

1994—No. 407

**CO-OPERATION ACT 1923—REGULATION**

(Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994)

NEW SOUTH WALES



*[Published in Gazette No. 108 of 26 August 1994]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Co-operation Act 1923, has been pleased to make the Regulation set forth hereunder.

TED PICKERING,  
Minister for Local Government and Co-operatives.

**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994.

**Commencement**

2. This Regulation commences on 1 September 1994.

**Definitions**

3. (1) In this Regulation:

“the Act” means the Co-operation Act 1923.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

**FINCOM has functions of the Registrar for co-operative housing societies**

4. (1) The functions of the Registrar under this Regulation in relation to co-operative housing societies are to be exercised by the New South Wales Financial Institutions Commission.

(2) For that purpose, a reference in this Act to the Registrar is, in relation to the application of this Regulation in respect of co-operative housing societies, to be read as a reference to that Commission.

## **PART 2—FORMATION OF SOCIETY**

### **Application to register**

5. An application for registration of a society is to be made in writing to the Registrar in the form approved by the Registrar.

### **Declaration to accompany application**

6. The statutory declaration by the chairperson and secretary of the formation meeting of a society to accompany the application for registration is to be in a form approved by the Registrar.

### **Statement**

7. An application must, if so required by the Registrar, be accompanied by a statement setting forth the numbers of the society rules which contain the various matters referred to in section 82 of the Act or the regulations under that section or which may by the Act be prescribed in the rules.

### **List of directors**

8. A list of directors required by the Act to be furnished to the Registrar is to be furnished in a form approved by the Registrar.

### **List of members of a society**

9. The list of applicants for membership referred to in section 39 (5) (e) of the Act is to be provided in a form approved by the Registrar.

### **Certificate of incorporation**

10. The certificate of incorporation of a society under the Act is to be in the form of Form 1.

### **Certificate of registration**

11. The certificate of registration of a society and its rules under the Act is to be in a form approved by the Registrar.

**Application by company to register**

12. An application pursuant to section 44A of the Act is to be made in the form of Form 2.

**PART 3—AMALGAMATION OF SOCIETIES****Application for registration**

13. An application for registration of amalgamation of societies is to be made in duplicate in the form of Form 3.

**Certificate of incorporation**

14. The certificate of incorporation of a society formed by the amalgamation of one or more societies is to be in the form of Form 1.

**Gazette notice of amalgamation**

15. The notice required by section 43 (3) of the Act is to be in the form of Form 4.

**PART 4—AFFAIRS OF SOCIETIES****Registered office**

16. The office of a society as disclosed in its rules at the time of registration is to be registered as its registered office.

**Change of address**

17. Notice of any change of address of the registered office of a society is to be signed by the secretary of the society, and is to be in the form approved by the Registrar. The notice is to be given in duplicate.

**Change of name of a society**

18. (1) An application for registration of a change of name of a society is to be made in a form approved by the Registrar and is to be made in duplicate within one month after the meeting at which the special resolution authorising the change was passed.

(2) The application is to be accompanied by:

(a) the certificate of incorporation of the society; and

- (b) an application for registration of the alteration of the society's rules and of the special resolution relating to the alteration, in a form approved by the Registrar.

#### **Advertisement of change of name**

**19. (1)** Within 28 days after the registration of a change of name of a society, the Registrar must cause the change of name to be advertised in the Government Gazette.

**(2)** Within the same period, the society must cause the change of name to be advertised in at least one newspaper circulating in the locality in which the registered office of the society is situated.

#### **Certificate of incorporation**

**20.** A new certificate of incorporation issued consequent on the change of name is to be in the form of Form 5.

#### **Deceased members**

**21.** For the purposes of section 59 (2A) of the Act, the prescribed amount is \$10,000.

#### **Application by company for exemption from provisions of section 61 (1) of the Act**

**22.** An application to the Registrar pursuant to the provisions of section 61 (4A) of the Act is to be accompanied by:

- (a) 2 copies of the memorandum and articles of association of the company certified by the secretary or manager of the company as being the memorandum and articles of association of such company in force at the date of the application; and
- (b) one copy of the balance sheet and profit and loss account and the auditor's report for the financial year of the company immediately preceding the date of the application.

#### **Additional powers**

**23. (1)** A co-operative housing society may, if authorised by its rules, as incidental to the object referred to in section 16 (3) of the Act, sell or transfer mortgages under a scheme approved by the Director of Housing.

**(2)** A society which is authorised by its rules to raise money by issuing, discounting or otherwise dealing with bills of exchange may give

security in such manner as the society thinks fit for the performance of any of its obligations (whether present or future) arising from its raising of money by any of those means. In particular, a society may give security by legal or equitable mortgage charged on the undertaking of the society or on all or any part of the property and rights (both present and future) of the society, including its uncalled or unpaid capital, subscriptions, loan payments and other money.

### **Additional powers of associations**

**24. (1)** An association may, unless otherwise provided by its rules:

- (a) guarantee the payment of any amount which a component society of the association is or will be liable to pay; or
- (b) make a secured loan to a person who is a member of a component society of the association for purposes connected with the support by the member of the objects of the component society; or
- (c) make a secured loan to any company or other body corporate if shares in it can be purchased by a component society of the association pursuant to section 68 (3A) of the Act (company or other body corporate rendering special services).

**(2)** In subclause (1):

**“secured loan”** means a loan secured by mortgage (including debenture, lien or charge) given by the person, company or other body corporate to whom the loan is made which makes any property of the person, company or other body corporate liable specifically or otherwise.

### **Investment of funds**

**25. (1)** Pursuant to section 68 (1) (c) of the Act, a society may invest any of its funds by loan to another society secured by a debenture given by that other society which makes any property of that other society liable specifically or otherwise.

**(2)** Pursuant to section 68 (1) (c) of the Act, a society may invest any of its funds by loan to a subsidiary corporation (including a subsidiary society) of the society but only if:

- (a) the whole of the issued share capital of the corporation is beneficially owned by the society; or
- (b) the loan is secured by a debenture issued by the corporation which makes any property of the corporation liable specifically or otherwise.

