



**AN BILLE CUMANN FOIRGNÍOCHTA (LEASÚ), 1986
BUILDING SOCIETIES (AMENDMENT) BILL, 1986**

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
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3. Power of Minister to prescribe purposes for which loan may be made.
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ACTS REFERRED TO

Building Societies Act, 1976

1976, No. 38

Building Societies Acts, 1976 to 1983



AN BILLE CUMANN FOIRGNÍOCHTA (LEASÚ), 1986
BUILDING SOCIETIES (AMENDMENT) BILL, 1986

BILL

entitled

AN ACT TO AMEND AND EXTEND THE BUILDING SOCIETIES ACTS, 1976 TO 1983. 5

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.—In this Act—

“the Acts” means the Building Societies Acts, 1976 to 1983;

“the Principal Act” means the Building Societies Act, 1976. 10

Amendment of section 2 of Principal Act.

2.—Section 2 of the Principal Act is hereby amended by the substitution in subsection (1) for the definition of “society” of the following definition:

“‘society’ means a building society established under this Act for the purpose of raising, in accordance with this Act, funds (by the subscriptions of the members, the acceptance of deposits and loans) for making loans to members— 15

(a) on security by the mortgage of freehold or leasehold estate or interest; or

(b) with or without security and in accordance with any regulations made by the Minister under *section 3* of the *Building Societies (Amendment) Act, 1986*.” 20

Power of Minister to prescribe purposes for which loan may be made.

3.—(1) Notwithstanding any provision of the Acts and of any statutory instrument made thereunder, a society may, in addition to any other loan which it may make under the Acts, make, for such purposes and subject to such conditions (other than conditions in relation to the rate of interest chargeable on a loan) as the Minister, with the consent of the Minister for Finance and after consultation with the Registrar, may prescribe, loans to members, with or without security as may be so prescribed, and different conditions may be prescribed in relation to different classes of loans. 25 30

(2) The Minister may make regulations providing for any modification, adaptation, amendment, repeal, revocation or termination of any provisions of the Acts as may reasonably be necessary or proper for the purposes of *subsection (1)* of this section or to give full 35

effect to any provisions of *subsection (1)* of this section or any regulations made thereunder.

5 (3) Where regulations are proposed to be made under *subsection (2)* of this section, a draft of the proposed regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

(4) The Registrar may, whenever he considers that—

10 (a) it is expedient in the interest of the orderly and proper regulation of building society business, or

(b) a society has carried on business in a manner prejudicial to such regulation,

15 issue to any society or, as the case may be, to that society, a direction prohibiting or restricting, as he considers proper, the making of loans pursuant to *subsection (1)* of this section to members, and any such direction shall have effect in accordance with its terms.

(5) The Registrar may, at any time as circumstances may demand, revoke a direction under *subsection (4)* of this section.

20 4.—(1) A society shall not charge a tiered interest rate on a loan made to a member where— Tiered interest rates.

(a) the mortgage in respect of the loan was created before the 1st day of August, 1986, and

(b) a tiered interest rate was not being charged in respect of the loan on that day.

25 (2) (a) A society shall not charge a tiered interest rate on a loan made to a member where the mortgage in respect of the loan was created on or after the 23rd day of October, 1986.

30 (b) This subsection shall have effect from the first day of the month following the expiration of a period of six months commencing on the date of passing of this Act.

(3) In this section and in *section 5* of this Act—

35 “loan” means a loan made by a society to a member on the security of a mortgage of a freehold or leasehold estate or interest in a dwelling;

“tiered interest rate” means the rate of interest on a loan where such rate—

40 (a) is determined by reference to the amount of the loan made, or to the amount outstanding at any time on foot of the loan, or to the income of the member to whom the loan is made, as the case may be, and

(b) is greater than the lowest rate of interest applicable at the time to loans made by the society to members generally.

45 5.—If a member of a society to whom a loan has been made is charged by the society a tiered interest rate in contravention of *section 4* of this Act, the following provisions shall apply, namely— Rights of member if charged tiered interest rate.

- (a) the member shall not be in breach of the terms of his mortgage if he does not pay to the society the amount by which any payment due on foot of the tiered interest rate exceeds any amount due on foot of the lowest rate of interest applicable at that time to loans made by the society to members generally and the society shall not, by reason only of such failure to pay, be entitled to exercise any remedy against the mortgagor which is otherwise conferred on it by law, and 5
- (b) the member shall be entitled to recover from the society any such excess paid by him as a simple contract debt in any court of competent jurisdiction. 10

Additional powers of Minister to prescribe rules.

