

**CREDIT UNION (AMENDMENT) ACT.**

**New South Wales**



**ANNO VICESIMO QUARTO**

**ELIZABETHÆ II REGINÆ**

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**Act No. 59, 1975.**

An Act to make further provisions with respect to the lending of money by credit unions and the powers and administration of credit unions and associations of credit unions; to provide for the transfer of engagements of a credit union or an association to another credit union or association; to authorise, in certain circumstances, the appointment of an administrator to conduct the affairs of a credit union or an association; to extend the time for bringing proceedings in respect of certain offences; to provide for the control of advertising by credit unions and associations; for these and other purposes to amend the Credit Union Act, 1969, the Co-operation and Other

**Acts**

*Credit Union (Amendment).*

Acts (Amendment) Act, 1973, and the Moneylending No. 59, 1975  
Act, 1941; to validate certain matters; and for purposes  
connected therewith. [Assented to, 23rd October, 1975.]

**B**E it enacted by the Queen'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:—

1. This Act may be cited as the "Credit Union (Amendment) Act, 1975". Short title.
2. (1) This section and sections 1 and 3 shall commence Commencement.  
on the date of assent to this Act.
- (2) Section 5 (b) (i) shall be deemed to have commenced on 9th June, 1972.
- (3) Section 6 (c) (ii) shall be deemed to have commenced on 1st July, 1969.
- (4) Section 13 shall be deemed to have commenced on 17th April, 1973.
- (5) Except as provided in subsections (1), (2), (3) and (4) the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**3.**

No. 59, 1975    3. The Credit Union Act, 1969, is in this Act referred to as the Principal Act.

Principal Act.

Amendment of Part I of Act No. 8, 1969.    4. Part I of the Principal Act is amended—

Sec. 2.    (a) (i) by inserting in section 2 after the word “*Amalgamation*” the words “*and Transfer of Engagements*”;

(ii) by omitting from section 2 the matter “ss. 71–75” and by inserting instead the matter “ss. 71–75A”;

Sec. 3.    (b) by omitting from the definition of “Co-operation Acts” in section 3 (1) the words “, Community Settlement, and Credit”.

Amendment of Part II of Act No. 8, 1969.    5. Part II of the Principal Act is amended—

Sec. 5.    (a) by omitting section 5 (d) (i);

Sec. 6.    (b) (i) by inserting after section 6 (4A) (d) the following paragraph :—

(e) The Board may, by instrument in writing, revoke wholly or in part any delegation made under this subsection.

(ii) by omitting section 6 (6) and by inserting instead the following subsections :—

(6) The rules of a credit union shall contain—

(a) subject to subsection (7), provisions fixing the maximum amount by which the indebtedness of a member of the credit

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credit union may exceed the sum of the ~~No. 59, 1975~~ amount of the member's paid-up share capital in, and of his deposits with, the credit union; or

- (b) provisions to the effect that the maximum amount by which the indebtedness of a member of the credit union may exceed the sum of the amount of the member's paid-up share capital in, and of his deposits with, the credit union shall be determined—
  - (i) by reference to the maximum amount for the time being prescribed by or under the paragraph of subsection (7) applicable in the circumstances; or
  - (ii) in the circumstances to which subsection (7) (d) applies, by reference to a percentage of the amount shown as the value of the assets of the credit union in the latest balance sheet of the credit union lodged with the registrar in accordance with this Act.

(6A) In this section, "specified amount" means the amount fixed by or in accordance with the rules made pursuant to subsection (6).

(6B) The rules of a credit union made for the purposes of subsection (6)—

- (a) may fix different specified amounts and may contain different provisions for the determination of specified amounts where

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where different conditions, specified by the rules in each case, apply in respect thereof; and

(b) may contain provisions of both the kinds referred to in subsection (6) (a) and (b), provided the two kinds of provisions are applicable in different circumstances.

(6c) Where the rules made by a credit union pursuant to subsection (6) (b) provide that a specified amount shall, at any time, be determined by reference to a percentage of the assets of the credit union, a reference in this section to—

(a) the specified amount applicable in the circumstances; or

(b) the applicable specified amount,

in relation to that specified amount, is a reference to the amount arrived at by multiplying by that percentage the amount shown as the value of the assets of the credit union in the latest balance sheet of the credit union lodged with the registrar in accordance with this Act.

(iii) by omitting from section 6 (7) the words "Subject to subsection eight of this section" and by inserting instead the words "Subject to subsections (8) and (8A)";

(iv)

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(iv) by omitting from section 6 (7) (d) the words **No. 59, 1975** "be an amount not exceeding five thousand dollars or, where the regulations prescribe some other amount for the purposes of this paragraph, the amount so prescribed." and by inserting instead the following words and subparagraphs :—

be an amount not exceeding—

(iii) \$4,000;

(iv) the amount (if any) prescribed by the regulations for the purposes of this paragraph; or

(v) an amount equivalent to one per centum of the amount shown as the value of the assets of the credit union in the latest balance sheet of the credit union lodged with the registrar in accordance with this Act,

whichever is the greatest.

(v) by inserting after section 6 (7) the following subsection :—

(7AA) The registrar, with the approval of the Minister, may, by order in writing served on a credit union, direct that there shall, for the specified amount that would, but for this subsection, be the specified amount applicable in the circumstances referred to in subsection (7) (a), (b), (c) or (d), be substituted such lesser amount as is specified in the order, and, notwithstanding the rules of that credit union, that lesser amount shall be deemed to be the amount fixed by the rules of that credit union as the specified amount applicable in those circumstances while that direction remains in force.

