

CO-OPERATION (AMENDMENT) ACT.

Act No. 5, 1938.

An Act to make certain provisions with respect to the raising of loans by terminating building societies and with respect to the operation of certain guarantees given by the Colonial Treasurer; to amend the Co-operation Act 1923-1937, in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 27th September, 1938.]

George VI.
No. 5, 1938.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Co-operation Short title. (Amendment) Act, 1938."

(2) The Co-operation Act, 1923-1937, as amended by this Act, may be cited as the "Co-operation Act, 1923-1938."

(3) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—LOANS.

PART III.—AMENDMENT OF CO-OPERATION ACT, 1923-1937.

PART

PART II.

LOANS.

Construction
of Part II.

2. This Part of this Act shall be read and construed with the Co-operation Act, 1923-1937, and the Government Guarantees Act, 1934-1937.

Powers of
certain
societies in
relation
to loans.

3. (1) Where the Colonial Treasurer has, either before or after the commencement of this Act, executed a guarantee under the Government Guarantees Act, 1934, or under that Act as amended by any subsequent Act, in favour of any bank, friendly society or approved body, for the repayment of any advance made or to be made to a terminating building society by that bank, friendly society, or approved body—

- (a) the terminating building society shall have and shall be deemed always to have had power to raise money on loan for the purpose of meeting the expenses of and incidental to—
 - (i) the raising of any loan by that society; or
 - (ii) the making of any loan by that society to any of its members and the exercise by that society of any of its rights, powers and remedies under any security taken in respect of any such loan; or
 - (iii) the formation, establishment and working of the society;
- (b) the terminating building society, where the rules of that society provide for the withdrawal of shares by a member, shall have and shall be deemed always to have had power to raise money on loan for the purpose of making refunds in respect of shares withdrawn in accordance with the rules of that society by a member who has not had an advance in respect of those shares;
- (c) the bank, friendly society or approved body shall have, and shall be deemed always to have had, power to make advances to the terminating building society for all or any of the purposes referred to in paragraphs (a) and (b) of this subsection;
- (d)

(d) any advance so made by the bank, friendly society or approved body to the terminating building society for any of the purposes referred to in paragraphs (a) and (b) of this subsection shall be, and shall be deemed always to have been, an advance the repayment of which is guaranteed by such guarantee, and such guarantee shall extend and apply accordingly:

Provided that this paragraph shall not operate to increase the total liability of the Colonial Treasurer and/or the Consolidated Revenue Fund to the bank, friendly society or approved body, as expressed in the guarantee.

(2) No agreement made with or undertaking given to the Colonial Treasurer before the commencement of this Act by a terminating building society shall operate or be deemed ever to have operated so as to prevent that society from exercising any power conferred upon it by this Act.

(3) No bank, friendly society or approved body lending money to a terminating building society for any of the purposes referred to in paragraphs (a) and (b) of subsection one of this section—

- (a) shall be bound or be deemed ever to have been bound to see to the application thereof; or
- (b) shall be in any way affected or prejudiced by the fact that such society, in borrowing the money, has contravened the provisions of the Co-operation Act, 1923-1937, or the rules of the society.

PART III.

AMENDMENT OF CO-OPERATION ACT, 1923-1937.

4. The Co-operation Act, 1923-1937, is amended—

Amendment of
Act No. 1, 1924.

(a) (i) by inserting in subsection one of section 17A after the words "in accordance with" (Indemnity against paragraph 1c^ss.)