(3) For the purposes of section 68 (1) (b) of the Act, a bank authorised to carry on the business of banking under any law of the Commonwealth or of a State or Territory of the Commonwealth is a prescribed bank.

(4) For the purposes of section 68 (1) (c) of the Act a transferable deposit with the Primary Industry Bank of Australia Limited, even if the deposit is redeemable and its price exceeds the face value of the deposit, is prescribed as a security in which any funds of a society may be invested.

(5) For the purposes of section 68 (1) (c) of the Act, the following are prescribed as securities in which any funds of a society may be invested:

- (a) in the case of investment by a society other than an association:
  - (i) shares in any credit union registered under the Financial Institutions (NSW) Code;
  - (ii) a loan to such a credit union secured by a charge over the assets of the credit union;
  - (iii) a deposit with such a credit union;
- (b) in the case of investment by an association:
  - (i) shares in any credit union or association of credit unions registered under the Financial Institutions (NSW) Code;
  - (ii) a loan to such a credit union or association secured by a charge over the assets of the credit union or association;
  - (iii) a deposit with such a credit union.

### **Application for membership**

**26.** An application for membership of a society is to be made in a form approved by the Registrar. Applications must be filed in the records of the society.

### **Registration of alteration of rules**

**27.** An application for the registration of an alteration of the rules of a society and, as the case may require, of a special resolution relating to the alteration must:

- (a) be made in a form approved by the Registrar; and
- (b) be completed in accordance with any directions and instructions of the Registrar specified in, or relating to, the form approved by the Registrar; and
- (c) be lodged with the Registrar not later than 1 month after the passing of the resolution authorising the alteration.

**Registration of special resolution**

**28.** An application for the registration of a special resolution, being a special resolution which does not relate to the alteration of the rules of a society, must:

- (a) be made in a form approved by the Registrar; and
- (b) be completed in accordance with any directions and instructions of the Registrar specified in, or relating to, the form approved by the Registrar; and
- (c) be lodged with the Registrar not later than 1 month after the passing of the special resolution.

**Minutes**

**29. (1)** Separate minute books are to be kept by the secretary of the meetings of the board of directors and of the society.

**(2)** At every ordinary and special meeting of the board or of the society, the secretary is to take minutes of the proceedings and is to record them in the minute book.

**(3)** The minutes of every meeting, ordinary or special, are to be taken into consideration as the first business of the next meeting of the board or of the society, as appropriate, that they may be confirmed, and are to be signed after confirmation by the chairperson of the meeting at which they are confirmed. A motion or discussion is not in order with respect to such minutes except with regard to their accuracy as a record of the proceedings.

**(4)** Minutes may be confirmed at any special meeting of the board or of the society.

**(5)** For the purposes of this clause, a minute book may be kept in loose leaf form but only if each leaf is numbered prior to its insertion in the book with a consecutive number and is signed by the chairperson and secretary of the meeting at which the minutes endorsed thereon are confirmed, and a record of the number of the folio and date of its insertion is entered in a separate portion of the records kept for the purpose and each such entry is initialled by the chairperson and secretary.

**(6)** Minutes are to be recorded in the minute book within 14 days of the date of the meeting the proceedings of which they record.

**Payments by societies**

**30.** All payments made by a society must be made by cheque.

**Registers**

**31. (1)** Every society must keep the following:

- (a) a register of loans made to members and securities taken, containing the following information:
  - (i) the name of each member to whom a loan is made;
  - (ii) the amount of the loan;
  - (iii) the date on which the loan was approved;
  - (iv) the folio reference to the minute evidencing the board's decision to make the loan;
  - (v) a reference identifying the account created in relation to the loan;
  - (vi) the date of each advance made in relation to the loan and the amount of each advance so made;
  - (vii) where the loan is secured by way of mortgage of real property—the address and the particulars of title of the property and a reference identifying the mortgage agreement;
  - (viii) where the loan is secured otherwise than by way of a mortgage of real property—particulars of the security taken and a reference identifying the agreement that evidences that security;
  - (ix) the location of the documents relating to the security taken in respect of the loan;
  - (x) particulars of any movement of those documents from that location;
  - (xi) the date of the final repayment made in relation to the loan;
- (b) a register of directors in a form approved by the Registrar;
- (c) a register of members and shares containing the following information:
  - (i) name, address, and occupation of each member;
  - (ii) the date each member was admitted to the society;
  - (iii) the folio reference to the minute evidencing the board's decision to admit the member;
  - (iv) a statement of the shares or stock held by each member and the date upon which those shares were allotted or stock issued and of the amount paid or agreed to be considered as paid on the shares and stock of each member;
  - (v) the date of and circumstances under which a person's membership terminated;



- (d) a register of loans raised and securities given, in a form approved by the Registrar;
  - (e) a register of deposits received, in a form approved by the Registrar;
  - (f) a register of loans guaranteed, in a form approved by the Registrar;
  - (g) a register of nominations pursuant to section 58 of the Act, in a form approved by the Registrar.
- (2) A Starr-Bowkett society which by its rules provides that the order in which loans are to be made may be determined by ballot or sale is to keep a register of appropriations in a form approved by the Registrar.

#### **Annual returns**

**32. (1)** The annual returns required to be transmitted to the Registrar pursuant to section 76 (2) (c), (d) and (e) of the Act is to be in the form of

- (a) Form 6 for Starr-Bowkett societies; or
- (b) Form 7 for co-operative housing societies.

(2) A list of members which may be directed by the Registrar to be transmitted to the Registrar by a society is to contain the following particulars and be signed by the secretary of the society:

- (a) name of shareholder in full;
- (b) address of shareholder in full;
- (c) number of shares held and the paid up value of those shares.

Any such list of members is to be transmitted to the Registrar within 21 days after the giving of the direction or within such further period not exceeding 21 days as the Registrar may permit.

