

[Act 1997 No 11]



New South Wales

## **Friendly Societies (New South Wales) Bill 1997**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### **Overview of Bill**

The objects of this Bill are:

- (a) to apply, as a law of New South Wales, the *Friendly Societies Code* set out in Schedule 1 to the *Friendly Societies (Victoria) Act 1996* of Victoria, and
- (b) to apply, as regulations for the purposes of that Code, the regulations under Part 4 of that Act.

A copy of the *Friendly Societies Code* is set out in a note at the end of this Bill.

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## Outline of provisions

### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** provides that the friendly societies legislation of New South Wales (that is, this Act and its associated legislation, including in particular the *Friendly Societies (NSW) Code* and the *Friendly Societies (NSW) Regulations*) binds the Crown.

### **Part 2 Friendly Societies (NSW) Code and Friendly Societies (NSW) Regulations**

**Clause 5** applies, as a law of New South Wales, the Friendly Societies Code set out in Schedule 1 to the *Friendly Societies (Victoria) Act 1996* of Victoria. The applied Code is to be referred to as the *Friendly Societies (NSW) Code*.

**Clause 6** applies, as regulations for the purposes of the *Friendly Societies (NSW) Code*, the regulations in force under Part 4 of the *Friendly Societies (Victoria) Act 1996* of Victoria. The applied regulations are to be referred to as the *Friendly Societies (NSW) Regulations*.

**Clause 7** defines certain expressions that occur in the *Friendly Societies (NSW) Code* and the *Friendly Societies (NSW) Regulations*, being expressions whose meaning necessarily varies according to the jurisdiction within which they are being applied, for the purposes of their application within New South Wales.

### **Part 3 Conferral of functions and powers**

**Clause 8** is a formal provision that confers on the Australian Financial Institutions Commission the functions and powers expressed to be conferred on it by the friendly societies legislation of New South Wales.

**Clause 9** is a formal provision that confers on the Australian Financial Institutions Appeals Tribunal the functions and powers expressed to be conferred on it by the friendly societies legislation of New South Wales.

**Clause 10** provides that the New South Wales Financial Institutions Commission (FINCOM) is to be the State supervisory authority for New South Wales. Various functions and powers are conferred on a State supervisory authority (an SSA) by the *Friendly Societies (NSW) Code* and the *Friendly Societies (NSW) Regulations*.

#### **Part 4 Levies, fees and other amounts**

**Clause 11** imposes the fees prescribed by the *Friendly Societies (NSW) Regulations* or by the *AFIC (NSW) Regulations* in respect of matters concerning the friendly societies legislation of New South Wales.

**Clause 12** imposes the levies payable by a friendly society under sections 119 and 120 of the *AFIC (NSW) Code* and section 51 of the *Friendly Societies (NSW) Code*.

**Clause 13** provides for the payment to the State of all fees, fines, penalties and other moneys that are payable under the friendly societies legislation of New South Wales, other than fees, levies and other amounts that, under that legislation, are payable to some other person.

**Clause 14** provides for the distribution of the assets of a friendly society (not being a society that has issued permanent shares) in the event that the society is wound up. Residual assets will be paid to some other society or other body having similar objectives to those of the society being wound up. This provision is a variation of what would otherwise occur under section 407 (4) of the *Friendly Societies (NSW) Code*, which provides that residual assets are to be distributed in such manner as the Supreme Court considers equitable having regard to the interests of the members of the society and of unpaid creditors.

#### **Part 5 General**

**Clause 15** repeals the *Friendly Societies Act 1989*, the *Friendly Societies Dispensaries Enabling Act 1945* and the *Friendly Societies General Regulation 1990*.

**Clause 16** is a formal provision that gives effect to a Schedule of amendments to other Acts.

**Clause 17** is a formal provision that gives effect to a Schedule of savings, transitional and other provisions.

**Clause 18** provides for the review of the proposed Act at the end of 5 years after the date of assent.

**Schedule 1** amends the following Acts:

- *Anti-Discrimination Act 1977 No 48*
- *Associations Incorporation Act 1984 No 143*
- *Co-operation Act 1923 (1924 No 1)*
- *Co-operatives Act 1992 No 18*
- *Dentists Act 1989 No 139*
- *Financial Institutions Commission Act 1992 No 47*
- *Frustrated Contracts Act 1978 No 105*
- *Funeral Funds Act 1979 No 106*
- *Government Guarantees Act 1934 No 57*
- *Interpretation Act 1987 No 15*
- *Land Tax Management Act 1956 No 26*
- *Optical Dispensers Act 1963 No 35*
- *Pharmacy Act 1964 No 48*
- *Public Sector Management Act 1988 No 33*
- *Search Warrants Act 1985 No 37*
- *Stamp Duties Act 1920 No 47*
- *Teaching Services Act 1980 No 23*
- *Trustee Act 1925 No 14*

**Schedule 2** contains savings, transitional and other provisions, including a provision empowering the Governor to make regulations of a savings or transitional nature.