—

- (a) refuses to register a society;
- (b) refuses to register a society’s rules;
- (c) refuses to register a change of a society’s name; or
- (d) directs a change of a society’s name;

SCHEDULE 1—continued

the Registrar shall give notice to the society of the grounds of that decision, if required by the society.

“(2) Where subsection (1) applies in relation to a society, the society may apply to the Supreme Court for a review of the relevant decision.”.

Section 12—

Repeal the section, substitute the following section:

Annual reports

“12. The Registrar shall in each year give to the Minister a written report of his or her activities during the previous year.”.

Section 14—

Repeal the section, substitute the following section:

Prescribed trading societies

“14. In their application to trading societies, sections 22A, 35, 36, 37, 46 and 47 apply only to such trading societies as are prescribed by regulation.”.

Parts IIIA, IIIB and IIID—

Repeal the Parts.

Subsection 15 (3)—

- (a) Omit “eighteen years he”, substitute “18 years he or she”.
- (b) Omit “he” (last occurring).
- (c) Omit “seven”, substitute “7”.

Subsection 16 (7)—

Omit “he is”.

Section 16AA—

Repeal the section, substitute the following section:

Prohibited names

“16AA. (1) A society shall not be registered under a name that is—

- (a) undesirable, in the Registrar’s opinion; or
- (b) not available to the society under section 367 of the Corporations Law;

SCHEDULE 1—continued

except with the consent of the Ministerial Council.

“(2) In this section—

‘Ministerial Council’ has the same meaning as in the Corporations Law.”.

Paragraphs 16A (1) (c), (d) and (e)—

Omit the paragraphs, substitute the following paragraphs:

“(b) receive money on deposit; and

(c) acquire shares in another society.”.

Subsection 16A (2)—

Omit the subsection.

Subsection 17 (3)—

Omit “he is”.

Subsection 18 (1)—

Omit “, registered building societies or registered credit societies”.

Subsection 18 (3)—

Omit “he is”.

Paragraphs 21 (4) (a), (b), (c), (d), (g) and (i)—

Omit “his” (wherever occurring), substitute “the member’s”.

Paragraphs 21 (4) (e) and (f)—

Omit “he”, substitute “the member”.

Paragraph 21 (4) (f)—

Omit “one hundred and four of the *Bankruptcy Act 1926-1933*”, substitute “133 of the *Bankruptcy Act 1966*”.

Section 22—

Before subsection (1), insert the following subsection:

“(1A) In this section—

‘fixed share’, in relation to a society, means a share in the share capital of a society that, under the society’s rules (subject to this Act)—

(a) is not withdrawable by the member owning the share; or

SCHEDULE 1—continued

- (b) is not withdrawable by that member except at the direction of the society or with the society's approval;

but does not include a share prescribed by the regulations;

'withdrawable share', in relation to a society, means a share in the share capital of the society that—

- (a) under the rules of the society (subject to this Act), is withdrawable by the member owning the share; or
(b) is prescribed by the regulations."

Subsections 22 (3A), (3E) and (4)—

Omit the subsections.

Subsections 22 (7) and (8)—

Omit "him", substitute "the member".

Paragraph 23 (1) (c)—

- (a) Omit "his", substitute "the employee's".
(b) Omit "him", substitute "the member".

Paragraph 23 (1) (d)—

Omit "him", substitute "the person".

Section 23A—

Repeal the section.

Section 24—

Omit "shares held by him, together with any charges payable by him", substitute "his or her shares, together with any fees or charges payable by the member".

Paragraph 25 (1) (b)—

Omit "to him".

Subsections 29 (1) and (2)—

Omit the subsections (including their provisos), substitute the following subsections:

"(1) On the death of a member, the Board shall (subject to this section) transfer the member's share or interest to—

SCHEDULE 1—continued

- (a) the member's nominee;
- (b) if there is no nominee—the member's executor or administrator; or
- (c) a person specified by—
 - (i) the member's nominee; or
 - (ii) if there is no nominee—the member's executor or administrator;

by written notice to the society within 3 months of the member's death.

“(1A) The Board shall only transfer a deceased member's interest to a person who—

- (a) is qualified to be a member of the society; and
- (b) does not already hold such number of shares that the transfer would increase his or her holding in the society beyond the proportion permitted by this Act.

“(2) If no eligible person is willing to accept the transfer of a deceased member's share or interest, the Board may (notwithstanding section 25) purchase the shares and pay their purchase price to—

- (a) the member's nominee; or
- (b) if there is no nominee—the member's executor or administrator.