(3) A building society to which section 76 (2B) of the Act applies must furnish to the Registrar within 3 months after the close of each of its financial years or within such further time as the Registrar may authorise, a return in the form of Form 8:

- (a) showing the amount of any loans made by the society during the financial year then last past:
  - (i) to any director or manager or secretary of the society; or
  - (ii) to any person who, after making of the loan, became a director or manager or secretary of the society in that year; or
  - (iii) to a company or other body corporate in which, when the loan was made, or at any later time in that year, a director or

manager or secretary of the society held (either directly or through a nominee) shares the nominal value of which exceeded 2.59% of the total paid-up share capital of the company or other body corporate; or

(iv) to a company or other body corporate of which, when the loan was made, or at any later time in that year, a director or manager or secretary of the society was a director, general manager, secretary or other similar officer; and

(b) showing particulars of

(i) every property which has during the financial year then last past, been sold by the society in the exercise of its powers as mortgagee or after foreclosure; and

(ii) every mortgage which has been transferred by the society during that financial year.

(4) The prescribed form for the purposes of section 84AB (9) of the Act is Form 9.

#### **Notice of nomination**

33. A member, by giving notice to the society in the form approved by the Registrar, may nominate any person as the person to whom any share or interest held by the member in the society at the date of his or her death is to be transferred.

#### **Revocation of nomination**

34. Any revocation of a nomination referred to in clause 33 is to be in a form approved by the Registrar.

#### **Variation of nomination**

35. A member wishing to vary any nomination made by him or her and lodged with the society is to do so by revoking the nomination as provided by clause 34 and making a new nomination in or to the effect of the form approved by the Registrar.

#### **Maximum fine**

36. The maximum fine which may be provided for by the rules of a society for imposition on its members for any breach of the rules is \$50.

#### **Reference of disputes to Registrar**

37. Every reference of a dispute to the Registrar is to be submitted in duplicate in a form approved by the Registrar.

If the Registrar elects to hear or depute the hearing of the dispute, the Registrar is to transmit one copy of it to the respondent.

#### **Notice of hearing and requisition to attend**

**38.** A notice of hearing by the Registrar or person deputed by the Registrar to hear the dispute and every requisition for the attendance of parties and witnesses and for the production of books and documents is to be in a form approved by the Registrar.

#### **Notice to particular witness**

**39.** Every notice to a particular witness to attend or to produce any particular document or book is to be in a form approved by the Registrar.

#### **Determination of Registrar**

**40.** The determination and order of the Registrar or person deputed by the Registrar to hear a dispute is to be in a form approved by the Registrar.

#### **Registration of dissolution**

**41.** A certificate of the registration of the dissolution and cancellation of the registration of a society is to be in a form approved by the Registrar.

#### **Gazette notice**

**42.** The dissolution of a society and the cancellation of its registration must be notified in the Gazette in the form approved by the Registrar.

#### **Registration of charges and appointment of receivers and managers**

**43. (1)** A form prescribed for the purposes of a provision of the Corporations Law that by virtue of section 65 (3) of the Act extends to a charge created by a society is the form prescribed by the Corporations Regulations in relation to that provision, with any necessary modifications.

**(2)** For the purposes of section 263 (1) (a) (ix) of the Corporations Law (extending as provided by subclause (1)), the following information is prescribed:

The amount, or rate per cent, of the commission, allowance or discount paid or made either directly or indirectly by the society to a person in

consideration of the persons's subscribing or agreeing to subscribe, whether absolutely or conditionally, or procuring or agreeing to procure, subscriptions, whether absolute or conditional, for any of the debentures concerned.

(3) A form prescribed for the purposes of a provision of the Corporations Law that by virtue of section 65 (4) of the Act extends to and in respect of the appointment of a receiver or manager of the property of a society, a receiver or manager so appointed and a society of whose property a receiver or manager has been appointed, is the form prescribed by the Corporations Regulations in relation to that provision, with any necessary modifications.

(4) Unless the Registrar otherwise approves, a document lodged with the Registrar which relates to a charge created by a society, or to a receiver or manager referred to in subclause (3), must:

- (a) be on paper of medium weight, of good quality and of foolscap folio size or international sheet size A4 or a multiple of those sizes; and
- (b) be legibly and clearly handwritten, typewritten or printed; and
- (c) not be a carbon copy; and
- (d) have margins of not less than 25 millimetres on the left-hand side and not less than 13 millimetres on the right-hand side; and
- (e) where the document comprises 2 or more sheets:
  - (i) have those sheets bound together securely; and
  - (ii) have a margin on each sheet of not less than 25 millimetres on the side on which it is bound, in addition to any space required for binding; and
- (f) where the document comprises more than 20 sheets—have those sheets bound securely inside a durable and flexible cover; and
- (g) be folded lengthwise and, as so folded, must have endorsed on the outside:
  - (i) the name of the society to which the document relates; and
  - (ii) the title of the document (being the same as the heading to the form to which the document relates); and
  - (iii) the name, address and telephone number of the solicitor or other person by whom, or on whose behalf, the document is lodged; and
  - (iv) the following words:

Lodged in the office of the Registrar of Co-operative Societies on

Registrar of Co-operative Societies.

(5) If the space provided for a particular purpose in a form provided for by subclause (1) or (3) is insufficient to contain all the required information in relation to a particular item, that information is to be set out in an annexure to the form.

(6) A reference in subclause (5) to an annexure to a form includes a reference to a document, copy of a document or any other matter accompanying, attached to or annexed to a form.

### **Fees**

**44. (1)** The fees to be taken in the office of the Registrar are as follows:

- (a) for any of the following matters of things done pursuant to the Corporations Law as a consequence of the application of that Law in relation to a charge created by a society under section 65 of the Act:
  - (i) on lodging, pursuant to section 263 or 264 of that Law, notice of particulars of a charge—\$35;
  - (ii) on lodging, pursuant to section 268 of that Law, notice of assignment of a charge—\$20;
  - (iii) on lodging, pursuant to section 269 (2) of that Law, a memorandum of satisfaction of, or release of property from, a charge—\$20;
  - (iv) for a certificate, issued pursuant to section 272 of that Law, setting out particulars of a charge—\$5;
- (b) for a copy of a society's rules certified as a true copy by the Registrar:
  - (i) subject to subparagraph (ii), if the copy is prepared in the Registry—\$30;
  - (ii) if the copy is prepared in the Registry in less than half an hour—\$7;
  - (iii) subject to subparagraph (iv), if the copy was prepared outside the Registry—\$15;
  - (iv) if the copy was prepared outside the Registry and less than half an hour is spent in checking it in the Registry—\$6;
- (c) for a certified copy of any other registered document or of part only of a society's rules:
  - (i) for 1 page—\$5;

