

CO-OPERATION (AMENDMENT) ACT, 1984, No. 144

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 144, 1984.

An Act to amend the Co-operation Act, 1923, with respect to the age of office-holders of a society, the number of persons required for the formation and continuation of certain societies and the election of employees of a society as directors of the society. [Assented to, 4th December, 1984.]

Co-operation (Amendment) 1984

BE 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:—

Short title.

1. This Act may be cited as the "Co-operation (Amendment) Act, 1984".

Amendment of Act No. 1, 1924.

2. The Co-operation Act, 1923, is amended in the manner set forth in Schedule 1.

Savings—certain rules.

3. A rule in force immediately before the date of assent to this Act, being a rule made for the purposes of section 84 (9A) of the Co-operation Act, 1923, as so in force, shall, on and from that date, subject to the Co-operation Act, 1923, as amended by this Act—

- (a) continue in force; and
- (b) be deemed to have been made for the purposes of section 84AAA of that Act, as so amended.

SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE CO-OPERATION ACT, 1923.

(1) Section 9 (1) (a1)—

After section 9 (1) (a), insert:—

- (a1) to provide employment for the members of the society within any business, trade or industry referred to in paragraph (a);

*Co-operation (Amendment) 1984*SCHEDULE I—*continued.*AMENDMENTS TO THE CO-OPERATION ACT, 1923—*continued.*

(2) Section 38 (4C)—

Omit “twenty-one”, insert instead “18”.

(3) (a) Section 39 (1)—

Omit “any seven or more”, insert instead “not less than the prescribed number of”.

(b) Section 39 (2), (4)—

Omit “seven or more” wherever occurring, insert instead “not less than the prescribed number of”.

(c) Section 39 (5) (c)—

Omit “seven”, insert instead “the prescribed number of persons who are”.

(d) Section 39 (10)—

After section 39 (9), insert:—

(10) In this section, a reference to the prescribed number of persons, in relation to a society, is a reference to—

- (a) where a number of persons is not prescribed as referred to in paragraph (b), 7 persons; or
- (b) such number of persons as is prescribed for the purposes of this section in relation to a society so prescribed or a society of a class or description of societies so prescribed.

(4) Section 70 (4) (c)—

Omit “seven persons”, insert instead “the prescribed number of persons within the meaning of section 39”.

Co-operation (Amendment) 1984

SCHEDULE I—*continued.*AMENDMENTS TO THE CO-OPERATION ACT, 1923—*continued.*

(5) (a) Section 84 (9A)—

Omit the subsection.

(b) Section 84 (11) (j)—

Omit the paragraph.

(c) Section 84 (11) (l)—

After “section”, insert “84AAC or”.

(6) Sections 84AAA–84AAC—

After section 84, insert:—

Election of employees as directors.

84AAA. (1) Notwithstanding anything in this Act, an employee of a society may, as provided by this section, be elected as a director of the society.

(2) The rules of a society may provide for one employee of the society to be nominated by the directors of the society for election by the members of the society as a director of the society and, if so nominated, to be so elected.

(3) The rules of—

(a) a trading society which, in the opinion of the registrar (of which notice in writing has been served on the society), has as a principal object the provision of employment for its members within any business, trade or industry carried on by the society; or

(b) a society approved by the Advisory Council.

may provide that all directors of the society or such number of those directors as may be specified in or determined in accordance with the rules shall or, as may be determined by the rules, may be employees of the society.

*Co-operation (Amendment) 1984*SCHEDULE 1—*continued.*AMENDMENTS TO THE CO-OPERATION ACT, 1923—*continued.*

(4) The rules of a society to which subsection (3) applies may make provision as referred to in subsection (3) or as referred to in subsection (2), or both.

(5) Where the rules of a trading society to which subsection (3) (a) applies provide for the election of employees of the society as directors of the society, any member of the society may, in accordance with the rules, nominate an employee of the society for election as a director of the society.

(6) An employee of a society approved by the Advisory Council as referred to in subsection (3) (b) shall not be elected as a director of the society, except in such manner, if any, and in accordance with such conditions, if any, as may be determined from time to time by the Advisory Council and of which notice in writing has been served on the society.

(7) In this section, "employee", in relation to a society, includes a person, or the employee of a person, who provides the society with secretarial and administrative services.

Notice of determination and reference of determination to Minister.

84AAB. (1) Where the Advisory Council determines an application for the approval for the purposes of section 84AAA (3) of a society, the Advisory Council shall thereupon serve notice in writing on the society of the determination and shall, where the Advisory Council refuses the application, state in the notice the reasons for the refusal.

(2) A society on which a notice of refusal under subsection (1) has been served may, within 21 days after the date of the notice, request the Advisory Council to refer its application for approval to the Minister and the Advisory Council shall refer the application to the Minister accordingly.

Co-operation (Amendment) 1984

SCHEDULE 1—*continued.*AMENDMENTS TO THE CO-OPERATION ACT, 1923—*continued.*

(3) The Minister shall have and may exercise and perform the same powers, authorities, duties and functions in relation to an application referred to the Minister under subsection (2) as the Advisory Council.

(4) Where the Minister, under subsection (3), approves an application, a reference in section 84AAA to the Advisory Council shall be read and construed as if it were a reference to the Minister.

Revocation of approval, etc.

84AAC. (1) Where the registrar is of the opinion that a trading society in respect of which an opinion referred to in section 84AAA (3) (a) was formed has ceased to have as a principal object the provision of employment for its members within any business, trade or industry carried on by the society, the registrar shall serve notice in writing on the society accordingly and shall specify in the notice the date upon which each director of the society who is an employee of the society elected otherwise than in accordance with the rules of the society referred to in section 84AAA (2) shall vacate office as a director.

(2) The Advisory Council, in respect of an approval for the purposes of section 84AAA (3) of a society given by it, or the Minister, in respect of an approval for the purposes of section 84AAA (3) of a society given by the Minister, may, at any time, by notice in writing served on the society, revoke the approval.

(3) Upon service on a society of a notice under subsection (1) or (2), an employee of the society shall not, otherwise than in accordance with rules of the society referred to in section 84AAA (2), be elected as a director of the society.

(4) The office of a director of a society on which a notice under subsection (1) or (2) has been served shall, where the director is an employee of the society elected otherwise than in accordance

*Co-operation (Amendment) 1984*SCHEDULE 1—*continued.*AMENDMENTS TO THE CO-OPERATION ACT, 1923—*continued.*

with rules of the society referred to in section 84AAA (2), be vacated on the date specified therefor in the notice unless, before that date, the Advisory Council under section 84AAA (3) or the Minister under section 84AAB (3) has approved the society.

(5) The office of a director of a society, being a director elected in accordance with section 84AAA (2), shall be vacated if the director ceases to hold the qualification by virtue of which the director was elected.

(6) In this section, “employee”, in relation to a society, has the same meaning as in section 84AAA.

(7) Sections 92 (3) (a), 103 (1)—

Omit “seven” wherever occurring, insert instead “the prescribed number of persons within the meaning of section 39”.