“(2A) The Board may defer payment under subsection (2) until all moneys due from the deceased member or his or her estate have been paid to the society.”.

Subsection 29 (5)—

Omit the subsection, substitute the following subsection:

“(5) A nomination is only valid if—

- (a) it is made in the manner prescribed by the regulations;
- (b) at the date of nomination, the member is 16 years of age or over; and
- (c) at the date of the member's death, the value of his or her share or interest is \$400 or less.”.

Subsection 29 (7)—

Omit all the words after “intended” (including the proviso), substitute “spouse”.

SCHEDULE 1—continued

After subsection 29 (7)—

Insert the following subsection:

“(7A) Notwithstanding subsection (7), if the Board makes any transfer or payment to a nominee in ignorance of a marriage contracted by the nominator after the date of the nomination—

- (a) the receipt of the nominee is a valid discharge to the society; and
- (b) the society is under no liability to any other person claiming the share or interest.”.

Subsection 29 (8)—

Omit “the provisions of this section shall be”, substitute “this section is”.

Subsection 30 (1)—

Omit “Two hundred dollars”, substitute “\$200”.

Subsection 30 (2)—

Omit “The provisions of this section shall extend to any surplus, not exceeding Two hundred dollars,”, substitute “This section applies in relation to any surplus, not exceeding \$200.”.

Subsection 30 (4)—

Omit “the provisions of this section shall be”, substitute “this section is”.

Section 32—

Repeal the section, substitute the following section:

Use of the word “co-operative”

“32. (1) In this section—

‘exempt body’ means—

- (a) a society;
- (b) a company in relation to which the Minister has given consent under subsection 38A (3);
- (b) a building society or a credit union;
- (c) a services corporation within the meaning of the Financial Institutions (ACT) Code;

SCHEDULE 1—continued

- (d) a person or body in relation to which an exemption under subsection 144 (4) of that Code is in force; or
- (e) a company or society in relation to which an exemption under subsection (6) of this section is in force.

“(2) A person, other than an exempt body, shall not—

- (a) trade or carry on business under any name or title including the word ‘co-operative’, or any other word importing a similar meaning; or
- (b) hold out in any manner that its trade or business is co-operative in nature.

Penalty:

- (a) in the case of a natural person—\$5,000 or imprisonment for 6 months, or both;
- (b) in the case of a body corporate—\$25,000.

“(3) Where a body corporate contravenes subsection (2), each person involved in the management of that body who knowingly or wilfully authorises or permits the contravention is guilty of an offence against that subsection.

“(4) A company or society formed or incorporated elsewhere than in the Territory may apply to the Registrar to become an exempt body.

“(5) An application shall be in writing, accompanied by the determined fee.

“(6) On application in accordance with subsection (5), the Registrar shall issue a certificate of exemption to the applicant if he or she is satisfied on reasonable grounds that the applicant trades or carries on business for the purpose of promoting the economic interests of its members in accordance with co-operative principles.

“(7) The Registrar may issue a certificate of exemption for such period, and subject to such conditions, as he or she thinks fit.

“(8) A person shall not, without reasonable excuse, contravene a condition of a certificate of exemption.

Penalty for contravention of subsection (8):

- (a) in the case of a natural person—\$5,000 or imprisonment for 6 months, or both;
- (b) in the case of a body corporate—\$25,000.”.

SCHEDULE 1—continued

Subsection 35 (3)—

Omit “the last preceding subsection a bond shall”, substitute “subsection (2), a bond does”.

Subsection 35 (4)—

Omit the subsection, substitute the following subsection:

“(4) The Corporations Law applies, *mutatis mutandis* and with such modifications as are prescribed by regulation, in relation to any mortgage or charge created, or bond issued, by a society.”.

Subsection 37 (1)—

Omit all the words from and including “, other” to and including “credit society,” (last occurring).

Paragraph 37 (1) (c)—

Omit the paragraph, substitute the following paragraph:

“(c) by deposit with—

- (i) a building society or a credit union;
- (ii) a housing and services society; or
- (iii) a prescribed trading society;

which is authorised by its rules to receive deposits from corporations;”.

Subsections 37 (1A), (2) and (2A)—

Omit the subsections.

Subsection 37 (3)—

Omit the subsection (including the proviso), substitute the following subsections:

“(3) A society may (if authorised by its rules) make a defined advance out of its reserve fund to a member upon the security of the member’s shares in the society.

“(3A) In subsection (3)—

‘defined advance’ means an advance not exceeding 50% of the amount paid upon the relevant shares.”.

SCHEDULE 1—continued

Subsection 37 (5)—

Omit the subsection.

