



ANNO TRICESIMO TERTIO

# ELIZABETHAE II REGINAE

A.D. 1984

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No. 101 of 1984

An Act to amend the Co-operatives Act, 1983.

[Assented to 20 December 1984]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Co-operatives Act Amendment Act, 1984". Short title.

(2) The Co-operatives Act, 1983, is in this Act referred to as "the principal Act".

2. Section 4 of the principal Act is amended—

(a) by striking out paragraph (b) of the definition of "special resolution" in subsection (1) and substituting the following paragraph:

(b) it is passed by a majority of not less than three-quarters of the total number of members of the co-operative who, being entitled to do so, vote personally or by proxy at the meeting.;

and

(b) by inserting after subsection (5) the following subsection:

(6) For the purposes of this Act, a reference to a modification, when used in relation to the application of a provision or provisions of the *Companies (South Australia) Code* under this Act, includes a reference to an addition or exclusion.

3. Section 6 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) Where a registered co-operative was, immediately before the commencement of this Act, a society registered under the repealed Act—

(a) Part V shall not apply in respect of a financial year of the co-operative that is the first such financial year to end after the commencement of this Act;

Amendment of  
s. 4—  
Interpretation.

Amendment of  
s. 6—  
Repeal and  
transitional  
provisions.

and

(b) the provisions of the repealed Act relating to accounts and audit continue to apply to the co-operative in respect of that financial year.

Repeal of s. 10 and substitution of new section.

4. Section 10 of the principal Act is repealed and the following section is substituted:

Annual report.

10. (1) The Commission shall, on or before the thirty-first day of December in each year, deliver to the Minister a report on the administration of this Act during the period of twelve months that ended on the preceding thirtieth day of June.

(2) The Minister shall cause a copy of the report to be laid before each House of Parliament within fourteen sitting days of its receipt by him.

Amendment of s. 13—  
Extension of powers of inspection and special investigation to co-operatives.

5. Section 13 of the principal Act is amended—

(a) by inserting before the word “co-operatives” the word “registered”;

and

(b) by inserting before the word “co-operative” the word “registered”.

Amendment of s. 15—  
Registration of co-operative.

6. Section 15 of the principal Act is amended by striking out subparagraph (iii) of paragraph (c) of subsection (1) and the word “and” preceding that subparagraph and substituting the following subparagraphs:

(iii) is not undesirable as a name for a registered co-operative;

and

(iv) conforms with any direction of the Minister relating to the names of registered co-operatives..

Repeal of s. 16 and substitution of new section.

7. Section 16 of the principal Act is repealed and the following section is substituted:

Liability of members.

16. (1) A member of a registered co-operative is not liable, except as may be provided by the rules of the co-operative, for the debts and liabilities of the co-operative.

(2) This section does not apply in respect of debts or liabilities incurred by or on behalf of a co-operative prior to incorporation.

Amendment of s. 17—  
Amalgamation.

8. Section 17 of the principal Act is amended by striking out subparagraph (iii) of paragraph (c) of subsection (4) and the word “and” preceding that subparagraph and substituting the following subparagraphs:

(iii) is not undesirable as a name for a registered co-operative;

and

(iv) conforms with any direction of the Minister relating to the names of registered co-operatives..

Amendment of s. 19—  
Alteration of rules.

9. Section 19 of the principal Act is amended by striking out subparagraph (iii) of paragraph (a) of subsection (5) and the word “and” preceding that subparagraph and substituting the following subparagraphs:

(iii) is not undesirable as a name for a registered co-operative;

and

(iv) conforms with any direction of the Minister relating to the names of registered co-operatives;

10. Section 20 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “a co-operative” and substituting the passage “a registered co-operative”;

and

(b) by striking out from subsection (2) the passage “a co-operative” and substituting the passage “a registered co-operative”.

Amendment of s. 20—  
Voting rights of members.

11. Section 24 of the principal Act is amended by inserting in subsection (3) after the passage “entering into” the passage “or carrying out”.

Amendment of s. 24—  
Limitation of doctrine of *ultra vires*.

12. Section 28 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “deliberations or”;

and

(b) by inserting in subsection (1) after the passage “with respect to that contract” the passage “(but may, subject to complying with the other provisions of this Division, take part in any deliberations of the committee with respect to that contract)”.

Amendment of s. 28—  
Voting on a contract in which a director has an interest.

13. Section 29 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

Amendment of s. 29—  
Certain persons not to manage co-operatives.