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(vi) by inserting after section 6 (7A) the following subsections :—

(7B) The terms or conditions specified in the special rules of a credit union providing for the repayment of the indebtedness of a member shall include—

- (a) a term or condition requiring the repayment of the principal and interest in respect of that indebtedness within a period not exceeding—
  - (i) in circumstances to which subsection (7) (b) applies—five years or, where some other period is prescribed by the regulations for the purposes of this subparagraph, the period so prescribed; and
  - (ii) in circumstances to which subsection (7) (d) applies—fifteen years or, where some other period is prescribed by the regulations for the purposes of this subparagraph, the period so prescribed;
- (b) a term or condition requiring the repayment of the principal and interest in respect of that indebtedness by instalments payable at regular intervals not exceeding one year or such other period as may be prescribed by the regulations; and
- (c) such other terms or conditions relating to the payment and amount of instalments as may be prescribed by the regulations.

(7c)

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(7c) A member of a credit union may, notwithstanding any terms and conditions specified in the special rules of the credit union or any agreement entered into or instrument executed by him, repay the whole or any part of the principal and interest in respect of his indebtedness before it is due to be repaid. No. 59, 1975

(vii) by inserting after section 6 (8) the following subsections :—

(8A) Where a rule in force immediately before the commencement of this subsection would, but for this subsection, contravene subsection (7) (d), as in force after that commencement—

(a) the rule shall be deemed to continue in force until—

(i) it is rescinded;

(ii) it is altered in accordance with this Act so as not to contravene subsection (7) (d), as so in force; or

(iii) 31st March, 1976,

whichever first occurs; and

(b) during the period during which a rule continues in force by virtue of paragraph (a), subsection (7) (d), as so in force, shall be read and construed, in relation to that rule, as if the amendment made by the Credit Union (Amendment) Act, 1975, to subsection (7) (d) had not been made.

(8B)

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(8B) A credit union shall not make a loan to a member if the indebtedness of the member to the credit union would thereby exceed the sum of—

- (a) the amount of the member's paid-up share capital in the credit union; and
- (b) the amount of the member's deposits with the credit union,

unless the board, or its delegate, as the case may be, believes, on reasonable grounds, that the member has, and will continue to have, an income sufficient to provide for the repayment of that indebtedness, but nothing in this subsection authorises a credit union to make a loan in contravention of subsection (9) or (9A).

(viii) by inserting after section 6 (9) the following subsection :—

(9A) A credit union shall not make a loan jointly to two or more members of the credit union if the amount of that loan would exceed an amount that would, if each of those members had applied individually for a loan, be the larger or largest of the amounts of the loans which could have been made to those members.

(ix) by omitting from section 6 (10) the words "Where the indebtedness" and by inserting instead the words "Subject to subsection (10c), where the indebtedness";

(x)

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- (x) by omitting from section 6 (10) the words No. 59, 1975  
"This subsection shall not operate to prevent a credit union, with the consent of a member, from applying paid-up share capital or deposits in reduction or repayment of the indebtedness of the member to the credit union.";
- (xi) by inserting after section 6 (10) the following subsections :—

(10A) Where the indebtedness or part of the indebtedness of a member to a credit union at any time consists of the amount, or part of the amount, of a loan made after the commencement of this subsection, the credit union shall not make a refund of share capital to the member, or permit the withdrawal of any deposit of the member with the credit union, if the sum of—

- (a) the amount of the member's paid-up share capital in the credit union; and
- (b) the amount of the member's deposits with the credit union,

would thereby be reduced below the amount of that indebtedness at that time unless the board believes, on reasonable grounds, that the member has, and will continue to have, an income sufficient to provide for the repayment of his indebtedness to the credit union.

(10B) Subsections (10) and (10A) do not operate to prevent a credit union, with the consent of a member, from applying paid-up share capital or deposits in reduction or repayment of the indebtedness of the member to the credit union.

(10c)

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(10C) Where—

- (a) any provision of this Act; or
- (b) anything done under the provisions of this Act,

would, but for this subsection, have the effect of reducing the applicable specified amount referred to in subsection (10) in relation to the indebtedness of a member to a credit union incurred before that reduction, the reference to the applicable specified amount in that subsection in relation to that indebtedness shall be deemed to be a reference to the applicable specified amount as at the time the indebtedness was incurred.

**Sec. 7.**  
**(Liquidity.)**

(c) (i) by omitting section 7 (1) and by inserting instead the following subsection :—

(1) In this section—

“liquid funds” means—

- (a) cash at the bank (after allowing for cheques or other bills of exchange drawn but not presented for payment) or in hand;
- (b) investments in securities authorised by law for the investment of trust funds (not being securities by way of mortgage over real or leasehold property) that are redeemable within ten years of their acquisition;
- (c) funds on deposit with any prescribed bank;

(d)

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- (d) funds on deposit with an association of credit unions of which the depositor is a member;
- (e) shares in, or deposits with, a permanent building society registered under the Permanent Building Societies Act, 1967; and
- (f) investments in prescribed securities or securities approved by the registrar under section 19 (2),

but does not include any such funds or investments to the extent—

- (g) of the amount necessary to satisfy any lien or charge on those funds or investments, other than a lien or charge given by a credit union to an association of which it is a member or a floating charge;
- (h) in the case of the funds or investments referred to in paragraphs (c), (d) and (e), that they may only be withdrawn on more than three months' notice or, where some other period of notice is prescribed by the regulations in respect of any or all of them, that period of notice; or

(i)

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(i) where the regulations so provide, that the amount of any of those funds or investments specified in the regulations exceeds an amount prescribed by, or calculated as prescribed by, the regulations;

“prescribed proportion” means seven per centum or, where some other percentage is prescribed by the regulations, that percentage.

