

THE OFFICIAL GAZETTE 15TH JULY, 2010
LEGAL SUPPLEMENT – C

BILL No. 7 of 2010

Thursday 15th July, 2010

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

15th July, 2010.

The following Bill which will be introduced in the National Assembly is published for general information.

S. E. Isaacs,
Clerk of the National Assembly.



BILL No. 7 of 2010

NEW BUILDING SOCIETY (AMENDMENT) BILL 2010

ARRANGEMENT OF SECTIONS

SECTION

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3. Amendment of section 3 of the Principal Act.
4. Amendment of section 4 of the Principal Act.
5. Amendment of section 5 of the Principal Act.

6. Amendment of section 7 of the Principal Act.
7. Insertion of new section 7A in the Principal Act.
8. Repeal and re-enactment of section 9 of the Principal Act.
9. Amendment of section 11 of the Principal Act.
10. Amendment of section 12 of the Principal Act.
11. Amendment of section 14 of the Principal Act.
12. Amendment of section 16 of the Principal Act.
13. Amendment of section 17 of the Principal Act.
14. Repeal of section 19 of the Principal Act.
15. Amendment of section 21 of the Principal Act.
16. Amendment of section 26 of the Principal Act.
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A BILL
Intituled

AN ACT to amend the New Building Society Act.

A.D. 2010 Enacted by the Parliament of Guyana:-

Short title.
Cap. 36:21

1. This Act, which amends the New Building Society Act, may be cited as the New Building Society (Amendment) Act 2010.

Amendment of
section 2 of the
Principal Act.

2. Section 2 of the Principal Act is amended in the following respects –

(a) by substituting for the definition of “investing share” the following definition –

“investing share” means a share issued to holders of Save and Prosper and \$5 Shares Accounts or other savings accounts that the Society may so create;”;

(b) by deleting the definition of purchase-tenancy contract;

(c) by inserting the following definitions in their proper alphabetical order –

(i) “bank” has the same meaning as in section 2 of the Financial Institutions Act 1995;

No. 1 of 1995

(ii) “the Bank” has the same meaning as in the Bank of Guyana Act 1998;

No. 19 of 1998

(iii) “capital” in relation to the Society means assigned capital as defined in section 2 of the Financial Institutions Act 1995, notwithstanding that the Society is not a foreign company;

(iv) “licensed financial institution” has the same meaning as in section 2 of the Financial Institutions Act 1995;”.

Amendment of
section 3 of the
Principal Act.

3. Section 3 of the Principal Act is amended by inserting immediately after subsection (2) the following as subsection (3) –

“(3) Notwithstanding the provisions of subsection (2), the power of the Society to hold, lease and dispose of land shall be subject to the limitations as provided under section 15 (3) of the Financial Institutions Act 1995.”.

No. 1 of 1995

Amendment of section 4 of the Principal Act.

4. Section 4 of the Principal Act is amended by substituting for subsection (1) the following subsection –

“(1) Subject to the provision of section 12 (1) (e) of the Financial Institutions Act 1995, the Society may change its name by special resolution provided that the new name is not identical with that of any other company or society carrying on business in Guyana.”.

No. 1 of 1995

Amendment of section 5 of the Principal Act.

5. Section 5 of the Principal Act is amended in the following respects –

(a) by renumbering it as subsection (1) and by deleting the words “or purchase-tenancy contract”; and

(b) by inserting after subsection (1), as so renumbered, the following subsection as subsection (2) –

“(2) The Society shall comply in all respects with the provisions of the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other law in the manner and to the extent as those laws provide.”.

No. 1 of 1995
No. 19 of 1998

Amendment of section 7 of the Principal Act.

6. Section 7 of the Principal Act is amended in the following of section 7 respects –

(a) by renumbering it as subsection (1);

(b) in paragraph (b), by substituting for the words “investing shares” the words “deposits with the Society”;

(c) in paragraph (d)(ii) by deleting the words “, purchase-tenancy contracts”;

(d) by amending the proviso to paragraph (d) by inserting after the words “two thirds” the following words “or such other ratio as may be specified by the Bank” and by deleting the words “or under purchase-tenancy contracts”;

- (e) by inserting immediately after subsection (1) the following as subsection (2) –

No. 1 of 1995 “(2) The powers of the Society under this section shall be subject to the limitations provided under sections 14 and 15 of the Financial Institutions Act 1995.”.

Insertion of new section 7A in the Principal Act.

7. The Principal Act is amended by the insertion immediately after section 7 of the following as section 7A –

“Transitional provisions for certain transactions.

No. 1 of 1995

7A. (1) Notwithstanding section 14 (1) of the Financial Institutions Act 1995, the Society shall, in relation to any transaction entered into prior to the commencement of this Act which violates the provisions of section 14 (1) of the Financial Institutions Act 1995, within three months of the commencement of this Act submit in writing to the Bank a statement of each transaction and the Society’s plan for terminating the transaction or otherwise bringing itself into compliance with the Financial Institutions Act.