(2) Section 226 of the *Companies (South Australia) Code* (a provision restricting the appointment of persons who have attained the age of seventy-two years as directors of companies) applies, with such modifications as may be necessary for the purpose or as may be prescribed, in relation to a person who is a director of a registered co-operative or who has been nominated to be such a director as if a registered co-operative were a public company as defined in the Code.

14. Section 31 of the principal Act is amended by striking out from subsection (1) the passage “shall apply with such adaptations, exclusions, additions and modifications as may be prescribed in relation to a registered co-operative” and substituting the passage “extend, with such modifications as may be necessary for the purpose or as may be prescribed, to registered co-operatives as if a registered co-operative were a corporation as defined in the Code”.

Amendment of s. 31—  
Prospectuses and registration of charges.

15. Section 37 of the principal Act is amended—

(a) by inserting in the definition of “holding co-operative” in subsection (1) after the passage “means a” the word “registered”;

and

(b) by striking out subsection (2) and substituting the following subsection:

Amendment of s. 37—  
Preliminary.

(2) Section 544 of the *Companies (South Australia) Code* (a provision relating to the form and evidentiary value of

books) extends, with such modifications as may be necessary for the purpose, to the keeping and preparation of accounting records or accounts under this Part as if—

(a) a reference in that section to books were a reference to accounting records or accounts under this Part;

and

(b) a registered co-operative were a corporation as defined in the Code.

Amendment of s. 59—  
Application of certain provisions of *Companies (South Australia) Code*.

**16.** Section 59 of the principal Act is amended by striking out the passage “shall apply with such adaptations, exclusions, additions and modifications as may be prescribed in relation to a registered co-operative” and substituting the passage “extend, with such modifications as may be necessary for the purpose or as may be prescribed, to registered co-operatives as if a registered co-operative were a company as defined in the Code”.

Amendment of s. 61—  
Application of *Companies (South Australia) Code* to winding up of Co-operative.

**17.** Section 61 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsection:

(2) The provisions of Part XII of the *Companies (South Australia) Code* extend, with such modifications as may be necessary for the purpose or as may be prescribed, to the winding up and dissolution of registered co-operatives as if a registered co-operative were a company as defined in the Code.;

and

(b) by inserting after subsection (7) the following subsection:

(8) A member of a registered co-operative is not liable, except as may be provided in the rules of the co-operative, for the costs, charges and expenses of a winding up of the co-operative.

Insertion of new s. 64a.

**18.** The following section is inserted after section 64 of the principal Act:

Appointment of secretary.

64a. (1) A registered co-operative shall have at least one secretary.

(2) Subject to the rules of a co-operative, a secretary of a registered co-operative shall be appointed by the directors.

(3) A person is not capable of being a secretary of a registered co-operative unless he is a natural person who has attained the age of eighteen years.

(4) The secretary, or one of the secretaries, must be a person who ordinarily resides in the State.

(5) If default is made in complying with the provisions of this section, the registered co-operative and any director who is in default are each guilty of an offence.

Amendment of s. 69—  
Restriction on offering shares, etc., for public subscription.

**19.** Section 69 of the principal Act is amended by striking out the passage “shall apply with such adaptations, exclusions, additions and mod-

ifications as may be prescribed in relation to a registered co-operative” and substituting the following passage “extend, with such modifications as may be necessary for the purpose or as may be prescribed, to registered co-operatives as if—

(a) references in that section to shares were references to shares of a registered co-operative;

and

(b) a registered co-operative were a corporation as defined in the Code”.

20. The following section is inserted after section 69 of the principal Act:

Insertion of new s. 69a.

69a. Subject to the rules of a registered co-operative, a member of the co-operative who is entitled to attend and vote at a meeting of the members of the co-operative is entitled to appoint another person as his proxy to attend and vote instead of the member at the meeting.

Proxies.

21. The following section is inserted after section 71 of the principal Act:

Insertion of new s. 71a.

71a. A person shall not, in order to gain an advantage for himself or any other person, falsely represent that a body is a co-operative registered under this Act.

Misrepresentation as to registration under this Act.

22. Section 76 of the principal Act is repealed and the following section is substituted:

Repeal of s. 76 and substitution of new section.

76. Sections 541 and 542 of the *Companies (South Australia) Code* extend, with such modifications as may be necessary for the purpose or as may be prescribed, to registered co-operatives as if a registered co-operative were a corporation as defined in the Code.

Investigations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor