

**PERMANENT BUILDING SOCIETIES (AMENDMENT) BILL
1989**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Permanent Building Societies Act 1967:

- (a) to replace current section 52A of the Act (which imposes restrictions on the level of shareholdings in permanent building societies) with provisions that impose the same maximum level as the current provisions but that have a wider concept of beneficial ownership of shares and provide for different consequences if the limit is exceeded; and
- (b) to enact new provisions (paralleling provisions in the Companies (New South Wales) Code) dealing with the notification of substantial shareholdings in societies and the power of societies to obtain information from their shareholders and other persons concerning shareholdings.

Currently, section 52A of the Act imposes certain limits on shareholdings in societies (10 per cent for fixed shares, 20 per cent for other classes and 20 per cent for the aggregate of all classes). Those limits can be decreased by the rules of the society concerned, or increased or decreased by the regulations. The section picks up the concept of a "relevant interest" in shares from the Companies (New South Wales) Code ("the Code") for the purpose of extending the narrow concept of shareholding to include all forms of beneficial ownership of shares. Under the current provisions, the consequence of exceeding the permissible maximum is cancellation of the offending shareholding and repayment of capital to the shareholder concerned.

Section 52A is to be repealed and replaced with new provisions the main features of which are as follows:

- generally the same maximum shareholding levels will apply as currently apply;
- * provisions concerning "relevant interests" of shareholders and their "associates" (which are currently contained in the Code and applied referentially by the Act) will be specifically re-stated in the Act;

Permanent Building Societies (Amendment) 1989

- * a new category of "relevant interest" will be included - that of a person who has, or whose "associate" has, power to dispose of or to exercise control over the disposal of a share;
- * the consequence of exceeding the maximum shareholding level will be that voting rights are suspended in respect of all shares in which the offending shareholder has a relevant interest and sufficient shares will have to be disposed of to remedy the contravention;
- * the new provisions will apply to offending shareholdings that arose after 5 June 1987;
- * a shareholder in a society will be required to give notice to the society on becoming a "substantial shareholder" (i.e. when the shareholder and his or her associates acquire relevant interests in at least 5 per cent of the society's shares), on increasing or decreasing a substantial shareholding and on ceasing to be a substantial shareholder;
- * a society will be required to maintain a register of substantial shareholders which will be open to inspection by members of the society;
- * a society will have wide powers to obtain information as to the beneficial ownership of its shares;
- * the Supreme Court will have wide powers to make orders where the new provisions are not complied with (including power to order, or to prevent, the disposal of shares).

The new provisions relating to substantial shareholdings, the powers of a society to obtain information about the beneficial ownership of its shares and powers of the Supreme Court parallel equivalent provisions of the Code.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed day or days.

Clause 3 gives effect to Schedule 1.

Schedule 1 makes the amendments described above.