(2) The Society shall ensure compliance with section 14(1) of the Financial Institutions Act 1995 within four years of the commencement of this Act, which period may, upon good cause shown to the Bank be extended for not more than one year at a time, but no extensions with respect to any one transaction shall exceed, in aggregate, three years.”.

Repeal and re-enactment of section 9 of the Principal Act.

8. Section 9 of the Principal Act is repealed and re-enacted as the following section –

“Definition of member.

9. Every person who holds an investing share in the Society shall so long as that share remains in force, be a member of the Society and be bound by the rules.”.

Amendment of section 11 of the Principal Act.

9. Section 11 of the Principal Act is amended in the following respects –

- (a) by renumbering it as subsection (1) and by substituting for the word “management” the word “policies”; and
- (b) by inserting immediately after subsection (1) as so renumbered, the following as subsection (2) –

“(2) Notwithstanding the provisions of subsection (1), the Board shall exercise its functions subject to the authority conferred on the Bank by the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other law with respect to the licensing, regulation, inspection or supervision of licensed financial institutions.”

Amendment of section 12 of the Principal Act.

10. Section 12 of the Principal Act is amended in the following respects –
- (a) in subsection (2), by deleting the words “or of fifty members, whichever is less,”; and
 - (b) in subsection (4), by substituting for the words “twenty- one” of the words “forty-two”.

Amendment of section 14 of the Principal Act.

11. Section 14 of the Principal Act is amended in the following 14 respects -
- (a) in subsection (1) by inserting after the word “Act” the following words “, the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other applicable law”;
 - (b) by inserting immediately after subsection (3) the following as subsection (4) –

“(4) Notwithstanding the provisions of subsections (1) to (3), the power of the Society to make, alter or rescind rules shall be subject to the provisions of the Financial Institutions Act 1995.”

Amendment of section 16 of the Principal Act.

12. Section 16 of the Principal Act is amended by inserting immediately after subsection (7) the following as subsection (8) –

“(8) The auditor appointed by the Society shall –

- (a) be qualified in accordance with section 22 of the Financial Institutions Act 1995;
- (b) perform the reviews and make the reports required by Part V of the Financial Institutions Act 1995; and
- (c) exercise, in addition to the functions conferred on him by this Act, those functions and powers provided by the Financial Institutions Act 1995.

Amendment of
section 17 of
the Principal
Act.

13. Section 17 of the Principal Act is amended in the following respects –

(a) in subsection (1) by substituting for paragraph (c) the following paragraph –

“(c) the balance due or outstanding on the Society’s mortgage or securities contracts (not including prospective interests) and in respect of such mortgages and contracts the number thereof and the aggregate amount owing thereon, classified under the heads of mortgages or contracts –

- (i) not exceeding one million dollars;
- (ii) exceeding one million dollars but not exceeding three million dollars;
- (iii) exceeding three million dollars but not exceeding five million dollars;
- (iv) exceeding five million dollars but not exceeding seven million dollars;
- (v) exceeding seven million dollars but not exceeding eight million dollars;
- (vi) exceeding eight million dollars but not exceeding nine million dollars;
- (vii) exceeding nine million dollars but not exceeding ten million dollars;
- (viii) exceeding ten million dollars but not exceeding eleven million dollars;
- (ix) exceeding eleven million dollars but not exceeding twelve million dollars;
- (x) exceeding twelve million dollars,

and showing under each head the aggregate amount on mortgages and contracts on which repayments or payments are upwards of twelve months in arrear.”;

(b) in subsection (2), by deleting the words “purchase-tenancy contracts”;

(c) in subsection (3), by deleting the words “purchase-tenancy contracts”; and

(d) by substituting for subsection (4) the following subsection –

“(4) Every member, depositor and creditor for loans may uplift a copy of such account and statement from any of the Society’s offices and a copy thereof shall be exhibited in a conspicuous place in every office of the Society.

Repeal of section 19 of the Principal Act.

14. Section 19 of the Principal Act is repealed.

Amendment of section 21 of the Principal Act.

15. Section 21 of the Principal Act is amended by substituting for the words “two hundred and fifty” the words “one hundred thousand”.

Amendment of section 26 of the Principal Act.

16. Section 26 of the Principal Act is amended in subsection (2) by substituting for the words “five hundred” the words “fifty thousand “.

Repeal and re-enactment of section 27 of the Principal Act.

17. Section 27 of the Principal Act is repealed and re-enacted as the following section –

“Dissolution. 27. The Society may only be terminated or dissolved in accordance with the provisions of the Financial Institutions Act No. 1 of 1995 1995.”.

Repeal of sections 28 to 30 of the Principal Act.