(ii) by omitting section 7 (3) and by inserting instead the following subsection :—

(3) A credit union shall not, in any month, make a loan of an amount that, if deducted from the amount of its liquid funds as at the last day of the next preceding month, would produce an amount that bears to the sum of—

(a) the amount of the paid-up share capital of the credit union; and  
 (b) the amount held by the credit union on deposit,

as at that day, a proportion less than the prescribed proportion.

**Sec. 12.  
(Raising  
loans and  
receipt of  
money on  
deposit.)**

(d) (i) by omitting from section 12 (2) the word “where” and by inserting instead the words “to the extent to which, in respect of those deposits or any of them,”;

(ii)

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(ii) by inserting after section 12 (2) the following No. 59, 1975 subsection :—

(2A) An order under subsection (2) may fix rates of interest differing according to specified circumstances.

(iii) by omitting from section 12 (5) (c) the word "or" where secondly occurring;

(iv) by omitting from section 12 (5) (d) the words "the credit union." and by inserting instead the words "the credit union; or";

(v) by inserting after section 12 (5) (d) the following paragraph :—

(e) any credit union that requires to raise a loan of an amount in excess of the amount prescribed by subsection (4) for the purpose of repaying share capital or deposits.

(vi) by omitting section 12 (6);

(vii) by omitting from section 12 (7) the words "Nothing in this subsection or the rules of a credit union shall be construed as derogating from the provisions of subsection ten of section six of this Act.";

(viii) by inserting after section 12 (7) the following subsection :—

(7A) Nothing in subsection (7) or the rules of a credit union shall be construed as derogating from the provisions of section 6 (10) or (10A).

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(ix) by omitting section 12 (8) and by inserting instead the following subsection :—

(8) Where the Minister so directs by order published in the Gazette on the recommendation of the Advisory Committee, a credit union shall not, except as provided by the order, receive money on deposit upon the terms that it is not repayable before the expiration of a specified period that exceeds one month.

**Sec. 17.**  
(Credit  
union or  
association  
as agent.)

(e) by omitting section 17 (2) and by inserting instead the following subsection :—

(2) A credit union, or an association, may, as agent for any credit union or association (referred to in this subsection as the “principal”)—

(a) receive money payable to the principal by the principal’s members; or

(b) pay money payable by the principal to the principal’s members,

in respect of share capital, deposits or loans.

**Sec. 18.**  
(Power to  
join asso-  
ciation.)

(f) (i) by inserting in section 18 (1) after the word “join” the words “an association of building societies registered under the Co-operation Acts or”;

(ii) by omitting from section 18 (2) the word “it” and by inserting instead the words “a credit union”.

*Credit Union (Amendment).***6. Part III of the Principal Act is amended—****No. 59, 1975**Amendment  
of Part III  
of Act No.  
8, 1969.

(a) (i) by omitting section 28 (1) (a) and by Sec. 28.  
inserting instead the following paragraph :— (Use of  
words  
“credit  
union”.)

(a) trade or carry on business, which expression shall, without limiting the generality thereof, include—

- (i) establishing or using an office for the receipt of share capital, deposits or loan funds ;
- (ii) advertising for share capital, deposits or loan funds ; or
- (iii) the making of loans to members residing in New South Wales,  
whether by servants or agents or otherwise, under any name or title of which the words “credit union”, or any other words importing a similar meaning, form part ; or

(ii) by omitting from section 28 (1) (b) the word “other” ;

(iii) by inserting after section 28 (1) the following subsection :—

(1A) Subsection (1) does not prevent an unincorporated association of credit unions, credit union officers or credit union employees, or an unincorporated union of associations of credit unions, formed in New South Wales (not being an association or a union registered under this Act) from using the words “credit union”, or any other words importing a similar meaning,

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meaning, in its name or title, if that association or union has been approved by the registrar for the purposes of this subsection and that approval has not been revoked.

**Sec. 29.**  
(Publication  
of name.)

(b) by omitting section 29 (2) and by inserting instead the following subsection :—

(2) Subject to section 27 (11), no credit union or association shall use any name or title other than its registered name or any abbreviation or elaboration of that name approved in writing by the registrar to be used for any specified purpose or purposes.

**Sec. 30.**  
(Office and  
service of  
documents.)

(c) (i) by omitting from section 30 (1) the words "shall be situated" and by inserting instead the words "shall, subject to subsection (2), be situated";

(ii) by inserting in section 30 (2) after the words "change of address" the words "and the new address shall, as from the date on which the registrar is so notified, be the registered office of that credit union or association";

(iii) by omitting section 30 (3) and by inserting instead the following subsections :—

(3) A document, other than a summons, may be served on a credit union or an association, or on an officer of a credit union or an association other than a director, by leaving it at the registered office of that credit union or association with some person apparently in the service of the credit union or association, or by sending it by post to the credit union or association at its registered office.

(4)

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(4) A document, other than a summons, No. 59, 1975 may be served on a director of a credit union or an association, by sending it by post to the last address of the director as disclosed in returns transmitted to the registrar pursuant to this Act.

(5) Where a liquidator of a credit union or an association has been appointed, a document, other than a summons, may be served on that credit union or association by leaving it at, or by sending it by post to, the last address of the office of the liquidator notice of which has been lodged with the registrar.

(6) Service by post under this section shall be deemed to be effected at the time at which the letter would be delivered in the ordinary course of post.

(7) A summons for an offence by a credit union or an association punishable under this or any other Act may be served by leaving it at the registered office of that credit union or association with some person apparently in the service of the credit union or association and apparently of or above the age of sixteen years.