Sections 37A and 37B—

Repeal the sections.

Subsection 38 (1)—

Omit the subsection, substitute the following subsection:

“(1) A registered trading society may, by special resolution, transfer its engagements to another registered trading society which undertakes to fulfil the engagements of the first-mentioned society.”.

Subsection 38AA (14) (definition of “financial institution”)—

Omit paragraphs (a) to (d) (inclusive), substitute the following paragraphs:

- “(a) a building society;
- (b) a credit union; or
- (c) a bank within the meaning of the *Banking Act 1959* of the Commonwealth”.

Subsection 38A (1)—

Omit “a special resolution as defined in section forty-eight of this Act,” substitute “special resolution.”.

Subsections 38A (1), (1A), (8) and (10)—

Omit “Commonwealth Companies Act” (wherever occurring), substitute “Corporations Law”.

Paragraph 38A (2) (c)—

Omit “Commonwealth Companies Act”, substitute “Corporations Law”.

Paragraph 38A (4) (a)—

Omit the paragraph, substitute the following paragraph:

“(a) shall be in accordance with the Corporations Law;”.

Paragraph 38A (4) (c)—

Omit “seven”, substitute “7”.

SCHEDULE 1—continued

Subsection 38A (5)—

Omit “provisions of the Commonwealth Companies Act shall apply”, substitute “Corporations Law applies”.

Paragraph 38A (5) (b)—

Omit “Table A in the Third Schedule to the Commonwealth Companies Act”, substitute “Schedule 1 to the Corporations Law”.

Paragraph 38A (8) (a)—

(a) Omit “of Co-operative Societies”.

(b) Omit “of this section”.

Subparagraph 38A (8) (b) (i)—

Omit “Commonwealth Companies Act”, substitute “Corporations Law”.

Subparagraph 38A (8) (b) (ii)—

Omit “of Co-operative Societies”.

Subparagraph 38A (8) (b) (iv)—

Omit “six”, substitute “6”.

Subsection 38A (14)—

Omit “he was then registered as the holder of”, substitute “the member was then registered as the holder in”.

Subsection 38A (15)—

Omit “The members shall, upon the entry being made, be”, substitute “Upon entry in a company register under subsection (14), each member of the company is”.

Subsection 38A (17)—

Omit the subsection, substitute the following subsection:

“(17) A certificate of incorporation of a society as a company given by the Commission is conclusive evidence of compliance with all the relevant requirements under this section and the Corporations Law for registration under the Corporations Law.”.

Subsection 38A (19)—

Omit all the words from and including “In particular” to and including “the registration”, substitute “Without restricting the generality of subsection (18), upon the registration of a society as a company under this section”.

SCHEDULE 1—continued

Section 39A—

Repeal the section.

Section 41—

Repeal the section, substitute the following section:

Effect of rules

“41. A society’s rules bind the society, each member and any person claiming through a member as if—

- (a) each member had signed and sealed the rules; and
- (b) there were a covenant in the rules on the part of each member and his or her legal representatives to comply with the rules, subject to this Act.”.

Subsection 42 (1A)—

Omit the subsection.

Subsection 45 (1)—

Omit the subsection, substitute the following subsections:

“(1) A society may (if authorised by its rules) make a contract with a member—

- (a) in relation to specified dealings between the member and the society for a fixed period; and
- (b) with provision for payment by the member to the society of specified sums as liquidated damages for the breach of any term of the contract.

“(1A) A contract under subsection (1) may require a member to sell products through or to the society, or to obtain supplies or services through or from the society.

“(1B) For the purposes of section 28, a sum referred to in paragraph (1) (b) is a debt due from the member to the society.

“(1C) A contract under subsection (1) is binding on the society and all other parties to the contract notwithstanding that (except for this Act) the contract would be invalid as being in restraint of trade.”.

Subsection 46 (2)—

Omit the subsection, substitute the following subsection:

“(2) A member of a society is liable to pay only—

SCHEDULE 1—continued

- (a) the charges referred to in the list furnished to the member under subsection (1); and
- (b) such charges as are imposed by any subsequent alteration in the rules of the society.”.

Subsection 47 (1)—

Omit the subsection (including the proviso), substitute the following subsections:

“(1) A society may impose a fine on a member for any infringement of the society’s rules.

“(2) No fine exceeding \$1 is to be imposed until—

- (a) the society has given the member written notice of its intention to impose the fine, accompanied by a statement of its reasons; and
- (b) the member is given the opportunity of—
 - (i) appearing before the Board in person, with or without witnesses; or
 - (ii) giving the Board a written statement;

for the purpose of showing cause why the fine should not be imposed.”.