- (ii) for each additional page—\$1.50, with a maximum fee of \$15 in respect of any one application and document;
- (d) for an inquiry involving an inspection of a society's documents registered by or filed or lodged with the Registrar pursuant to the Act, where:
  - (i) the inquiry is made in person—\$3; or
  - (ii) the inquiry is made in any other manner—\$8;
- (e) for registering a society and its rules and issuing a certificate of incorporation:
  - (i) in the case of an amalgamated society—\$35; or
  - (ii) in any other case—\$70;
- (f) for registering an alteration of rules being a substitution of a complete set of rules for the existing set of rules—\$40;
- (g) for registering an alteration of rules not being an alteration by way of a substitution of a complete set of rules—\$2 per rule in respect of which an alteration is made, with a maximum fee of \$40 in respect of any one application and set of rules;
- (h) for registering a change of name and advertising that change of name—\$50;
- (i) for granting an exemption pursuant to section 61 (4A) of the Act to any company or society formed or incorporated elsewhere than in the State—\$100;
- (i) for registering a notice of a change of address of a registered Office—\$4
- (k) for registering a special resolution made, pursuant to section 69 of the Act, by a society transferring its engagements to another society—\$35;
- (l) for consideration by the Registrar, pursuant to section 121A (1) of the Act, of an application for an enlargement or abridgment of the time for doing any act required to be done by a society by the Act, the regulations or the rules of the society where the enlargement or the abridgment applied for is:
  - (i) 1 month or less—\$20; or
  - (ii) more than 1 month, but less than 3 months—\$30; or
  - (iii) 3 months or more—\$40;
- (m) on the late lodgment of a return referred to in section 76 (2) or (2B) of the Act or, if more than one of those returns (being returns required by the Act and this Regulation to be lodged at the same time) is lodged late, on the latest lodgment of any of those returns:

- (i) if lodged within 1 month after the prescribed time or any later time granted by the Registrar—\$35; or
- (ii) if lodged more than 1 month, but within 3 months, after the prescribed time or any later time granted by the Registrar—\$70; or
- (iii) if lodged more than 3 months after the prescribed time or any later time granted by the Registrar—\$100;
- (n) on the late lodgment of a document not referred to in paragraph (m) (in addition to any other fee provided by this clause for the lodging or registration of that document)—\$25;
- (o) for registering the dissolution of a society and the cancellation of the registration of that society—\$7;
- (p) on an application to the Registrar, to do, or cause to be done, any act as representing a society that has been dissolved—\$30;
- (q) for every document requiring the signature of the Registrar or the Registrar's seal of office, except where a fee is otherwise provided—\$5;
- (r) on request for information as to whether the name of a society is contained in the register or relating to the name by which a society is registered—\$3;
- (s) for the supply of an uncertified copy or extract of a document (in addition to the fee payable under paragraph (d))—\$0.25 for each page.

(2) The prescribed fee must be paid at the time the relevant application, notice, returns, document or request is or are lodged in the office of the Registrar or, in the case of an inspection of documents, when the inspection is made.

(3) The Registrar may waive payment of a fee payable under subclause (1) (m) or (n) if the Registrar is of the opinion that the society was formed:

- (a) primarily for a charitable object; or
- (b) without affecting the generality of subparagraph (a), primarily for the object of the advancement of a disadvantaged community or other disadvantaged class of persons.

(4) The Registrar may, on application in writing by a society or a person acting on the Society's behalf, waive any fee prescribed by this clause if the Registrar is satisfied that there are extraordinary circumstances and it would be expedient to do so.

**PART 5—MISCELLANEOUS****Advisory committees**

**45.** The following provisions apply in respect of committees constituted pursuant to sections 114A and 114C of the Act:

- (a) The quorum for meetings of such a committee is one-half of the number of members of the committee, and where one-half is not a whole number the number next higher than one-half.
- (b) Each of the members of such a committee is to have one vote. However, in the event of equality in voting the chairperson is to have a casting vote in addition to the chairperson's original vote. A member is not entitled to vote on any question or matter which refers solely to any society of which the member is a director or other officer.

**Starr-Bowkett Co-operative Building Societies—form of additional security for purposes of section 16A (3) (e) of the Act**

**46.** For the purposes of section 16A (3) (e) of the Act, a Starr-Bowkett society may take as a form of additional security a charge on the shares of the society held by the member applying for the loan where the paid up value of the shares at the time the charge became effective was not less than the amount by which the loan exceeds the amount of the maximum loan the society is authorised to make pursuant to paragraph (a) or (b), as appropriate, of subsection (1) of that section.

**Co-operative housing societies**

**47. (1)** In this clause, “agreement” means an agreement by virtue of which an insurance company or insurance society undertakes, in relation to any policy of insurance taken out over the building or premises in respect of which a loan is provided to a member of a co-operative housing society, to keep the co-operative housing society's interest in the building or premises insured for a specific period of not less than 1 month even if the premium has not been paid or that a default, act or omission on the part of a party to the policy of insurance, other than the co-operative housing society, which would otherwise prejudice the co-operative housing society, has occurred.

**(2)** A co-operative housing society may provide a loan to a member of the society on the condition that the member will, directly or indirectly, effect insurance on the building or premises in respect of which the loan is provided with an insurance company or insurance society which has entered into an agreement with the co-operative housing society.



(3) Subclause (2) applies only to a co-operative housing society which, by or in accordance with its rules:

(a) specifies, in relation to a policy of insurance taken out over the building or premises in respect of which a loan is provided to a member of a society, a minimum standard of cover (being a minimum standard of cover which complies with guidelines established by the Registrar);

(b) may, in the event of a member of the society failing, before a due date for the payment of a premium on a policy of insurance taken out over the building or premises in respect of which a loan is provided to the member by the society, to notify the society of:

(i) the payment of the premium; or

(ii) any new insurance arrangements made with an insurance company or insurance society which has entered into an agreement with the co-operative housing society,

arrange insurance over the building or premises:

(iii) where the insurance company or insurance society with which the member took out the policy of insurance has a current agreement with the co-operative housing society— with that company or society; or

(iv) in any other case— with any other insurance company or insurance society which has entered into an agreement with the co-operative housing society,

and add the amount of any premium thereby paid to the mortgage debt owed by the member; and

(c) in relation to the taking out of insurance cover in respect of the building or premises in respect of which it is providing a loan, is required to accept an insurance company or insurance society which is willing to enter into an agreement with the co-operative housing society.

