

Building Societies Amendment Act 2007

Public Act 2007 No 43
Date of assent 19 September 2007

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Part8A

Register of building societies

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Schedule
Related amendments to principal Act

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Building Societies Amendment Act 2007.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This Act amends the Building Societies Act 1965.
- 4 New section 4 substituted**
Section 4 is repealed and the following section substituted:

“4 Deputy Registrars of Building Societies

“(1) There may also be 1 or more Deputy Registrars of Building Societies appointed under the State Sector Act 1988.

“(2) A Deputy Registrar has and may exercise the powers, duties, and functions of the Registrar under this Act (subject to the control of the Registrar).

“(3) The fact that a Deputy Registrar exercises those powers, duties, or functions is conclusive evidence of the authority to do so.”
- 5 Section 5 repealed**
Section 5 is repealed.
- 6 New Part 8A inserted**
The following Part is inserted after Part 8:

“Part8A
“Register of building societies

“121A Register of building societies

- “(1) The Registrar must ensure that a register of building societies is kept in New Zealand.
- “(2) The register may be—
- “(a) an electronic register; or
 - “(b) kept in any other manner that the Registrar thinks fit.
- “(3) The Registrar must take all reasonable steps to ensure that the information contained in the register is available to members of the public at all reasonable times.

“121B Registration of documents

- “(1) On receipt of a document for registration under this Act, the Registrar must (unless section 121C applies or he or she is not satisfied that any registration condition is met)—
- “(a) register the document in the register; and
 - “(b) give written advice of the registration to the person from whom the document was received (except in the case of an annual turn or the financial statements and reports referred to in section 97A(1)).
- “(2) Neither registration nor refusal of registration of a document by the Registrar affects, or creates a presumption as to, the validity or invalidity of the document or the correctness or otherwise of the information contained in it.
- “(3) In this section, a **registration condition** for a document is a matter of which the Registrar must be satisfied under this Act before registering that document.

“121C Registrar may require document to be registrable or otherwise comply before registration

- “(1) The Registrar may refuse to register a document received by the Registrar for registration under this Act if that document—
- “(a) is not in the prescribed form, if any; or
 - “(b) does not comply with this Act or regulations made under this Act; or
 - “(c) is not printed or typewritten; or

- “(d) if the register is an electronic register, is not in a form that enables particulars to be entered directly by electronic or other means in the register; or
 - “(e) has not been properly completed; or
 - “(f) contains material that is not clearly legible.
- “(2) If the Registrar refuses to register a document in reliance on this section, the Registrar must request either—
- “(a) that the document be appropriately amended or completed and submitted for registration again; or
 - “(b) that a fresh document be submitted in its place.

“121D When documents are registered

A document is **registered** when—

- “(a) the document itself is constituted as part of the register; or
- “(b) particulars of the document are entered in an electronic register.

“121E Alterations to register

The Registrar may make an amendment to the register if satisfied that it is necessary—

- “(a) to reflect any changes in the information that is contained in the register; or
- “(b) to correct an obvious error in or omission from the register.

“121F Inspection of register

A person may, on payment of the prescribed fee (if any), inspect—

- “(a) any registered document; or
- “(b) particulars of a registered document entered into an electronic register.

“121G Obtaining certified copy or extract from register

“(1) A person may, on payment of the prescribed fee (if any), require the Registrar to give or certify—

- “(a) a certificate of incorporation of a building society; or
- “(b) a copy of or extract from a registered document; or

- “(c) any particulars of a registered document entered into an electronic register.
- “(2) A process to compel the production of—
 - “(a) a registered document; or
 - “(b) evidence of the entry of particulars of a registered document in an electronic register—
must not issue from the Court without the leave of the Court and, if it does, it must have a statement attached to it that it is issued with the leave of the Court.

“121H Certified copy or extract is evidence

- “(1) A copy of or extract from a registered document that purports to be certified by the Registrar as a true copy or extract is admissible in evidence in legal proceedings to the same extent as the original document.
- “(2) A certificate purporting to be signed by the Registrar as to the particulars of a registered document in an electronic register or any other matters in the register is conclusive evidence, in the absence of proof to the contrary, of the entry of those particulars or those other matters.”

7 Related amendments to principal Act

The principal Act is further amended in the manner set out in the Schedule.

8 Amendment to Privacy Act 1993

- (1) This section amends the Privacy Act 1993.
- (2) Part 1 of Schedule 2 is amended by inserting the following item in its appropriate alphabetical order:

Building Societies Act Section 121A
1965

9 Transitional provision for register

All documents registered under the principal Act and sent to the appropriate District Registrar of Companies before the amendments in this Act come into force form part of the

register under section 121A of the principal Act as inserted by this Act.