Subsection 47 (2)—

- (a) After “him” (first occurring), insert “or her”.
- (b) Omit “him” (last occurring), substitute “the member”.

Subsection 47 (3)—

Omit “he had previously bound himself”, substitute “the member had been previously bound”.

Subsection 48 (3)—

Omit the subsection, substitute the following subsections:

“(3) A copy of a special resolution which is duly carried shall be—

- (a) signed by the chairman of the meeting;
- (b) countersigned by the secretary of the society; and
- (c) delivered to the Registrar, accompanied by the determined fee.

SCHEDULE 1—continued

“(3A) Upon receipt of a copy of a special resolution signed, countersigned and delivered in accordance with subsection (3), the Registrar shall register the resolution.”

Subparagraph 49 (1) (ix) (e)—

Omit “from him”.

Subsection 49 (2)—

Omit the subsection (including the proviso), substitute the following subsection:

“(2) The rules of a society may provide for the imposition of a fine (not exceeding an amount prescribed by the regulations) on a member for any infringement of the rules.”

Subsection 49 (4)—

Omit “Twenty-five cents”, substitute “\$0.25”.

Subsections 50 (2) and (3A)—

Omit “one”, substitute “1”.

Paragraph 50 (3) (b)—

Omit the paragraph, substitute the following paragraph:

“(b) 2 copies of the alteration signed by the secretary and 3 or more members; and”.

Subsection 50 (6)—

Omit “the last preceding subsection”, substitute “subsection (5)”.

Subsection 51 (6)—

Omit the subsection (including the proviso), substitute the following subsection:

“(6) The directors of a society shall be elected—

- (a) at a general meeting of the society in accordance with its rules; or
- (b) in the case of the first such election—at the meeting for the formation of the society.”.

Subsection 51 (7)—

Omit “three”, substitute “3”.

SCHEDULE 1—continued

Paragraph 51 (11) (d)—

Omit “absents himself from three”, substitute “is absent from 3”.

Paragraph 51 (11) (f)—

Omit “one”, substitute “1”.

Subparagraph 51 (11) (h) (i)—

After “society”, insert “, a building society or a credit union”.

Subparagraph 51 (11) (h) (ii)—

Omit “or building societies”.

Subsections 51 (12) and (13)—

Omit the subsections, substitute the following subsections:

“(12) Paragraph (11) (h) does not apply in relation to—

- (a) a loan to a director made or guaranteed by the society in accordance with a special resolution;
- (b) a purchase by a director from the society in accordance with a special resolution; or
- (c) any of the following dealings, if made in good faith in the ordinary course of business of the society and on such terms as are usual and proper in such dealings:
 - (i) a purchase of goods by the director from the society;
 - (ii) a sale of agricultural products or livestock by the director to the society;
 - (iii) a loan (whether by deposit or otherwise) by the director to the society;
 - (iv) a guarantee by the director for the repayment of a loan to the society;
 - (v) a dealing between the director and the society of a type authorised by the objects of the society;
 - (vi) a dealing prescribed by regulation.

“(13) A director of a society has no power to vote on any question in which he or she has any direct or indirect pecuniary interest, other than—

- (a) an interest held as a member and in common with the other members of the society; or

SCHEDULE 1—continued

- (b) an interest in relation to a dealing referred to in subparagraphs (12) (c) (iii) to (vi) (inclusive)."

Subsection 53 (1)—

- (a) Omit "thereat".
- (b) Omit "five", substitute "5".

Subsections 53 (2) and (3)—

Omit the subsections (including their provisos), substitute the following subsections:

"(2) On a poll held at a general meeting of a society, each member has 1 vote, subject to this section and the rules of the society.

"(3) On a poll held at a general meeting of a society, a member is entitled to an additional allotment of 1 or 2 votes where the society's rules provide—

- (a) for such an additional allotment to be made on the basis of the value of goods purchased from the society by the member during the preceding financial year; or
- (b) where the member is obliged by the rules to subscribe for shares in proportion to the use made by the member of the society—for such an additional allotment to be made on the basis of the shares held by the member."

Subsection 53 (5)—

Omit "he", substitute "the member".

Subsection 53 (6)—

Omit the subsection (including the proviso), substitute the following subsection:

"(6) On a poll held at a general meeting of a society—

- (a) a member may vote personally or (if authorised by the rules of the society) by proxy;
- (b) only a member may act as a proxy; and
- (c) no person may act as a proxy for more than 5 members."

Subsection 55 (2)—

Omit "him" (wherever occurring), substitute "the officer".