(4) Subclause (2) ceases to apply to a co-operative housing society which has not complied with the provisions of its rules which make provision for the matters referred to in subclause (3).

(5) Subclause (2) does not authorise a co-operative housing society to do an act or thing referred to in that subclause unless it is authorised by its rules to do that act or thing

#### **Prescribed amount for purposes of section 16A (1) of the Act**

48. For the purposes of section 16A (1) of the Act, the prescribed amount is \$100,000.

**Valuation of land—building societies**

**49.** For the purposes of section 18A (2) (b) of the Act, a prescribed person is:

- (a) the Valuer-General; or
- (b) a person who is registered as a practising real estate valuer, pursuant to section 15 (1) of the Valuers Registration Act 1975, and who is:
  - (i) a Fellow, or an Associate, of the Australian Institute of Valuers (Incorporated); or
  - (ii) a person whose name appears in a Register of Valuers kept by the New South Wales Financial Institutions Commission.

**Names of societies in register**

**50.** A person may, on payment of the fee determined by the Registrar, obtain from the Registrar information relating to the names of societies contained in the register.

**Prescribed lenders under section 65 (1A) (d) of the Act**

**51.** For the purposes of section 65 (1A) (d) of the Act, the following are prescribed lenders:

Public Authorities Superannuation Board.

State Superannuation Board.

The Council of Auctioneers and Agents.

The trustee for the time being of the FANMAC Bridging Facility Trust.

**Loan repayments—co-operative housing societies**

**52.** For the purposes of section 47C of the Act, a co-operative housing society may make a loan to a member on condition that the member make periodic repayments calculated so as not to exceed such percentage of the member's income as is determined by the Director of Housing.

**Prescribed amount under section 88AA of the Act**

**53.** For the purposes of section 88AA (Certain borrowings prohibited) of the Act, the prescribed amount is \$150,000.

**Application of Corporations Law**

**54.** For the purposes of sections 65, 91A, 91B, 92 and 92C of the Act, the provisions of the Corporations Law applying as referred to in those

sections so apply as if a reference in those provisions to the Gazette were a reference to the Government Gazette of New South Wales.

#### **Matter to be set forth in rules**

**55.** Pursuant to section 82 (1) (dd) of the Act, the following matters are prescribed as matters to be set forth in the rules of a society:

- (a) in substitution for the matter specified in section 82 (1) (e) of the Act:
  - (e) whether the society intends to avail itself of any powers, authorised by this Act as incidental to its objects, and in the case of borrowing powers, within what limits it proposes to exercise those powers;
- (b) in substitution for the matter specified in section 82 (1) (h) of the Act:
  - (h) the purposes to which the funds of the society are to be applied, and the manner in which they are to be invested;

#### **Modification of certain provisions of Corporations Law— compromises and arrangements**

**56.** For the purposes of the application, pursuant to section 91B of the Act, of the provisions of Part 5.1 of the Corporations Law, a reference in those provisions to the prescription of any matter is to be read as a reference to the prescription of the matter by regulation made under the Act.

#### **Prescribed information as to compromise with creditors or members**

**57.** For the purposes of section 412 (1) (a) (ii) of the Corporations Law (as applied by section 91B of the Act), unless the Registrar otherwise allows, the explanatory statement must:

- (a) in respect of a proposed arrangement between a society and its creditors or a society and a class of its creditors, state the matters set out, and have annexed to it the reports and copies of documents referred to, in Part 2 of Schedule 2; and
- (b) in respect of a proposed arrangement between a society and its members or a society and a class of its members, state the matters set out, and have annexed to it the reports and copies of documents referred to, in Part 3 of Schedule 2.

**Giving of notice to dissenting shareholders or remaining shareholders**

58. The prescribed manner of giving a notice under section 419 (2) or (9) (acquisition of shares of dissenting or remaining shareholders) of the Corporations Law (as applied by section 91B of the Act) to a person is by delivering it to the person personally or sending it by post to the person's address as shown in the books of the transferor society.

**Repeal**

59. (1) The Co-operatives Regulations 1961 are repealed.

(2) Any act, matter or thing that was done for the purposes of or, immediately before the repeal of the Co-operatives Regulations 1961, had effect under that Regulation is taken to have been done for the purposes of or to have effect under this Regulation.

**SCHEDULE 1—FORMS**

**Form 1**

(CII. 10, 14)

CO-OPERATION ACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994

*Certificate of Incorporation*

I CERTIFY that .....  
is this day incorporated as a ..... society  
under the above Act.

(Date) ..... day of ..... 19 .....

.....  
Registrar of Co-operative Societies

**Form 2**

(CI. 12)

CO-OPERATION ACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994

*Application by a Company to be registered as a Society*

To the Registrar of Co-operative Societies, Sydney.

1. Application to register as a society is made by ..... which is registered as a company under the Corporations Law.

2. Accompanying this application are the following:
- (a) a certificate of the incorporation of the company;
  - (b) two copies of the memorandum and articles of association of the company in force at the date of this application;
  - (c) a list containing the name, address and occupation of each director;
  - (d) a list containing the name, address and occupation of each shareholder, and the number and class (if more than one class has been issued) of shares held by the shareholder.
3. The company on the ..... day of ..... 19 ..... passed a special resolution within the meaning of the Corporations Law authorising application for registration as a society under this Act.

.....  
Chairperson of Directors of  
the Company

.....  
Secretary of the Company

**Form 3**

(Cl. 13)

CO-OPERATION ACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994

*Application for Registration of Amalgamation of Societies*

Name of Society .....

WE, the chairperson of directors and secretaries of the undermentioned societies of the same kind hereby make application for registration of the above society which has been formed by amalgamation of those societies.