(8) Where reasonable efforts have been made without success to effect service in the manner prescribed by subsection (7) and a stipendiary magistrate is so satisfied by affidavit he may give leave to effect service of the summons on an officer of the credit union or association or by advertisement or in such other manner as in the circumstances appears to him to be sufficient.

(d)

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(d) by omitting section 31;

Sec. 31.

(Exemption  
from fees.)

Heading to  
Div. 4.

(e) by inserting in the heading to Division 4 after the word "Amalgamation" the words "and Transfer of Engagements";

Sec. 33.  
(Amalgam-  
ation.)

(f) (i) by omitting section 33 (1) (b) and by inserting instead the following paragraph:—

(b) where the registrar has given a direction to one of those credit unions pursuant to section 34 (2A), a certificate has been furnished by the secretary of that credit union that—

(i) that direction has been complied with; and

(ii) the amalgamation has been approved in writing by not less than two-thirds of the number of members of that credit union who conveyed to him in writing their approval or disapproval of the amalgamation.

(ii) by omitting from section 33 (5) the word "applies" and by inserting instead the word "approves";

Sec. 33A.

(g) by inserting after section 33 the following section:—

Transfer of  
engage-  
ments.

33A. (1) Subject to this section—

(a) a credit union may by special resolution transfer its engagements to another credit union which undertakes to fulfil those engagements; and

(b)

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(b) an association may by special resolution No. 59, 1975 transfer its engagements to another association which undertakes to fulfil those engagements,

and, for the purposes of paragraph (a) or (b), a credit union or an association may—

(c) by special resolution; or

(d) with the consent of the registrar, by resolution of a general meeting or of the board,

undertake to fulfil the engagements of another credit union or association.

(2) A transfer of engagements between credit unions or associations under this section shall not have effect—

(a) unless the special resolution of the transferor credit union or association has been registered; and

(b) where the registrar has given a direction to the transferor credit union or the transferee credit union pursuant to section 34 (2A), unless—

(i) a certificate has been furnished by the secretary of that credit union that that direction has been complied with and that the transfer has been approved in writing by not less than two-thirds of the number of members of that credit union who conveyed to him in writing their approval or disapproval of the transfer; or

(ii)

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(ii) an application has been made under section 34 (3) by that credit union, and the registrar has, under section 34 (4), confirmed the transfer.

(3) The registrar, before registering the special resolution referred to in subsection (2) (a), may require such evidence as he deems necessary to ensure—

- (a) that the transferee credit union or association has, by means authorised in this section, undertaken to fulfil the engagements of the transferor credit union or association;
- (b) that the statements referred to in section 34 have (unless exemption has been granted by the registrar pursuant to section 34 (1)) been issued; and
- (c) that, if so required, the necessary approval to the transfer has been obtained under subsection (2) (b) (i) (unless the registrar has, under section 34 (4), confirmed the transfer).

(4) Within one month of the passing of a resolution under subsection (1) (d), the credit union or association shall notify the registrar that the resolution has been passed and if the credit union or association fails so to notify the registrar, the credit union or association, and every officer of the credit union or association who is in default, shall be guilty of an offence and liable to a penalty not exceeding \$500.

(5)

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(5) Subject to subsection (6), the registrar No. 59, 1975 may, not earlier than one year after the registration of the special resolution of the transferor credit union or association referred to in subsection (1), remove from the register the name of that credit union or association.

(6) The power conferred on the registrar by subsection (5) shall not be exercised until after the registrar has given to the transferee credit union or association notice of his intention so to do and, where the registrar, on the application of that credit union or association made within a time specified in the notice for the purpose, or a subsequent notice to the like effect, so approves, until after the expiration of any further period approved by the registrar.

(7) The provisions of subsections (6) to (13), inclusive, of section 33 apply to and in respect of a transfer of engagements where a credit union or an association transfers the whole of its engagements to another credit union or association in the same way as they apply to and in respect of an amalgamation of credit unions or associations, as the case may be, and for the purpose of that application—

- (a) a reference to an amalgamated credit union or association shall be construed as a reference to the transferee credit union or association;
- (b) a reference to a credit union or an association that is a party to the amalgamation shall be construed as a reference to the transferor credit union or association; and

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**Sec. 34.**  
 (Supple-  
 mentary  
 provisions  
 as to  
 amalgama-  
 tion or  
 transfer of  
 engage-  
 ments.)

(c) a reference to the issue of the certificate of incorporation shall be construed as a reference to the registration of the special resolution of the transferor credit union or association referred to in subsection (1).

(h) (i) by omitting from section 34 (1) the words "A credit union desiring to amalgamate with one or more other credit unions, or an association desiring to amalgamate with one or more other associations" and by inserting instead the words "A credit union or an association referred to in section 33 or 33A, prior to the amalgamation or transfer of engagements therein provided";

(ii) by inserting in section 34 (1) (b) after the word "amalgamation" the words "or transfer of engagements";

(iii) by inserting in section 34 (1) (d) after the word "amalgamation" the words "or transfer of engagements";

(iv) by omitting from section 34 (2) the words "subsection one of section thirty-three of this Act" and by inserting instead the words "section 33 (1) or 33A (1) (a), (b) or (c), as the case may require";

(v) by inserting after section 34 (2) the following subsection :—

(2A) A credit union referred to in section 33 or 33A, prior to the amalgamation or transfer of engagements therein provided, shall, if so directed by the registrar, seek from all of its members, in a manner approved by the

**registrar,**

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registrar, their approval or disapproval in No. 59, 1975 writing of that amalgamation or transfer of engagements.