SCHEDULE 1—continued

Paragraph 56 (4) (a)—

- (a) Omit “he”, substitute “the auditor”.
- (b) Omit “required by him”, substitute “as required”.

Paragraph 56 (4) (b)—

- (a) Omit “his” (wherever occurring), substitute “the auditor’s”.
- (b) Omit “him”, substitute “to the auditor”.

Paragraph 56 (4) (ba)—

Add at the end “and”.

Paragraph 56 (4) (c)—

Omit “; and”.

Paragraph 56 (4) (d)—

Omit the paragraph.

Subsection 56 (5)—

Omit the subsection, substitute the following subsection:

“(5) A copy of a society’s accounts (duly audited), together with a copy of the auditor’s report to the members of the society—

- (a) shall be given to each member with the notice of the annual general meeting of the society; or
- (b) if, in accordance with the society’s rules, the notice of the annual general meeting given to members includes a notice that those accounts and that report are available for inspection by members at the office of the society during a specified period before that meeting—shall be made available accordingly.”.

Subsection 56 (6)—

Omit “Twenty cents”, substitute “\$0.20”.

Subsection 57 (1)—

Omit “his”.

SCHEDULE 1—continued

Subsections 58 (2) and (3)—

Omit the subsections, substitute the following subsection:

“(3) In the case of a dispute in relation to a prescribed trading society or a housing and services society, a party to the dispute may refer it to the Registrar—

- (a) if the dispute has not been referred to arbitration; or
- (b) if the dispute has been referred to arbitration—if no award has been made within 1 month after referral.”.

Subsection 58 (4)—

- (a) Omit “or person deputed by him”.
- (b) Omit “he”, substitute “the Registrar”.

Subsection 58 (5)—

Omit the subsection, substitute the following subsection:

“(5) For the purposes of hearing a dispute, the Registrar may—

- (a) administer an oath or affirmation; or
- (b) by order, require—
 - (i) the attendance of any party or witness; or
 - (ii) the production of any book or document relating to the dispute.”.

Section 58—

Add at the end the following subsection:

“(12) In this section—

‘member’ includes—

- (a) a person who was a member within 3 months before the relevant dispute arose; and
- (b) any person claiming through or under a member or a person referred to in paragraph (a);

‘Registrar’, in relation to the hearing of a dispute, includes a person deputed by the Registrar for the purposes of the hearing;

‘society’ includes the Board and each officer of a society.”.

SCHEDULE 1—continued

Paragraph 58A (1) (j)—

Omit the paragraph.

Subsection 59 (1)—

Omit the subsection, substitute the following subsection:

“(1) A society may be wound up—

- (a) voluntarily;
- (b) by the Court;
- (c) subject to the supervision of the Court; or
- (d) upon the certificate of the Registrar.”

Subsection 59 (2)—

Omit “Companies Act of the Commonwealth”, substitute “Corporations Law”.

Paragraph 59 (3) (a)—

Omit “seven”, substitute “7”.

Paragraph 59 (3) (b)—

Omit “six”, substitute “6”.

Subsection 59 (4)—

Omit “paragraph (e), (f) or (g) of the last preceding subsection”, substitute “paragraph (3) (e), (f) or (g)”.

Subsection 59 (6)—

Omit “A person appointed under the last preceding subsection”, substitute “The liquidator of a society”.

Subsection 59 (7)—

Omit the subsection, substitute the following subsections:

“(7) The winding-up of a society upon the certificate of the Registrar commences at the time the certificate is issued.

“(8) The liquidator of a society shall give notice of the commencement of the winding-up of a society—

- (a) in the *Gazette*; and
- (b) in a newspaper published and circulating in the Territory.”

SCHEDULE 1—continued

Subsection 60 (1)—

Omit the subsection, substitute the following subsections:

“(1) Parts 5.4, 5.5 and 5.6 (except section 544), sections 597 and 598 and subsection 1289 (2) of the Corporations Law apply in relation to the winding-up of a society, subject to this Part.

“(1A) Part 9.4 of the Corporations Law applies in relation to the winding-up of a society to the extent necessary to enforce any provisions of the Corporations Law or the Corporations Regulations applying (by virtue of this Act and the regulations) in relation to that winding-up.”.

Subsection 60 (2)—

Omit “provisions of the Commonwealth Companies Act specified in subsection (1) in relation to a”, substitute “Corporations Law in relation to the”.

Paragraphs 60 (2) (a), (c), (d), (e) and (f)—

Omit “in any of those provisions”.