6.—(1) The Minister may, after consultation with the Registrar, prescribe rules in respect of any one or more of the following matters, either generally or by reference to a specified class or classes of rules or societies, denoted by reference to such matters as the Minister may consider appropriate: 15

- (a) the prohibiting or restricting of the charging of redemption fees; 20
- (b) the making available to a member to whom a loan is to be made of the report made under section 79 (1) (b) of the Principal Act relating to the value of any security for the loan; 25
- (c) removing or restricting the right of a society to require a member to effect insurance on any security for a loan with an insurer directed by the society or through the agency of the society or of any intermediary directed by the society; 30
- (d) precluding or restricting a society from requiring a member to pay its costs of legal investigation of title to any such security; and 35
- (e) the arranging by a society through an insurer or an intermediary nominated by it for the provision of mortgage protection insurance. 40

(2) Where rules have been prescribed by regulations in relation to any of the matters referred to in *subsection (1)* of this section, such rules shall, with effect from one month after the commencement of the regulations, be part of the rules of any society to which they are declared to be applicable by the regulations by which such rules have been prescribed, notwithstanding any provision of the Acts or the rules of the society. 45

(3) In this section "redemption fee" means, in relation to a loan, any sum in addition to principal and any interest due on such principal (without regard to the fact of the redemption of the loan) at the time of redemption of the whole or part of the loan. 50

Rules relating to appointment, etc. of board of directors.

7.—(1) Notwithstanding the provisions of the Acts or the rules of a society, whenever the Minister prescribes rules, pursuant to section 10 (3) of the Principal Act, such rules, in so far as they relate to the appointment, remuneration and removal of the board of directors of societies, shall, if the regulations by which such rules are prescribed so specify, be rules to which this section applies. 55

5 (2) Where rules to which this section applies have been prescribed, and the rules of a society to which they are declared to be applicable by the regulations by which such rules have been prescribed are not in the opinion of the Registrar substantially in accordance with the rules as so prescribed, the Registrar shall notify the society of his opinion within one month after the commencement of the regulations, and in such a case the prescribed rules shall, with effect from three months after the commencement of the regulations, be part of the rules of the society and shall have effect notwithstanding any existing provision of the rules of the society.

(3) (a) A society may, before the expiration of the period of three months specified in subsection (2) of this section, appeal to the Court against the opinion of the Registrar.

15 (b) Where an appeal under this subsection is upheld, the rules of the society may remain in operation.

(c) Where an appeal under this subsection fails, the rules prescribed shall, with effect from one month after the date of the Court's decision on the appeal, be part of the rules of the society and shall have effect notwithstanding any existing provision of the rules of the society.

8.—(1) The Minister may appoint a body which shall be known as the Building Societies Consultative Council and is in this section referred to as "the Council".

Building Societies
Consultative
Council.

(2) The Council—

25 (a) may advise the Minister on any matter affecting the operation of building society business, and

(b) shall advise the Minister on any matter relating to building societies referred to it by the Minister.

30 (3) The Council shall consist of so many persons appointed by the Minister, and any person so appointed shall hold office for such period as the Minister may specify.

(4) The Minister shall, from time to time, nominate one member of the Council to act as chairman thereof.

35 (5) The Minister may, at any time, remove any member (including the Chairman) from office.

(6) The reference in section 76 of the Principal Act to the Building Societies Advisory Committee shall be construed as a reference to the Council.

(7) Section 96 of the Principal Act is hereby repealed.

40 9.—Section 12 of the Principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

Amendment of
section 12 of
Principal Act.

"(3) Where copies are forwarded to the Registrar in accordance with subsection (2) and he is satisfied that—

45 (a) the alteration is in accordance with this Act and substantially in accordance with any rules prescribed under section 10 (3), and

(b) registration would not be prejudicial to the orderly and proper regulation of building society business,

he shall return one of the copies to the secretary together with a certificate of registration in the prescribed form, and shall retain and register the other copy.”

5

Amendment of section 22 of Principal Act.

10.—Section 22 of the Principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A society may borrow money (including, where the Registrar with the consent of the Minister for Finance so authorises, money in a currency other than the currency of the State) and, for this purpose, may accept deposits or loans at interest, to be applied for the purpose of the society.”

10

Short title, construction and collective citation.

11.—(1) This Act may be cited as the Building Societies (Amendment) Act, 1986.

(2) The Building Societies Acts, 1976 to 1983, and this Act may be cited together as the Building Societies Acts, 1976 to 1986, and shall be construed together as one Act.

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AN BILLE CUMANN FOIRGNÍOCHTA
(LEASÚ), 1986

BUILDING SOCIETIES (AMENDMENT)
BILL, 1986

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dá ngairtear

entitled

Acht do leasú agus do leathnú na nAchtanna
Cumann Foirgníochta, 1976 go 1983.

An Act to amend and extend the Building
Societies Acts, 1976 to 1983.

*Ritheadh ag dhá Theach an Oireachtais,
16 Nollaig, 1986*

*Passed by both Houses of the Oireachtas,
16th December, 1986*

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