- (i) .....
- (ii) .....
- (iii) .....

1. Attached are:

- (a) applications for registration of special resolutions passed by each of the amalgamated societies approving that course;
- (b) 2 copies of the proposed rules of the society signed by 3 members.

2. The registered office of the society is at .....

Dated at ..... this ..... day of ..... 19 .....

Chairperson ..... Secretary .....

Society .....

Chairperson ..... Secretary .....

Society .....

Chairperson ..... Secretary .....

Society .....

The applicant society is hereby registered this ..... day of ..... 19 .....

.....  
 Registrar of Co-operative Societies

**Form 4**

(Cl. 15)

CO-OPERATION ACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994  
*Amalgamation of Societies—Gazette Notice*

.....

(Society)

NOTICE is hereby given that I have this day registered the abovenamed society as a ..... society under the above Act with limited liability, and have issued to it a certificate of incorporation.

The society has been formed by the amalgamation of the ..... and the

Dated this ..... day of ..... 19 .....

.....  
 Registrar of Co-operative Societies

**Form 5**

(Cl. 20)

CO-OPERATION ACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994  
*Certificate of Incorporation*  
*(Following Change of Name)*

I CERTIFY that ..... has registered a change of its name, and is now incorporated as a ..... society under the name of .....

Dated this ..... day of ..... 19 .....

.....  
 Registrar of Co-operative Societies

**Form 6**  
(Cl. 32)

**CO-OPERATION ACT 1923**  
Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994  
*Annual Return for Starr-Bowkett Societies*

**THIS RETURN WITH A COPY OF THE AUDITOR'S REPORT, IS REQUIRED TO BE SENT TO THE REGISTRAR OF CO-OPERATIVE SOCIETIES WITHIN THREE MONTHS AFTER THE CLOSE OF THE FINANCIAL YEAR.**

Name of Society .....

Registered Office .....

Date .....

Secretary's Signature .....

Registered under the above Act for the year ended—  
..... 19 .....

	Number of—			Share Capital		Forfeited Shares	Advances
	Members	Shares	Shares Appropriated	Issued	Paid-Up		
Balance as per last return.....				\$	\$	\$	\$
Additions for year.....							
Total.....							
Less—							
Reductions and Withdrawals							
Repayments .....							
Balance at close of year.....							
Total.....							

PARTICULARS OF ADVANCES MADE DURING YEAR

Purpose of Advances—	Under \$1,000		\$1,001 to \$2,000		\$2,001 to \$4,000		\$4,001 to \$6,000		Over \$6,000		Total	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
To Purchase Homes—												
(a) New construction .....												
(b) Previously occupied .....												
For Other Purposes .....												
Total .....												

State usual rate of interest charged on "Sale" Loans .....

(A copy of this return should be filed with the Society's records)





BALANCE SHEET AS AT 19		\$
<b>LIABILITIES</b>		
Share Capital .....	Shares at .....	
	Subscriptions paid-up .....	
Subscriptions on Shares Forfeited .....		
Profit and Loss Account— <i>Surplus</i> .....		
	Deficiency B/F* .....	
<i>Surplus</i> for year—Management Account .....		
Deficiency* .....		
Sub-Total .....		
<i>Surplus</i> for year—Interest Account .....		
Deficiency* .....		
Accumulated <i>Surplus</i> as at .....		
	Deficiency* .....	
Overdraft at .....	Bank (Secured by .....	
Sundry Creditors .....	Total .....	
Expenses Accrued .....		
Other Liabilities (Specify) .....		
*If Deficiency indicate thus (—) .....		
<b>BANK RECONCILIATION STATEMENT</b>		
Balance* per Bank Cert. as at .....		
Unpresented Cheques .....		
Sub-To I. ....		
Deposits in Transit banked on .....		
Other Adjustments (Specify)—		
.....		
Balance per Cash Book .....		
*If overdrawn indicate this (—) .....		

The foregoing Balance Sheet and Profit and Loss Account are in agreement with the Books of Account of the Society, reference to which is contained in my Report dated .....

Auditor ..... Date .....

(Registered under the Corporations Law)

BALANCE SHEET AS AT 19		\$
<b>ASSETS</b>		
Appropriations—Ballot .....		
	Sale .....	
	Total .....	
Less Sums to be Advanced .....		
Total Sum Advanced—		
Comprising—		
Advances (Secured by Mortgage) \$ .....		
Advances (not yet Secured by Mortgage) .....		
	\$ .....	
Less Repayments .....		
Amount Outstanding on Loan to Members .....		
Due from Members for Working Expenses .....		
Sundry Debtors .....		
Office Furniture and Fittings .....		
Cash in hand .....		
Cash at .....	Bank .....	
Other Assets (Specify)—		
.....		
.....		
.....		

1994—No. 407

Form 7

(Cl. 32)

CO-OPERATION ACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994

Annual Return for Co-operative Housing Societies

Name of Society .....

Financial year ended ..... I ..... I .....

FOR OFFICE USE ONLY

PART I. MANAGEMENT ACCOUNT

Table with columns for EXPENSES and INCOME, listing items like Secretarial fees, Computer service fees, and Management fees.

PART 2. INTEREST ACCOUNT

Table with columns for EXPENSES and INCOME, listing items like Interest on loans from Banks and Others.

PART 3. BALANCE SHEET AS AT .....

Table for Liabilities and Assets, listing items like Members' Funds, External Liabilities, and Other Liabilities.

(NOTE: If space insufficient please list loans in space opposite)

DETAILED LIST OF LOANS FROM LENDERS AS PER ITEM 4 OPPOSITE

Table for listing loans with columns for Name of lender and \$.

The above Balance Sheet Management Account and Interest Account are in agreement with the books of account of the Society

Registered Auditor

Secretary Signature Representative who should be contacted if any queries arise regarding this return

Name (Block letters)

Telephone (STD) Date

Table for Assets, listing items like Financial Assets and Physical Assets.