Paragraph 60 (2) (b)—

Omit “424, 541 or 542 of the Commonwealth Companies Act”, substitute “541, 597 or 598, or Part 9.4, of the Corporations Law”.

Paragraph 60 (2) (g)—

Omit the paragraph, substitute the following paragraph:

“(g) the following section is substituted for sections 516 and 517 of the Corporations Law:

‘Limit on members’ contributions

‘516. A contribution shall not be required from a member of a society in excess of the sum of the following amounts:

- (a) any amount unpaid on the shares in respect of which he or she is liable as a member or past member;
- (b) the amount of any contingent liability attached to those shares;
- (c) the amount of any charge payable by the member to the society in accordance with the society’s rules.’”.

SCHEDULE 1—continued

Paragraph 60 (2) (h)—

Omit “429 of the Commonwealth Companies Act”, substitute “545 of the Corporations Law”.

Paragraph 60 (2) (i)—

Omit the paragraph.

Paragraph 60 (2) (j)—

Omit the paragraph, substitute the following paragraphs:

- “(j) the references in subsections 577 (3) and (4) of the Corporations Law to the Minister are to be read as references to the Minister administering this Act;
- (ja) the words ‘to be dealt with under Part 9.7’ are omitted from subsection 577 (4); and”.

Paragraph 60 (2) (k)—

- (a) Omit “409, 410 and 411 of the Commonwealth Companies Act”, substitute “507, 508 and 509 of the Corporations Law”.
- (b) Omit “Act”, last occurring, substitute “Law”.

Paragraph 60A (c)—

Omit “Part XII of the Commonwealth Companies Act as applied by this Act to the winding-up,”, substitute “the Corporations Law as applied by section 60 of this Act”.

Subsection 76 (2)—

- (a) Omit “Every”, substitute “A”.
- (b) Omit “of this section”.
- (c) Omit “he”, substitute “the person”.

Subsection 77 (2)—

- (a) Omit “of this section”.
- (b) Omit “fee, commission or reward accepted by him”, substitute “relevant fee, commission or reward”.

Subsection 80A (1)—

Omit the subsection, substitute the following subsection:

SCHEDULE 1—continued

“(1) Application may be made to the Tribunal for the review of a decision of the Registrar to refuse consent to a proposed purchase or repayment of shares under subsection 25 (2).”.

Subsection 80B (1)—

Omit the subsection, substitute the following subsection:

“(1) Where the Registrar makes a decision referred to in subsection 80A (1), he or she shall cause written notice to be given to the society whose interests are affected by the decision.”.

Section 80E—

Repeal the section, substitute the following section:

**Fees under applied provisions of the Corporations Law
(mortgages, charges and bonds)**

“80E. (1) In this section, a reference to a provision of the Corporations Law is to be read as a reference to that provision in its application (under or by virtue of subsection 35 (4) of this Act) to a mortgage, charge or bond created or issued by a society.

“(2) The Minister may determine a fee under section 80C of this Act in respect of the following matters:

- (a) the lodgment of a document under subsection 263 (1) of the Corporations Law;
- (b) the lodgment of a notice under subsection 268 (1) or (2) of the Corporations Law;
- (c) the lodgment or registration of a memorandum under subsection 269 (2) of the Corporations Law;
- (d) the issue of a certificate under subsection 272 (1) of the Corporations Law.”.

Paragraph 81 (a)—

- (a) Omit “One hundred dollars”, substitute “\$100”.
- (b) Omit “Ten dollars”, substitute “\$10”.

Paragraphs 81 (b), (c) and (e) to (k) (inclusive)—

Omit the paragraphs.

Paragraph 81 (d)—

Add at the end “and”.

SCHEDULE 1—continued

Paragraph 81 (1)—

Omit “regulations in force under the *Companies Act 1981* of the Commonwealth”, substitute “Corporations Regulations”.

Further amendments

1. The following provisions are amended by inserting “or her” after “him”:

Paragraphs 21 (4) (i) and 23 (1) (a) and (b) and subsection 23 (2).

2. The following provisions are amended by inserting “or her” after “his” (wherever occurring):

Subsection 5B (2), paragraphs 5B (2) (b) and (3) (b), subsection 23 (3), paragraph 25 (1) (b) and subsections 38A (15), 51 (5), 53 (5), 56 (3), (4) and (6), 58 (1), 59 (4) and 76 (1).

3. The following provisions are amended by inserting “or she” after “he”:

Subsections 5A (1), 7 (5) and (11), 16 (7B), 30 (1), 38A (7), 50 (5), 51 (7), 56 (3) and 76 (3).

