

GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2005

Date of Assent: 28th September, 2005

An Act to amend the Building Societies Act

[7th October, 2005

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Building Societies (Amendment) Act, 2005, and shall be read as one with the Building Societies Act, in this Act referred to as the principal Act.

Short title
and
commencement
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(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. Section *two* of the principal Act is amended —

Amendment
of section 2

(a) by the insertion in the appropriate place of the following new definitions:

“ authorised investment ” means an investment prescribed by the Bank of Zambia in accordance with the Banking and Financial Services Act;

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“ Bank of Zambia ” means the Bank of Zambia established under the Bank of Zambia Act; and

“ licence ” means a licence to conduct a financial service business issued under the Banking and Financial Services Act;

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of 1996
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(b) by the deletion of the definition “ Registrar ” and the substitution therefor of the following new definition:

“ Registrar ” means the Registrar of Banks and Financial Institutions appointed under section *twenty* of the Banking and Financial Services Act;

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3. Section *three* of the principal Act is amended —

Amendment
of section 3

(a) in subsection (1) —

(i) by the deletion in paragraph (d) and the substitution therefor of the following paragraph:

(d) satisfying the Registrar that the total sum subscribed by way of shares or deposits or negotiated loans, or any combination of these,

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but excluding the deposit mentioned in paragraph (e), is not less than an amount to be prescribed by the Bank of Zambia, by statutory order, and that all the subscriptions comprised in such total sum are to remain as fixed term investments with the society for a period of not less than five years:

Provided that every building society shall maintain such capital as the Bank of Zambia may, by, statutory order, prescribe;

(ii) by the deletion of paragraph (e) and the substitution therefor of the following new paragraph:

(e) depositing with the Bank of Zambia cash or securities acceptable to the Bank of Zambia, or a combination of such cash and securities, to a total value of such amount as the Bank of Zambia may, by *Gazette* notice prescribe and such deposit shall be subject to the conditions set out in section *five*; and

(iii) by the insertion of the word “and ” after paragraph (e); and

(iv) by the insertion immediately after paragraph (e) of the following new paragraph:

(f) obtaining a licence to conduct a financial service business under the Banking and Financial Services Act; and

(b) in subsection (3) —

(i) by the insertion of the words “ and if the Registrar determines to grant the applicants a licence in accordance with the Banking and Financial Services Act ” after the words “ have also been complied with ”;

(ii) by the insertion in paragraph (a) of the words “ and the licence ” after the words “ relating to the application ”; and

(c) by the insertion immediately after subsection (3) of the following new subsection:

(4) A building society which is registered under this Act shall be deemed to be a financial institution for purposes of the Banking and Financial Services

Act and shall be subject to the supervisory and regulatory authority of the Bank of Zambia.

4. The principal Act is amended by the repeal of section *four* and the substitution therefor of the following:

4. Notwithstanding the provisions of section *three*, the Bank of Zambia may, if it determines that it is in the public interest so to do —

(a) by statutory instrument, suspend the registration of new building societies either indefinitely or for the period stated in the statutory instrument and during the period of suspension the Registrar shall not register any new society; or

(b) in any particular case direct the Registrar that registration of a proposed new society shall be refused.

Repeal and replacement of section 4
Bank of Zambia may suspend registration

5. The principal Act is amended by the repeal of section *fourA*.

6. Section *five* of the principal Act is amended —

(a) in paragraph (a) by the deletion of the words “ Governor of the Bank ” and the substitution therefor of the words “ Bank of Zambia ”;

(b) in paragraph (c) by the deletion of the words “ Governor of the Bank ” and the substitution therefor of the words “ Bank of Zambia ”; and

(c) in paragraph (e) by the deletion of the words “ on the production to the Governor of the Bank of a certificate by the Registrar to the effect that ” and the substitution therefor of the words “ if the Bank of Zambia is satisfied that ”

Repeal of section 4A
Amendment of section 5

7. Section *eight* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following:

(2) Notwithstanding any other provisions of this Act, a person shall not carry on business in Zambia as a building society unless registered under this Act and licensed in accordance with the provisions of the Banking and Financial Services Act and the name or style “building society” shall not be used except by a building society so registered and licensed.

Amendment of Section 3

8. The principal Act is amended by the repeal of section *nine* and the substitution therefor of the following new section:

9: (1) The Registrar shall, in accordance with section *nineteen* of the Banking and Financial Services Act, maintain

Repeal and replacement of section 9

Register of building societies

a register of all building societies which are registered under this Act and licensed according to that Act.

(2) The register of building societies maintained by the Registrar under this Act prior to the commencement of this Act shall be transferred to the Registrar of Banks and Financial Institutions on the date of the commencement of this Act.

9. The principal Act is amended by the insertion immediately after section *twelve* of the following new Part.

Insertion of new Part IIA

PART IIA
LICENSING OF BUILDING SOCIETIES

12A. (1) A building society which is registered under this Act shall apply for a licence to conduct a financial service business in accordance with the provisions of the Banking and Financial Services Act:

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Provided that an existing building society shall apply for a licence within twelve months of the commencement of this Act.

(2) An application for a licence made by a building society shall include a copy of the current rules of the building society and such other information as the Registrar may require to determine the application.