**Form 8**  
 (Cl. 32)  
 CO-OPERATION ACT 1923  
 Co-operation (Start-Bowkett and Co-operative Housing Societies) Regulation 1994  
*Annual Return for Co-operative Housing Societies*

**PART I**  
 Return of Advances to Directors or Manager or Secretary or Bodies Corporate in which they are interested  
**DIVISION A**

Particulars to be set forth pursuant to clause 32 of the Regulation in respect of advances made during the financial year covered by the annual return to any director or the manager or secretary of the society or to any person who after the making of the advance became a director or the manager or the secretary of the society in that year.

Name of officer	Relationship to society (director, etc.)	Type of property (leasehold, etc.)	Valuation of property	Amount of advance	Remarks
			\$	\$	
<b>Total</b>					

PART 1—*continued*  
**RETURN OF ADVANCES TO DIRECTORS OR MANAGER OR SECRETARY OR BODIES CORPORATE IN WHICH THEY ARE INTERESTED—*continued***

**DIVISION B**

Particulars to be set forth pursuant to clause 32 of the Regulation in respect of advances made during the financial year covered by the annual return to (i) a company or other body corporate in which, when the advance was made, or at any later time in the relevant financial year, a director or the manager or secretary of the society held (either directly or through a nominee) shares the nominal value of which exceeded 2½ per centum of the total paid-up share capital of the company or other body corporate; or (ii) a company or other body corporate of which, when the advance was made, or at any time in the relevant financial year, a director or the manager or secretary of the society was a director, general manager, secretary, or other similar officer.

Name of company or other body corporate	Position held in company by officer (general manager, etc.)	Name of officer of society with interest in company	Relation-ship to society (director, etc.)	Type of property (leasehold, etc.)	Valuation of property	Amount of advance	Particulars of each officer's shareholdings which exceed 2½ per centum of total paid-up share capital		Remarks
							Officer's share-holdings in company or other body corporate	Percentage of officer's share-holdings to total paid-up share capital	
					\$	\$			
				Total . . .					

**PART 2**  
**Return as to Sales of Properties and Transfers of Mortgages Pursuant to clause 32 of the Regulation for the Financial Year Ended**  
 ...../...../19.....  
**PROPERTIES SOLD DURING THE YEAR BY THE SOCIETY IN THE EXERCISE OF ITS POWERS AS MORTGAGEE OR AFTER FORECLOSURE**

Identifying number of member	Debt at date of completion of sale	Sale price (after deducting expenses of sale)	Amount otherwise recovered	Source of recovery	Name of purchaser (and address if a corporate body)	Remarks (include details of any loss unrecovered)
	\$	\$	\$			

MORTGAGES TRANSFERRED DURING THE YEAR BY THE SOCIETY

Number of mortgages transferred	Amount of advances secured by mortgages transferred	Amount outstanding on mortgages transferred	Remarks
	\$	\$	

**Form 9**

(Cl. 32)

CO—OPERATIONACT 1923

Co-operation (Starr-Bowkett and Co-operative Housing Societies) Regulation 1994

*Notice specifying certain declarations*

Name of Society .....

I, ....., secretary of the abovementioned society, hereby give notice that declarations as specified hereunder were made to the board of directors of the society under section 84AB of the Co-operation Act 1923 during the financial year which ended on the .....day of .....19.....

Surname of Director	Christian names (in full)	Date of declaration	Contract or proposed Contract referred to in declaration	Nature of interest	Whether contract entered into by society

Date this ..... day of.....19.....  
(Signature).....

To the Registrar of Co-operative Societies, Sydney

**SCHEDULE 2—PRESCRIBED INFORMATION AS TO COMPROMISE WITH CREDITORS OR MEMBERS**

**PART 1—INTERPRETATION**

(Cl. 57)

1. (1) In this Schedule:

**“dividend”**, in relation to the winding up of the affairs of a society, means the distribution, not being a return of capital, of any part of the property of the society among its creditors or contributories by the liquidator;

**“internal creditor”** means a creditor who is a member of the society, a relative or spouse of a member, or a relative of the spouse of a member;

**“marketable securities”** means debentures, stocks, shares or bonds of any Government, of any local government authority or of any corporation, association or society. and includes any right or option in respect of shares in any corporation and any prescribed interest within the meaning of the Law;



“**Scheme**” means the proposed compromise or arrangement;

“**scheme creditors**” means the creditors or class of creditors of a society, to whom the Scheme would apply;

“**scheme members**” means the members or class of members of a society, to whom the Scheme would apply;

“**the Law**” means the Corporations Law;

“**the Court**” means the Supreme Court of New South Wales.

(2) For the purposes of this Schedule, a society and a corporation or a society and another society are taken to be related to each other where, if the society (or the society and the other society, as the case may be) were a corporation (or were corporations) within the meaning of the Law, the society and the corporation (or the society and the other society, as the case may be) would be taken to be related to each other pursuant to section 50 of the Law.

(3) In this Schedule:

- (a) a reference to a provision of the Law (other than a reference in this subclause or in subclause (2)) is a reference to the provision as applying by reason of the operation of section 91B of the Act; and
- (b) a reference to a person associated with another person or with a society is to be construed in the same manner as such a reference would be construed in the Law (as provided by sections 10–17 of the Law) and in the case of a reference to a person associated with a society is to be so construed as if a society were a corporation within the meaning of the Law.

## **PART 2—PRESCRIBED INFORMATION RELATING TO PROPOSED COMPROMISE OR ARRANGEMENT WITH CREDITORS OR CLASS OF CREDITORS**

2. The statement must set out the following:

- (a) the expected dividend that would be available to scheme creditors if the society were to be wound up within 6 months after the date of the hearing of the application to the Court for an order under section 411 (1) of the Law;
- (b) where a composition of debts is proposed—the expected dividend that would be paid to scheme creditors if the Scheme were put into effect as proposed;
- (c) a list of the names of all known scheme creditors together with the debts owed to those creditors;
- (d) if any scheme creditor is known to be a guaranteed creditor—the name of that creditor and the amount of the debt owed;
- (e) if any scheme creditor is known to be an internal creditor—the name of the creditor and the amount of the debt owed.

3. The statement must contain a statement to the effect that an order under section 411 (1) of the Code does not constitute an endorsement of, or any other expression of opinion on, the Scheme.