(vi) by omitting section 34 (3) and by inserting instead the following subsections :—

(3) Where the registrar has given a direction to a credit union pursuant to subsection (2A), the credit union may apply to the registrar to confirm an amalgamation or transfer of engagements notwithstanding that the approval in writing of not less than two-thirds of the number of members of the credit union who conveyed to the secretary of the credit union in writing their approval or disapproval of the amalgamation or transfer of engagements, as the case may be, has not been obtained.

(3A) Where an application is made under subsection (3) the credit union shall give notice of the application in such manner, at such times and in such newspapers as the registrar may direct.

(vii) by inserting in section 34 (4) after the word "amalgamation" the words "or transfer of engagements";

(i) by inserting after section 34 the following **Secs. 34A and 34B.**

34A. (1) Subject to this section, the registrar may, with the approval of the Minister—

(a) direct—

Transfer of  
engag-  
ments by  
direction of  
registrar.

(i) a credit union to transfer its engagements to another credit union approved by the registrar; or

(ii)

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(ii) an association to transfer its engagements to another association approved by the registrar; and

(b) at the same time, require the credit union or association, within a period specified by the registrar, or within such further period as the registrar may allow, to enter into an agreement, approved by the registrar, to give effect to the transfer of engagements directed.

(2) The registrar shall not give a direction under subsection (1) unless he gives such a certificate as would be provided for by section 72 (3) and (4) if section 72 were amended—

(a) by omitting from subsection (3) the words “In the case of a winding up upon a certificate of the registrar, a credit union, or an association, may be wound up in accordance with this Part of this Act if” and by inserting instead the words “The registrar may not direct a transfer of engagements under section 34A (1) unless”; and

(b) by omitting from subsection (3) (f) the words “the credit union or association should be wound up” and by inserting instead the words “the credit union or association should transfer its engagements”.

(3) Where a credit union or an association fails to comply with a direction given under subsection (1), the registrar may notify the credit

union

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union or association that he has elected to treat the No. 59, 1975 certificate given under subsection (2) in relation to the credit union or association as—

- (a) a certificate given under section 71A (2); or
- (b) a certificate given under section 72 (3).

(4) Where the registrar notifies a credit union or an association as provided by subsection (3), this Act applies to and in respect of the credit union or association as if the certificate that, pursuant to subsection (3) (a) or (b), was specified in the notice had been given by the registrar.

(5) The registrar may, before a credit union or an association has, pursuant to a direction under subsection (1) (a), agreed pursuant to a requirement under subsection (1) (b) to transfer its engagements, revoke the direction.

(6) Section 33A (subsection (7) excepted) does not apply to a transfer of engagements under this section.

(7) A transfer of engagements under this section takes effect upon a day notified by the registrar in the Gazette.

(8) On the transfer of engagements under this section, the registrar may remove from the register the name of the transferor credit union or association.

(9)

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(9) An officer of a credit union or an association who—

- (a) fails to take all reasonable steps to secure compliance by the credit union or association with a direction given under subsection (1); or
- (b) by a wilful act or omission is the cause of a failure by the credit union or association to comply with such a direction,

is guilty of an offence and liable to a penalty not exceeding \$500.

Representations to  
Advisory  
Committee.

34B. (1) Where a direction is given to a credit union or an association under section 34A (1) (a), the credit union or association may, not later than fourteen days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

(2) The registrar shall exercise in relation to a credit union or an association his powers under section 34A (5) if the Minister so directs after considering a report under subsection (1) with respect to the credit union or association.

Amendment  
of Part IV  
of Act No.  
8, 1969.

Sec. 39A.

7. Part IV of the Principal Act is amended—

- (a) by inserting after section 39 the following section :—

Delegation—  
admission  
of members.

39A. (1) Where the rules of a credit union so provide, the board may, by instrument in writing, delegate any or all of its powers to admit persons

to

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to membership of the credit union to such person ~~No. 59, 1975~~ or body of persons as may be prescribed by the regulations.

(2) The exercise of any delegation under this section shall be subject to and in accordance with such limits and conditions as may be specified in the instrument of delegation and such conditions as may be prescribed by the regulations.

(3) Notwithstanding any delegation made under this section the board may continue to exercise or perform all or any of the powers so delegated.

(4) Any act or thing done or suffered by the delegate when acting in the exercise of any delegation under this section, and within the terms of the delegation, shall be as effective as if the act or thing had been done or suffered by the board.

(5) The board may, by instrument in writing, revoke wholly or in part any delegation made under subsection (1).

(b) (i) by omitting from section 40 (3) the word Sec. 40. "three" and by inserting instead the word <sup>(Corporate body as member.)</sup> "five";

(ii) by omitting from section 40 (4) the word "three" and by inserting instead the word "five";

(c) (i) by omitting from section 50 (4) the word Sec. 50. "winding-up" and by inserting instead the <sup>(Reserves.)</sup> words "winding up or upon terms and conditions approved by the Advisory Committee";

(ii)

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(ii) by inserting after section 50 (5) the following subsections :—

(6) Subject to subsection (8), if the proper allowance for contingent liability for loss made by a credit union or association pursuant to subsection (5), in respect of a loan made by that credit union or association, is—

- (a) where a payment on the loan is due and unpaid for a period of three months or more but less than six months—less than forty per centum of the balance of the loan, the credit union or association shall increase that allowance to forty per centum of that balance;
- (b) where a payment on the loan is due and unpaid for a period of six months or more but less than nine months—less than sixty per centum of the balance of the loan, the credit union or association shall increase that allowance to sixty per centum of that balance;
- (c) where a payment on the loan is due and unpaid for a period of nine months or more but less than twelve months—less than eighty per centum of the balance of the loan, the credit union or association shall increase that allowance to eighty per centum of that balance; or
- (d) where a payment on the loan is due and unpaid for a period of twelve months or more—less than one

hundred

*Credit Union (Amendment).*

hundred per centum of the balance of No. 59, 1975  
the loan, the credit union or association  
shall increase that allowance to  
one hundred per centum of that  
balance.