Schedule

s 7

Related amendments to principal Act

Section 2(1)

Definition of **appropriate District Registrar of Companies**: repeal.

Section 6

Repeal.

Section 8

Repeal.

Section 9D(a)(iii)

Repeal.

Section 13(b)

Omit “4 printed copies of” and substitute “for registration a copy of”

Section 14

Repeal and substitute:

“14 Registration of rules of society

- “(1) The Registrar may refer the rules sent to the Registrar under section 13 to the Solicitor-General to ensure they comply with the requirements of this Act relating to rules of building societies.
- “(2) If the Solicitor-General considers that the rules do not comply with those requirements, he or she may notify the society of the ways in which they do not comply.
- “(3) If the Registrar is satisfied that the rules comply with those requirements, the Registrar must—
- “(a) register the rules; and

“(b) send a certificate of incorporation to the building society.”

Section 19

Subsections (2) to (5): repeal and substitute:

“(2) The society must send notice of the alteration, signed by a director and the secretary of the society, to the Registrar for registration within 14 days after the passing of the special resolution.

“(3) The Registrar may refer the alteration to the Solicitor-General to ensure it complies with this Act.

“(3A) If the Solicitor-General considers that the alteration does not comply with this Act, he or she may notify the society of the ways in which it does not comply.

“(4) If the Registrar is satisfied that the alteration complies with this Act, the Registrar must register the alteration.

“(5) The alteration takes effect on registration.”

Section 23

Subsection (3): insert “for registration” after “the Registrar”.

Subsection (4): omit “and send to the society a certificate of such registration”.

Subsection (5): repeal.

Section 29

Subsection (1): omit “copies of” and substitute “a copy of”.

Subsection (3): omit “shall also be sent by him to the appropriate District Registrar of Companies” and substitute “the Registrar must register the cancellation”.

Section 32(2)

Add “for registration”.

Section 33(3)

Add “for registration”.

Section 34(3)

Repeal and substitute:

“(3) If the Registrar receives a notice of a union or transfer under section 32 or 33 and is satisfied that those sections and this section have been complied with, the Registrar must register the notice.”

Section 73

Subsection (1): repeal and substitute:

“(1) A society must send notice of a change to its registered office to the Registrar for registration within 14 days after the date of the change.”

Subsection (2): repeal.

Section 88

Subsection (1): repeal and substitute:

“(1) If a person becomes, or ceases to be, a director or the manager or secretary of a society, the society must give notice of the change to the Registrar for registration within 1 month after the change.

“(1A) The notice must state the full name and address of the person and details of the office that he or she has taken or relinquished.”

Subsection (2): repeal.

Section 97A(2)

Repeal and substitute:

“(2) The society (unless it is an issuer within the meaning of section 4 of the Financial Reporting Act 1993) must send to the Registrar for registration at the same time a copy of those financial statements and reports, certified by a director and the manager or secretary of the society as being a true copy.”

Section 103

Subsection (1): omit “make to the Registrar, in duplicate,” and substitute “send to the Registrar for registration”.

Subsection (2): omit “each copy sent to the Registrar shall” and substitute “must”.

Subsection (3): repeal.

Section 113C(4)

Omit “under his or her hand or seal”.

Section 116

Subsection (3): omit “, in duplicate,” and substitute “for registration”.

Subsection (4): repeal.

Section 120

Subsection (1): omit “, in duplicate, to the Registrar, and one copy shall be registered” and substitute “to the Registrar for registration”.

Subsection (2): repeal.

Section 122A(4)(b)

Omit “the” and substitute “a”.

Section 124(6)

Omit “, and shall also notify the appropriate District Registrar of Companies” and substitute “and must register the cancellation, suspension, or extension of a suspension”.

Section 129

Heading to section 129: omit “**documents**” and substitute “**rules**”.

Subsections (1) and (2): repeal.

Section 137

Paragraph (a): add “(and those regulations may require the inclusion in, or attachment to, forms of specified information or documents and forms to be signed by specified persons), and prescribing requirements, not inconsistent with this Act, with which those documents must comply”.

Paragraph (c): insert “search or inspection of the register,” after “the issue of certificates and other documents,”.

Add as subsections (2) and (3):

“(2) The Registrar may refuse to perform a function or exercise a power until the prescribed fee is paid.

“(3) Any fee payable to the Registrar is recoverable by the Registrar in any court of competent jurisdiction as a debt due to the Crown.”

Section 139(6)

Omit “the Deputy Registrar of Building Societies under this Act” and substitute “a Deputy Registrar of Building Societies under this Act”.

Legislative history

11 September 2007

Divided from Statutes Amendment Bill (Bill 107-2)
by committee of the whole House

11 September 2007

Third reading