Credit Act 1985

Subsection 5 (1)—

Insert the following definitions:

“‘financial institution’ means—

- (a) a building society, or a credit union, within the meaning of the *Financial Institutions (ACT) Code*;
- (b) a trading society, or a housing and services society, registered under the *Co-operative Societies Act 1939*; or
- (c) a body (however described) registered or incorporated under a law of a State or another Territory corresponding to the *Co-operative Societies Act 1939*;

‘Financial Institutions (ACT) Code’ means the provisions applying because of section 8 of the *Financial Institutions (Application of Laws) Act 1992*;

SCHEDULE 1—continued

Subsection 18 (1)—

Omit the subsection, substitute the following subsection:

“(1) Parts III to VIII (inclusive) do not apply in relation to a regulated contract where the credit provider is a financial institution.”

Paragraphs 156 (1) (g) and (ga)—

Omit the paragraphs, substitute the following paragraph:

“(g) a financial institution; or”.

Paragraphs 156 (3) (k)—

Add at the end “or”.

Paragraphs 156 (3) (l) and (m)—

Omit the paragraphs, substitute the following paragraph:

“(m) a financial institution”.

Taxation (Administration) Act 1987

Paragraph 3 (g)—

Omit “(f)”, substitute “(fa)”.

Subsection 4 (1) (definition of “building society”)—

Omit the definition, substitute the following definition:

“‘building society’ has the same meaning as in the Financial Institutions (ACT) Code;”.

Subsection 4 (1)—

Insert the following definition:

“‘Financial Institutions (ACT) Code’ means the provisions applying because of section 8 of the *Financial Institutions (Application of Laws) Act 1992*;”.

Trustee Act, 1925 of the State of New South Wales in its application in the Territory

Subparagraphs 14 (2A) (a) (ii) and (b) (i)—

Omit “*Co-operative Societies Act 1939*”, substitute “building societies law”.

SCHEDULE 1—continued

Subsections 14 (2A) and (2AA)—

Omit the subsections, substitute the following subsections:

“(2A) The Minister shall not approve a local building society under subsection (2) unless he or she is satisfied that—

- (a) the society has carried on business in the Territory for a period of not less than 10 years;
- (b) the society has withdrawable funds of not less than \$50,000,000;
- (c) the society has complied substantially with the building societies law during the immediately preceding period of 5 years.

“(2AA) The Minister shall not approve a foreign building society under subsection (2) unless—

- (a) the society has carried on business in the Territory, a State or another Territory for a period of not less than 10 years;
- (b) the Minister is satisfied that—
 - (i) the society has withdrawable funds of not less than \$50,000,000; and
 - (ii) the society has complied substantially with the building societies law in each State or Territory in which it has carried on business during the immediately preceding period of 5 years; and
- (c) the society gives the Minister an irrevocable undertaking for the payment of \$50,000,000 on demand by the Minister in the event of the society being wound up or unable to meet its liabilities.”.

Subsection 14 (2B)—

Omit “Co-operative Societies”, substitute “Financial Institutions”.

Subsection 14 (14) (definitions of “building society” and “withdrawable funds”)—

Omit the definitions, substitute the following definitions:

“‘building societies law’ means—

- (a) in relation to the Territory—
 - (i) in relation to a date before the commencement day—
the *Co-operative Societies Act 1939*; and

SCHEDULE 1—continued

- (ii) in relation to a date on or after the commencement day—the Financial Institutions (ACT) Code; or
- (b) in relation to a State or another Territory—
 - (i) in relation to a date before the commencement day—the law under which building societies in that State or Territory were registered or incorporated; and
 - (ii) in relation to a date on or after the commencement day—the law in that State or Territory corresponding to the Financial Institutions (ACT) Code;

‘building society’ has the same meaning as in the Financial Institutions (ACT) Code;

‘commencement day’ has the meaning given by the *Financial Institutions (Application of Laws) Act 1992*;

‘Financial Institutions (ACT) Code’ means the provisions applying because of section 8 of the *Financial Institutions (Application of Laws) Act 1992*;

‘foreign building society’ means a building society that is registered as a foreign society under the Financial Institutions (ACT) Code;

‘local building society’ means a building society that is registered as a society (other than as a foreign society) under the Financial Institutions (ACT) Code;

‘withdrawable funds’, in relation to a building society, means the aggregate of—

- (a) the amount of the paid up capital of the society; and
- (b) the amount of the deposits held by the society otherwise than as deposits made by members of the society in consideration for shares for which the members were, by virtue of the society’s rules, required to subscribe as a condition to obtaining loans from the society”.