(7) In subsection (6), "balance of the  
loan" means the sum of—

- (a) the balance of the principal; and
- (b) any interest due and unpaid on the  
principal,

in respect of the loan as at the time the  
allowance referred to in subsection (5) is  
made.

(8) The periods or rates, or both the  
periods and rates or any of them, specified in  
subsection (6) may be varied as prescribed.

**8. Part V of the Principal Act is amended—**

Amendment  
of Part V  
of Act No.  
8, 1969.

- (a) (i) by omitting from section 54 (2) the words Sec. 54.  
"this section and sections twenty and (Election  
thirty-seven of";
- (ii) by omitting from section 54 (7) the words  
"The chairman" and by inserting instead the  
words "Subject to subsection (10), the  
chairman";
- (iii)

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(iii) by inserting after section 54 (7) the following subsections :—

(8) The rules of a credit union or an association may provide that one employee of that credit union or association, nominated by a majority of its directors, may be elected as a director of that credit union or association.

(9) An employee shall not be elected as a director where that election would result in two or more employees of the credit union or association holding office as directors of that credit union or association at the one time.

(10) A director who is an employee of a credit union or an association shall not be eligible to be elected as chairman of the board of that credit union or association.

(11) In this section, “employee”, in relation to a credit union or an association, includes a person, or the employee of a person, who provides that credit union or association with secretarial or administrative services.

**Sec. 55.**  
(Director's  
qualification  
and vacation  
of office.)

(b) (i) by inserting in section 55 (1) after the words “this Act,” where firstly occurring the words “or unless the Advisory Committee upon application made to it for the purpose otherwise approves.”;

(ii) by inserting after section 55 (1) the following subsection :—

(1A) Subsection (1) does not authorise the election of an employee of a credit union or an association or a person, or the employee of

*Credit Union (Amendment).*

a person, who provides that credit union or No. 59, 1975 association with secretarial or administrative services as a director of that credit union or association unless that employee is eligible to be elected in accordance with the rules of the credit union or association made pursuant to section 54.

- (iii) by omitting from section 55 (2) the words "In the absence" and by inserting instead the words "Subject to subsection (2A), in the absence";
- (iv) by inserting after section 55 (2) the following subsection :—

(2A) An employee of a credit union or an association, or a person, or the employee of a person, who provides that credit union or association with secretarial or administrative services, shall not be appointed to act as deputy for a director of that credit union or association, other than for a director who is such an employee or person.

- (v) by omitting section 55 (3) (h) and by inserting instead the following paragraph :—
- (h) if he, his partner, a person in his employment or his employer acts as accountant (otherwise than as accountant exclusively to the credit union or association), solicitor, valuer or auditor to the credit union or association;

(vi)

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(vi) by omitting from section 55 (3) (i) the word "or";

(vii) by omitting from section 55 (3) (j) the words "the board." and by inserting instead the words "the board; or";

(viii) by inserting after section 55 (3) (j) the following paragraph :—

(k) if, having been elected as a director pursuant to rules made under section 54 (8), he ceases to hold the qualification by virtue of which he was elected.

**Sec. 56A.**

(c) by inserting after section 56 the following section :—

**Return  
showing  
certain  
declarations.**

56A. (1) A credit union or an association shall, not later than three months after the end of its financial year, lodge with the registrar in the prescribed form a return specifying any declaration made to its board under section 56 during that financial year.

(2) Where a credit union or an association fails to comply with subsection (1), that credit union or association and any officer of that credit union or association in default are each guilty of an offence and liable to a penalty not exceeding \$500. Default penalty.

**Sec. 62.  
(Voting.)**

(d) (i) by omitting from section 62 (1) the words "of those persons entitled to vote as are present in person thereat" and by inserting instead the words "of the votes which the persons present in person thereat are entitled to cast";

(ii)

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- (ii) by omitting from section 62 (1) the words **No. 59, 1975** "not less than one-fifth of those persons so entitled and so present" and by inserting instead the words "the persons present at the meeting representing not less than one-fifth of the number of credit unions or associations represented thereat";
- (iii) by inserting after section 62 (2) the following subsection :—

(2A) Where the rules of an association so provide, the appointee or appointees of a component credit union or association who is or are present at a meeting of the firstmentioned association may, on a poll, cast on behalf of that component credit union or association such total number of votes, not exceeding five, as is specified in those rules.

- (e) by omitting section 64 (1) and by inserting instead **Sec. 64.**  
**(Special resolution.)** the following subsection :—

- (1) For the purposes of this Act, a special resolution means a resolution—
  - (a) where the voting on the resolution is by show of hands—which is passed by a majority of not less than two-thirds of the number of persons who, being entitled so to do, vote in person; or
  - (b) where the voting on the resolution is by poll—which is passed by a majority of not less than two-thirds of the number of votes cast by the persons who, being entitled so to do, cast votes,

at

**No. 59, 1975**

at any general meeting of a credit union or an association, of which notice specifying the intention to propose the resolution as a special resolution has been duly given in accordance with the provisions of this Act and of the rules of the credit union or association.