18. Sections 28 to 30 (inclusive) of the Principal Act are repealed.

Amendment of section 34 of the Principal Act.

19. Section 34 of the Principal Act is amended in the following respects -

(a) in subsection (1) by substituting for the words “one Principal hundred thousand” the words “five hundred million”; and

(c) by substituting for subsection (4) the following subsection –

“(4) Bond certificates may be transferred in whole or in part in multiples of five thousand dollars, on payment of such fee as the Board may fix.”.

Act to be read
and construed.
Cap. 36:21
No. 1 of 1995
No. 19 of 1998

20. (1) The provisions of the Principal Act as amended by this Act save and except sections 32 and 35, shall be read and construed with all modifications, qualifications and adaptations that may be necessary to bring them in conformity with the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other applicable law.

(2) Notwithstanding the provisions of subsection (1), the Society shall benefit from the exclusion of taxes on earnings, waiver of licensing fees and reserve requirements.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the New Building Society Act, Cap 36:21, to provide for the licensing and supervision of the Society, by the Bank of Guyana primarily under the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other law.

The Bill seeks to amend the New Building Society Act, Cap 36:21, to bring it into conformity with the Financial Institutions Act 1995. Clause 2 seeks to amend section 2 to include in the interpretation section the definitions of certain terms, to modify the definition of investing share so that only fully paid up shares shall be considered as investing shares and to delete the definition of purchase-tenancy contracts because this type of contract is prohibited under the Financial Institutions Act 1995.

Clause 3 seeks to amend section 3 to limit the power of the Society to acquire, hold and lease land and other property subject to the provisions of section 15 (3) of the Financial Institutions Act 1995.

Clause 4 seeks to amend section 4 to limit the power to change the Society's name subject to the section 12 (1) (e) of the Financial Institutions Act 1995.

Clause 5 seeks to amend section 5 to remove the term purchase-tenancy contracts.

Clause 5 also seeks to amend section 5 to provide for compliance with the provisions of the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other applicable law in the conduct of the Society's operations.

Clause 6 seeks to amend section 7 to conform with sections 14 and 15 of the Financial Institutions Act 1995 by prohibiting the Society from making loans to its members upon the security of their investing shares.

Clause 7 seeks to amend the Act by inserting a new section 7A to provide for transitional provisions for certain transactions entered into prior to the commencement of this Act and which violates the provisions of section 14 (1) of the Financial Institutions Act 1995. (Act No.1 of 1995).

Clause 8 seeks to amend section 9 by modifying the definition of member to include only those members holding fully paid up investing shares and excluding persons below the age of eighteen from membership of the Society.

Clause 9 seeks to amend section 11 by clarifying the role of the Board in the management of the Society and expressly delimiting its regulatory or supervisory authority.

Clause 10 seeks to amend section 12 by limiting the requirement for convening of a special general meeting to at least one-tenth of the members of the Society and by increasing the time for convening the meeting thereby providing adequate time for verification and notification.

Clause 11 seeks to amend section 14 to expressly state that the Society shall be managed and governed in accordance with the provisions of the Financial Institutions Act 1995 and to empower the Society to make, alter and rescind rules subject to the provisions of the Financial Institutions Act 1995.

Clause 12 seeks to amend section 16 of the Act to include the additional review and reporting requirements which the Society should meet.

Clause 13 seeks to amend section 17 by adjusting the reporting categories and providing for members to uplift copies of statements from the office of the Society. The amendment to section 17 also seeks to delete the term purchase-tenancy contracts.

Clause 14 seeks to repeal section 19 because inspections of the Society shall be covered under the Financial Institutions Act 1995.

Clause 15 seeks to amend section 21 to increase the amount of funds in the Society which can be released upon death without letters of administration.

Clause 16 seeks to amend section 26 (2) to increase the fine to fifty thousand dollars for any person paying or accepting a gift, bonus, commission or benefit for or in connection with any loan made by the Society or the purchase of any shares of the Society.

Clause 17 seeks to amend section 27 to specify that the termination or dissolution of the Society shall be conducted in accordance with the Financial Institutions Act 1995.

Clause 18 seeks to repeal sections 28 to 30 because the dissolution and winding up of the Society shall be conducted in accordance with Part VIII of the Financial Institutions Act 1995.

Clause 19 seeks to amend section 34 to increase the maximum amount that may be secured by a bond certificate without the consent of the Minister and to increase the value of bond certificates that may be transferred giving the Board unfettered discretion to fix the transfer fee.

Clause 20 seeks to provide that the New Building Society Act as amended by this Act shall be read and construed with all modifications, qualifications and adaptations necessary to bring them in conformity with the Financial Institutions Act 1995, the Bank of Guyana Act 1998 and any other applicable law and to preserve the tax exempt status of the Society because of its special nature.



Minister of Finance.