SCHEDULE 2

Section 4

AMENDMENTS OF REGULATIONS

Co-operative Societies Regulations

Subregulation 2 (1) (definition of "Companies Regulations")—
Omit the definition.

Subregulation 2 (1)—

Insert the following definition:

“‘prescribed trading society’ means a trading society prescribed by regulation 2AA;”.

Subregulation 2 (2)—

Omit “Any reference in these Regulations”, substitute “A reference in these Regulations (except in regulation 2ABA)”.

Paragraph 2AA (a)—

Omit the paragraph.

Regulation 2AB—

Omit the regulation, substitute the following regulation:

Application of regulations 21 to 26

“2AB. Regulations 21 to 26 (inclusive) apply only to—

- (a) housing and services societies; and
- (b) prescribed trading societies.”.

Subregulation 2ABA (1)—

Omit the subregulation, substitute the following subregulation:

“(1) Subject to this regulation, the following provisions of the Corporations Regulations apply in relation to the winding-up of a society:

- (a) regulations 1.02 to 1.11 (inclusive), 1.13, 1.15 and 2.3.01;
- (b) Part 5.6 (except regulation 5.6.35);
- (c) Forms 205, 507, 507A, 509, 519 to 527 (inclusive) and 529 to 553 (inclusive) in Schedule 2.”.

SCHEDULE 2—continued

Subregulation 2ABA (2)—

Omit “provisions of the Companies Regulations specified in subregulation (1) in relation to a”, substitute “Corporations Regulations to the”.

Paragraph 2ABA (2) (a)—

Omit the paragraph, substitute the following paragraph:

“(a) a reference to a company or to a corporation shall be read as a reference to the society;”.

Paragraphs 2ABA (2) (b) and (e)—

Omit “in any of those provisions”.

Paragraphs 2ABA (2) (c) and (d)—

Omit the paragraphs, substitute the following paragraphs:

“(c) a reference to the Act shall be read as a reference to the Corporations Law as applied by section 60 of the *Co-operative Societies Act 1939*;

“(d) a reference to the Australian Securities Commission, or to the Commission, shall be read as a reference to the Registrar; and”.

Regulations 2AC to 2AF (inclusive)—

Repeal the regulations.

Regulations 26A and 26B—

Omit “of the Commonwealth”.

Regulation 26A (table, items 1 and 5)—

Omit “*Corporations Act 1989* of the Commonwealth”, substitute “Corporations Law”.

Regulation 26A (table, items 7 and 8)—

Omit the items.

Regulation 26A (table, item 10)—

Omit “Insert ‘of the Commonwealth’ after ‘Corporations Law’”.

Regulation 28—

(a) Omit “every person who at the time of the commission of the offence was a director,”, substitute “each director of the society at the time of the commission of the offence”.

SCHEDULE 2—continued

(b) After “he” (wherever occurring), insert “or she”.

(c) After “his”, insert “or her”.

Schedule 1 (heading)—

Omit “1”.

Schedule 1 (Form C, Item A (33))—

Omit “shares held by him”, substitute “his or her shares”.

Schedule 1 (Form C, Item B (4))—

Omit “members”, substitute “members”.

Schedule 1 (Form N)—

Omit “Companies (Regn. of Securities) Act, 1918”, substitute “Corporations Law”.

Schedule 1 (Forms Q and R)—

Omit “Companies Act”, substitute “Corporations Law”.

Schedule 2—

Repeal the Schedule.

Financial Institutions Duty Regulations

Subparagraphs 3 (1) (a) (i) and (ii)—

Omit “credit societies”, substitute “credit unions”.

Subregulation 3 (2) (definitions of “building societies” and “credit societies”)—

Omit the definitions, substitute the following definitions:

“‘building society’ has the same meaning as in the Financial Institutions (ACT) Code;

‘credit union’ has the same meaning as in the Financial Institutions (ACT) Code;

‘Financial Institutions (ACT) Code’ means the provisions applying because of section 8 of the *Financial Institutions (Application of Laws) Act 1992*;

NOTE ABOUT HEADINGS

On the day on which the Act and the regulations referred to below are amended by this Act, headings to sections of that Act and those regulations are altered as set out in the following table:

Section/regulation	Alteration
	<i>Co-operative Societies Act 1939</i>
38	Omit the heading, substitute the following heading: "Voluntary transfer of engagements—trading societies".
60	Omit from the heading "Commonwealth Companies Act", substitute "Corporations Law".
	<i>Co-operative Societies Regulations</i>
2ABA	Omit from the heading "Companies", substitute "Corporations".