

CO-OPERATIVES (AMENDMENT) ACT 1992 No. 107

NEW SOUTH WALES



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CO-OPERATIVES (AMENDMENT) ACT 1992 No. 107

NEW SOUTH WALES



Act No. 107, 1992

An Act to amend the Co-operatives Act 1992 to make further provision with respect to the composition of the board of directors of a co-operative. [Assented to 8 December 1992]

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Co-operatives (Amendment) Act 1992.

Commencement

2. This Act commences on the date of assent.

Amendment of Co-operatives Act 1992 No. 18

3. The Co-operatives Act 1992 is amended as set out in Schedule 1.
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SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 206 (**Qualifications for directors (other than associations and federations)**):

- (a) At the end of section 206 (3), insert:

This subsection does not apply to a co-operative while an exemption applying to the co-operative is in force under section 206A and any conditions to which that exemption is subject are complied with.

- (b) From section 206 (4), omit “for the purposes of subsection (3)”, insert instead “as an active member for the purposes of determining how many directors are active members of the co-operative”.

- (2) Section 206A:

After section 206, insert:

Exemptions concerning composition of board

206A. (1) The Minister may exempt a co-operative by order in writing from the operation of section 206 (3), but only if the Minister is satisfied that the exemption:

- (a) is in the interests of the co-operative generally, including the long term viability of the co-operative; and
- (b) will not result in the board of the co-operative being controlled by a person who is not a member of the co-operative or by persons together who are not members of the co-operative; and

SCHEDULE 1—AMENDMENTS— *continued*

(c) is in the public interest.

(2) While such an exemption is in force:

(a) a majority of the directors of the co-operative must be active members of the co-operative; and

(b) a meeting of the board of the co-operative is not competent to transact any business of the board unless a majority of the directors present at the meeting are active members of the co-operative.

(3) An exemption may be granted unconditionally or subject to conditions and may be granted to apply for a specified period or without limitation as to the time for which it applies. Any conditions must be set out in the exemption.

(4) An exemption may be revoked at any time by the Minister by notice in writing to the co-operative (even if it was granted to apply for a particular period and that period has not expired).

(5) For the purposes of this section, the board of a co-operative is taken to be controlled by a person, or by persons together, if the person or persons are able to dominate (either directly or indirectly) decision making by the board in relation to the management, financial and operating policies of the co-operative.

(6) Section 206 (4) and (5) apply for the purposes of this section as well as for the purposes of section 206.

(3) Schedule 6 (Savings and transitional provisions):

At the end of Schedule 6, insert:

Composition of the board—continuation of approvals

13. (1) This clause applies to a co-operative in respect of which an approval of the Advisory Council or an order of the Minister under section 84 (7) of the 1923 Act was in force immediately before the commencement of this clause.

(2) If the composition of the board of a co-operative does not comply with section 206 (3) as a consequence of the approval or order, that subsection does not apply in respect of the co-operative.

SCHEDULE 11—AMENDMENTS—*continued*

(3) While this clause operates in respect of a co-operative:

- (a) a majority of its directors must be active members of the co-operative; and
- (b) a meeting of the board of the co-operative is not competent to transact any business of the board unless a majority of the directors present at the meeting are active members of the co-operative.

(4) The Minister may, by notice in writing to a co-operative, revoke the application of this clause to the co-operative, in which case this clause ceases to apply to the co-operative.

(5) Section 206 (4) and (5) apply for the purposes of this clause as well as for the purposes of section 206.

*[Minister's second reading speech made in—
Legislative Assembly on 27 November 1992
Legislative Council on 27 November 1992]*