**Sec. 67.  
(Registers  
and  
accounts.)**

(f) by omitting section 67 (4) and by inserting instead the following subsections :—

(4) Except as provided in this section, no notice of any trust express, implied or constructive shall be entered in any register or account kept by a credit union or an association or be received by a credit union or an association or the registrar.

(5) Where the rules of a credit union or an association so provide, an entry in a register or an account kept by the credit union or association in respect of any shares in the credit union or association or moneys deposited with the credit union or association may, in the circumstances and in the manner authorised by the rules, be made so as to indicate that the shares or the moneys are held by or vested in a person upon trust.

(6) No liabilities shall be affected by anything done in pursuance of subsection (5) and the credit union or association concerned shall not be affected with notice of any trust by anything so done.

**Amendment  
of Part VI  
of Act No. 8,  
1969.  
Sec. 70.  
(Disputes.)**

9. Part VI of the Principal Act is amended by inserting in section 70 (4) after the word "hearing" the words "and such costs of the parties as he specifies".

*Credit Union (Amendment).***10. Part VII of the Principal Act is amended—****No. 59, 1975****Amendment  
of Part VII  
of Act No.  
8, 1969.**

(a) by inserting after section 71 the following sections :—

71A. (1) Subject to this section, the registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a credit union or an association.

Appoint-  
ment of  
administra-  
tor of  
credit union  
or associa-  
tion.

(2) The registrar shall not appoint an administrator unless he gives such a certificate as would be provided for by section 72 (3) and (4) if section 72 were amended—

(a) by omitting from subsection (3) the words “In the case of a winding up upon a certificate of the registrar, a credit union, or an association, may be wound up in accordance with this Part of this Act if” and by inserting instead the words “An administrator may not be appointed under section 71A (1) unless”; and

(b) by omitting from subsection (3) (f) the words “the credit union or association should be wound up” and by inserting instead the words “an administrator should be appointed to conduct the affairs of the credit union or association”.

(3) Upon the appointment of an administrator of a credit union or an association, other than an appointment referred to in subsection (6) (a)—

(a) the directors of that credit union or association cease to hold office;

(b)

*Credit Union (Amendment).***No. 59, 1975**

- (b) all contracts of employment with that credit union or association are terminated;
- (c) all contracts for the provision of secretarial or administrative services for that credit union or association are terminated; and
- (d) any delegation made by the board of that credit union or association is revoked.

(4) An administrator of a credit union or an association has the powers, authorities, duties and functions of the board of that credit union or association.

(5) Except as provided by subsection (6), a director of a credit union or an association shall not be appointed or elected while an administrator of that credit union or association is in office.

(6) Before revoking the appointment of an administrator of a credit union or an association, the registrar shall, except in the case of a revocation under section 71B (2)—

- (a) appoint another person as administrator;
- (b) ensure that directors of that credit union or association have been elected in accordance with the rules of that credit union or association at a meeting convened by the administrator in accordance with those rules; or
- (c) appoint directors of that credit union or association.

(7)

*Credit Union (Amendment).*

(7) Directors elected under subsection No. 59, 1975

(6) (b) or appointed under subsection (6) (c)—

(a) take office upon revocation of the appointment of the administrator; and

(b) in the case of appointed directors, hold office until—

(i) they cease to hold office in accordance with this Act or the rules of the credit union or association; or

(ii) the annual general meeting of the credit union or association that next succeeds revocation of that appointment,

whichever is the earlier.

(8) The expenses of and incidental to the conduct of the affairs of a credit union or an association by an administrator are payable from the funds of that credit union or association.

(9) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subsection (8) and shall be fixed by the registrar.

(10) Where an administrator appointed under this section is a servant of the Crown, the reimbursement of the Crown in an amount certified by the registrar in respect of the remuneration of its servant is an expense referred to in subsection (8) and is recoverable as a debt due to the Crown.

(11)

*Credit Union (Amendment).***No. 59, 1975**

(11) An administrator of a credit union or an association is not liable for any loss sustained by that credit union or association during his term of office unless the loss was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the regulations or the rules of the credit union or association.

(12) The registrar is not liable for any loss sustained by a credit union or an association during the term of office of an administrator, whether or not the administrator is so liable.

(13) The registrar may revoke any appointment of an administrator made under this section.

**Representations to Advisory Committee.**

71B. (1) Where an administrator of a credit union or an association is appointed, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than fourteen days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

(2) The registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a credit union or an association, revoke the appointment of an administrator of that credit union or association, and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment.

(b)

*Credit Union (Amendment).*

(b) by inserting after section 75 the following No. 59, 1975

section :—

**Sec. 75A.**

75A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of credit unions and associations, and their officers and former officers, in the same way as they apply to and in respect of companies and their officers and former officers.

75A. (1) Subject to this section, the provisions of sections 367A, 367B and 367C and of sections 374A to 374G, both inclusive, of the Companies Act, 1961, apply to and in respect of credit unions and associations, and their officers and former officers, in the same way as they apply to and in respect of companies and their officers and former officers.

(2) For the purposes of subsection (1), the provisions referred to therein shall be construed as if—

(a) a reference therein to a company were, in the application of the provisions to and in respect of—

(i) a credit union, a reference to a credit union; and

(ii) an association, a reference to an association;

(b) a reference therein to the Commission were a reference to the registrar;

(c) the reference in section 374B to the provisions of section 161A or any corresponding previous enactment for the time being in force were a reference to the provisions of this Act relating to the keeping of accounts by a credit union or an association, as the case may be;

(d)

(d)

**No. 59, 1975**

(d) paragraph (c) were omitted from—

- (i) the definition of “appropriate officer” in section 374E (1);
- (ii) the definition of “company to which this section applies” in section 374E (1); and
- (iii) the definition of “the relevant day” in section 374E (1); and

(e) the return referred to in paragraph (f) of the definition of “the relevant day” in section 374E (1) were a reference to a return under section 69 (2) of this Act.