4. The statement must contain as a schedule or have annexed to it the following:
- (a) a report as to the affairs of the society in accordance with a form approved by the Registrar, drawn to represent the financial position of the society as at a day within one month of the date on which it is intended to apply to the Court for an order under section 411 (1) of the Law;
  - (b) a copy, certified by a director or a secretary of the society or (where an administrator of the society has been appointed pursuant to section 95A of the Act) by the administrator of the society to be a true copy, of all accounts required to be laid before the society at the annual general meeting, together with a copy of every document required by law to be annexed to the accounts;
  - (c) where the person, if any, who would be appointed to manage the Scheme proposes to charge for his or her services and for the services of his or her staff in accordance with a particular scale of charges, that scale of charges.

**PART 2—PRESCRIBED INFORMATION RELATING TO PROPOSED  
COMPROMISE OR ARRANGEMENT WITH MEMBERS OR A CLASS OF  
MEMBERS**

5. The statement must set out:
- (a) except in the case where the society the subject of the Scheme is in the course of being wound up, is under official management or is a society in respect of which an administrator has been appointed pursuant to section 95A of the Act, in relation to each director of the society:
    - (i) if the director desires to make, and considers himself or herself justified in making, a recommendation in relation to the Scheme—whether the director recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his or her reasons for so recommending; or
    - (ii) if the director is not available to consider the Scheme—that the director is not so available and the cause of his or her not being available; or
    - (iii) in any other case—that the director does not desire to make, or does not consider himself or herself justified in making, a recommendation and, if the director so requires, his or her reasons for not wishing to do so; or
  - (b) where the society the subject of the Scheme is in the course of being wound up, is under official management or is a society in respect of which an administrator has been appointed pursuant to section 95A of the Act, in relation to each liquidator, each official manager or the administrator, as the case requires:
    - (i) if the liquidator, official manager or administrator, as the case may be, wishes to make a recommendation in relation to the Scheme—whether the liquidator, official manager or administrator, as the case may be, recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his or her reasons for so recommending; or
    - (ii) in any other case—that the liquidator, official manager or administrator, as the case may be, does not wish to make a recommendation and his or her reasons for not wishing to do so.

6. The statement must set out the following:
- (a) the number, description and the amount of marketable securities of the society the subject of the Scheme held by or on behalf of each director of the society or, in the case of a director by or on behalf of whom none are so held, a statement to that effect;
  - (b) in respect of each director of the society the subject of the Scheme, by whom or on whose behalf shares in that society are held, whether:
    - (i) the director intends to vote in favour of, or against, the Scheme; or
    - (ii) the director has not decided whether he or she will vote in favour of, or against, the Scheme;
  - (c) where it is proposed that any payment or other benefit will:
    - (i) be made or given to any director, secretary, officer or administrator of the society the subject of the Scheme as compensation for loss of, or as a consideration for or in connection with his or her retirement from, office as a director, secretary, officer or administrator of the society the subject of the Scheme or of a corporation that is related to the society the subject of the Scheme; or
    - (ii) be made or given to any director, secretary or officer of any corporation that is related to the society the subject of the Scheme as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office as a director, secretary or officer of the society the subject of the Scheme or of a corporation that is related to that society,  
particulars of the proposed payment or benefit;
  - (d) where there is any other agreement or arrangement made between any director of the society the subject of the Scheme and any other person in connection with or conditional upon the outcome of the Scheme—particulars of any such agreement or arrangement;
  - (e) if the object of the Scheme is for a corporation to acquire control of a society, whether any director of that society has any interest in any contract entered into by the corporation seeking control and particulars of the nature and the extent of each such interest, if any;
  - (f) all the information that the society the subject of the Scheme has as to the number of any shares of the society that have been allotted or transferred in the 6 months immediately preceding the date on which the statement is lodged with the Registrar for registration and the amount of those shares and the prices at which they were allotted or transferred;
  - (g) whether, within the knowledge of the directors of the society the subject of the Scheme, or, where the society the subject of the Scheme is in liquidation or under official management or is a society in respect of which an administrator has been appointed pursuant to section 95A of the Act, the knowledge of the liquidator, the official manager or the administrator, the financial position of the society has materially changed since the date of the last balance sheet laid before the society in general meeting or transmitted to members in accordance with section 89 of the Act and, if so, full particulars of any such change or changes;

- (h) any other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any director, liquidator, official manager or administrator of a society the subject of the Scheme and which has not previously been disclosed to the scheme members.
7. The statement must set out particulars of the intentions of the directors or the administrator of the society the subject of the Scheme regarding:
- (a) the continuation of the business of the society;
  - (b) any major changes to be made to the business of the society, including any redeployment of the fixed assets of the society; and
  - (c) the future employment of the present employees of the society.

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## NOTES

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46. Starr-Bowkett Co-operative Building Societies—form of additional security for purposes of section 16A (3) (e) of the Act
47. Co-operative housing societies
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**1994—No. 407**

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- 57. Prescribed information as to compromise with creditors or members
- 58. Giving of notice to dissenting shareholders or remaining shareholders
- 59. Repeal

## SCHEDULE 1—FORMS

SCHEDULE 2—PRESCRIBED INFORMATION AS TO COMPROMISE WITH CREDITORS OR MEMBERS

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake the provisions of the Co-operatives Regulations 1961 to update various provisions and to omit provisions that are obsolete as a result of the Co-operation Act 1923 (under which the regulations are made) now applying only to co-operative housing societies and Starr-Bowkett societies.

The new Regulation deals with the following matters:

- (a) the procedure to be followed in connection with making application for the registration of a society and the amalgamation of societies;
- (b) machinery matters concerned with the administration of a society's affairs (such as applications for membership, alterations of rules, change of name, investment of funds, and requirements for registers and annual returns);
- (c) prescribing additional powers of societies and associations of societies;
- (d) the affairs of deceased members;
- (e) the reference of disputes to the Registrar of Co-operative Societies;
- (f) fees;
- (g) prescribing various forms to be used for the purposes of the Act;
- (h) various miscellaneous matters.

This Regulation is made under the Co-operation Act 1923, including section 124 (the general regulation making power) and the various provisions of the Act referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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