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paragraph (d) of this subsection" where firstly occurring the following new paragraphs:—

The power to enter into an agreement under this subsection may also be exercised, subject to subsection (2A) of this section, in any of the following cases, that is to say—

- (i) where a building society has, either before or after the commencement of the Co-operation (Amendment) Act, 1938, arranged to lend, for one of the purposes referred to in paragraph (a) of this subsection, to a member who, at the date of the arrangement, was not already the owner of a dwelling house, an amount which, reduced by the value of the share capital of the member, exceeds eighty per centum but does not exceed ninety per centum of the value of the land and dwelling house ascertained in accordance with paragraph (d) of this subsection, and has advanced to the member the whole or part of the amount arranged to be lent;
- (ii) where a building society has, either before or after such commencement, arranged to lend, for one of the purposes referred to in paragraph (a) of this subsection, to a member who, at the date of the arrangement, was not already the owner of a dwelling house, an amount which, reduced by the value of the share capital of the member, does not exceed eighty per centum of the value of the land and dwelling house ascertained in accordance with paragraph (d) of this subsection and has advanced to the member the whole or part of the

the amount arranged to be lent, and, either before or after such commencement, has made or agreed to make or is prepared to enter into an arrangement to make a further advance for the carrying into effect of the same purpose, and the total sum which comprises the amount arranged to be lent and the further advance, reduced by the value of the share capital of the member, exceeds eighty per centum but does not exceed ninety per centum of the value of the land and dwelling house as so ascertained.

The power to enter into an agreement under this subsection may also be exercised, subject to subsection (2A) of this section, so as to enter into an agreement with a building society in substitution for an earlier agreement under this subsection where the building society has, either before or after the commencement of the Co-operation (Amendment) Act, 1938, arranged to lend, for one of the purposes referred to in paragraph (a) of this subsection, to a member who at the date of the arrangement is not already the owner of a dwelling house, an amount which, reduced by the value of the share capital of the member, exceeds eighty per centum but does not exceed ninety per centum of the value of the land and dwelling house ascertained in accordance with paragraph (d) of this subsection, and has advanced to the member the whole or part of the amount arranged to be lent and, either before or after such commencement, has made or agreed to make or is prepared to enter into an arrangement to make a further advance for the carrying into effect of the same purpose and the total sum which comprises the amount arranged to be lent and the further advance, reduced by the

the value of the share capital of the member does not exceed ninety per centum of the value of the land and dwelling house as so ascertained.

(ii) by inserting next after subsection two of the same section the following new subsection:—

(2A) The Co-operative Building Advisory Committee shall not make a recommendation that the approval of the Governor be given to enter into an agreement under subsection one of this section in any case where the whole or part of the moneys arranged to be lent by the society to the member have been advanced by the society before the date upon which the agreement is entered into or to enter into an agreement in substitution for an earlier agreement under subsection one of this section unless it is satisfied—

- (a) that the dwelling house is or is to be occupied by the member to whom the money is lent; and
- (b) that the amount arranged to be lent, or as the case may be, the total sum which comprises the amount arranged to be lent and the further advance, does not exceed the maximum prescribed by paragraph (c) of subsection one of this section; and
- (c) that there are special circumstances which justify the making of the recommendation.

Any recommendation under this subsection shall be accompanied by a report setting out the special circumstances.

(b) by inserting next after section thirty-four the following new section:—

34A. Where an association raises money on loan for any objects of the association and a guarantee is given by any person in respect of

New sec.
34A.

Agreement
to indemnify
guarantor.

of the repayment of the loan the component ^{No. 5, 1938.} societies of the association or any one or more of them may, jointly with the association, enter into an agreement to indemnify the guarantor against any liability which may arise under or in respect of the guarantee.

(c) by inserting in subsection two of section sixty- ^{Sec. 65.} five after the word "bank" the words "or any (Borrowing society registered under the Friendly Societies powers.) Act, 1912-1935";

(d) by inserting at the end of section sixty-six ^{Sec. 66.} the following new subsection:— ^(Loans and deposits.)

(13) In this section and in section sixty-five of this Act and in any provision contained in the rules of a society which defines or limits the meaning of the word "bond" the expression "financial or trading corporation" shall include and shall be deemed always to have included a corporation carrying on the business of insurance and an approved body within the meaning of the Government Guarantees Act, 1934-1937.

5. No agreement entered into by the Colonial Treasurer under the provisions of section 17A of the Co-operation Act, 1923-1937, before the commencement of this Act shall be held to be invalid merely by reason of the fact that the money lent by the society to the member or any part thereof was advanced to such member on or before the date upon which the agreement was entered into.