Amend-  
ment of  
Part VIII of  
Act No. 8,  
1969.

**Sec. 90A.****11. Part VIII of the Principal Act is amended—**

(a) by inserting after section 90 the following section :—

**Proceedings.**

90A. Notwithstanding anything in any Act, summary proceedings for any offence punishable under this Act and committed—

- (a) after the commencement of this section; or
- (b) before the commencement of this section, where the time for commencing summary proceedings under the law, as in force before the commencement of this section, had not, as at that commencement, expired in respect of that offence,

may be brought within three years after the commission of the offence.

(b)

(b)

*Credit Union (Amendment).*

(b) by inserting after section 91 the following No. 59, 1975  
section :—

Sec. 91A.

91A. Where, after the commencement of this Notice to section, a penalty is imposed on a credit union or an association under this Act, that credit union or association shall, not later than fifteen months after imposition of the penalty, give each member written notice of the imposition of the penalty, the amount thereof and the nature of the offence.

**12. Part IX of the Principal Act is amended—**Amendment  
of Part IX  
of Act No.  
8, 1969.

(a) by inserting after section 95 the following Secs. 95A,  
95B and  
95C.  
sections :—

95A. Where a fee to be taken in the office of the Fees registrar is prescribed in respect of any document and the document is submitted to that office without payment of the fee, the document shall be deemed not to have been received in that office until the prescribed fee has been paid.

95B. (1) The registrar may enlarge or abridge Enlargement or abridge-  
ment of time. any time for doing any act required to be done by a credit union or an association by this Act or the regulations or the rules of that credit union or association upon such terms (if any) as the registrar may determine.

(2) This section does not limit the operation of section 81 of the Supreme Court Act, 1970, or the operation of any rules of the Supreme Court of New South Wales relating to the enlargement or abridgement of time.

95C.

*Credit Union (Amendment).*

No. 59, 1975

Power to  
control  
advertising.

95C. (1) If with respect to a credit union or an association the registrar considers it expedient so to do in the interests of persons who may become members of, or invest in, or deposit money with, that credit union or association, he may with the approval of the Minister, by notice served on that credit union or association, give a direction—

- (a) prohibiting the issue by that credit union or association of advertisements of all descriptions;
- (b) prohibiting the issue by that credit union or association of advertisements of any description specified in the direction;
- (c) prohibiting the issue by that credit union or association of any advertisements which are, or are substantially, repetitions of an advertisement which has been issued and which is specified in the direction; or
- (d) requiring that credit union or association to take all practicable steps to withdraw any advertisement, or any description of advertisement, which is specified in the direction and is displayed in any place,

or a direction as to any two or more of the matters referred to in paragraphs (a), (b), (c) and (d).

(2) The Minister's approval under subsection (1) shall not, where the credit union or association has made representations pursuant to subsection (5) with respect to the proposal of the registrar set out in the notice served on the credit union or association under subsection (4), be given until he has obtained and considered the report of the Advisory Committee with respect to the proposal.

(3)

*Credit Union (Amendment).*

(3) Directions under this section may be No. 59, 1975 varied or revoked at any time by a subsequent direction under this section.

(4) Not less than seven days before giving a direction under this section (other than a direction revoking a previous direction) with respect to any credit union or association, the registrar shall serve on that credit union or association a notice in writing stating that he proposes to seek the Minister's approval to give a direction pursuant to subsection (1).

(5) A credit union or association may within a period of seven days after the date on which it is served with a notice under subsection (4) make representations to the Advisory Committee with respect to any such proposal and the Advisory Committee shall report thereon to the Minister.

(6) A credit union or an association shall not issue any shares, or lend or borrow any money whether by way of loan or on deposit during the period after the service upon it of a notice under subsection (4) and before the credit union or association is notified by the registrar that the proposal has been dealt with by the Minister.

(7) A credit union or an association that fails to comply with any direction given to it under subsection (1) or that contravenes subsection (6) shall be guilty of an offence and liable to a penalty not exceeding \$400 and every officer of the credit union or association shall be guilty of the same offence and liable to the same penalty unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

(b)

*Credit Union (Amendment).***No. 59, 1975**

Sec. 96.

(Power to suspend operations.)

Sec. 100.

(Powers of registrar and inspectors.)

- (b) by omitting from section 96 (4) the words "of this subsection" and by inserting instead the words "of subsection (2)";
- (c) by omitting from section 100 (1) (i) the words "subsection three of section thirty of this Act" and by inserting instead the words "section 30 (3), (4) or (5), as the case may be".

Amendment of Act No. 15, 1973.

Sec. 4.

(Amendment of Act No. 8, 1969.)

Amendment of Act No. 67, 1941.

Sec. 3.

(Interpretation.)

**13.** The Co-operation and Other Acts (Amendment) Act, 1973, is amended by inserting in section 4 (c) (i) after the word "and" the words "where lastly occurring".

**14.** The Moneylending Act, 1941, is amended by inserting after paragraph (b3) of the definition of "Money-lender" in section 3 (1) the following paragraph :—

- (b4) any society or company formed or incorporated outside New South Wales in respect of which an exemption from compliance with section 28 (1) of the Credit Union Act, 1969, is for the time being in force; or.

Transitional provision.

**15.** An order made under section 12 (2) of the Principal Act and in force immediately before the commencement of section 5 (d) (i) shall be deemed to have been made under section 12 (2) of the Principal Act, as amended by this Act.