Amendment of section 17

10. Section *seventeen* of the principal Act is amended in subsection (1) by the insertion after the words "registration under this Act" of the words "and a licence under the Banking and Financial Services Act".

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Amendment of section 18

11. Section *eighteen* of the principal Act is amended by the deletion of the word "Minister" and the substitution therefor of the words "Bank of Zambia".

Amendment of section 19

12. Section *nineteen* of the principal Act is amended in subsection (1) by the deletion of the words "ten thousand kwacha" and the substitution therefor of the words "such amount as the Bank of Zambia may, by statutory instrument, prescribe".

Amendment of section 22

13. Section *twenty-two* of the principal Act is amended in subsection (1) by the deletion of the word "three" and the substitution therefor of the word "five".

Repeal of section 23

14. The principal Act is amended by the repeal of section *twenty-three*.

15. Section *twenty-four* of the principal Act is amended by

the deletion of subsection (6).

Amendment
of section 24

16. Section *twenty-six* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following new subsection:

Amendment
of section 26

(1) A person shall not be qualified to be a director of building society if the person —

- (a) is not a fit and proper person to hold the relevant office in relation to integrity and professional expertise;
- (b) is a member who does not hold the minimum share qualification, if any, prescribed in the society's rules as a qualification for holding office as a director;
- (c) is a body corporate;
- (d) is not above the age of twenty-one years;
- (e) is an undischarged bankrupt;
- (f) has been convicted of an offence involving dishonesty;
- (g) has been declared to be physically or mentally incapable to manage affairs; or
- (h) if the person is under suspension or has been removed from office by order of the Bank of Zambia under the Banking and Financial Services Act.

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17. The principal Act is amended by the repeal of section *twenty-seven*.

Repeal of
section 27

18. Section *twenty-eight* of the principal Act is amended by the deletion of subsection (1) and the substitution therefor of the following:

Amendment
of section 28

(1) Whenever a person ceases to be a director, manager or secretary of a building society, the society shall within one month of its having notice of the event give notice to the Bank of Zambia, stating the full name and address of that person, particulars of the office which the person has relinquished and the date of the person's relinquishment of office.

Amendment
of section 32

19. Section *thirty-two* of the principal Act is amended —
(a) by the deletion of subsection (1) and the substitution therefor of the following new subsection:

(1) Every building society shall cause to be kept —

(a) such proper books of account with respect to its transactions and its assets and liabilities as are necessary to give a true and fair view of the state of affairs of the building society and to explain its transactions; and

(b) such other records as are required to be prepared and maintained by or under this Act or the Banking and Financial Services Act, or by order of the Bank of Zambia; and

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- (b) by the insertion immediately after subsection (1) of the following new subsection:

(1A) The books of account referred to in paragraph (a) of subsection (1) shall be kept in such a way as to enable the Bank of Zambia to determine whether the building society has complied with the provisions of this Act and the Banking and Financial Services Act.

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Amendment
of section 34

20. Section *thirty-four* of the principal Act is amended —

- (a) by the insertion after subsection (1) of the following new subsection:

(1A) Every balance sheet, income and expenditure account and revenue appropriation account of a building society shall be prepared in accordance with internationally accepted accounting principles; and

- (b) in subsection (2) —

(i) by the deletion of “ Registrar ” and the substitution therefor of “ Bank of Zambia ”; and

(ii) by the deletion of the words “ with the consent of the Minister ”.

Amendment
of section 39

21. Section *thirty-nine* of the principle Act is amended —

(a) in subsection (1) by the deletion of the words “not more than fourteen days after the date of the meeting be sent to the Registrar” and the substitution therefor of the words “not later than twenty—one days before the date of the meeting be sent to the Bank of Zambia”; and

(b) by the insertion immediately after subsection (1) of the following new subsection:

(1A) A summary financial statement, in such form as the Bank of Zambia may prescribe, shall be sent to the members of a building society not later than twenty-one days before the date of the meeting.

22. The principal Act is amended by the repeal of section *forty* and the substitution therefor of the following new section:

Repeal and
replacement
of section 40
Appointment
of auditors

40. (1) Every building society shall at each annual general meeting appoint an independent auditor, approved by the Bank of Zambia, who shall be a member in good standing of a professional association of accountants recognised by the Bank of Zambia.

(2) The directors of the building society may fill any casual vacancy in the office of auditor but while any such vacancy continues the surviving or continuing auditor, if any, may act.

23. Section *forty-one* of the principal Act is amended in subsection (1) —

Amendment
of section 41

(a) by the deletion of the full stop at the end of paragraph (d) and the substitution therefor of a semi-colon; and

(b) by the insertion after paragraph (d) of the following new paragraph:

(e) a person who is disqualified under section *sixty-three* of the Banking and Financial Services Act.

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24. Section *forty-two* of the principal Act is amended in subsection (3) by the deletion of the words “the officers” after the words “entitled to require from” and the substitution therefor of the words “the directors, chief executive officer, chief financial officer, managers and agents”

Amendment
of section 42

25. Section *forty-three* of the principal Act is amended —

Amendment
of section 43

(a) in subsection (2) —

(i) by the deletion of the word “he” after the words

“ consequential directions as ” and the substitution therefor of the words “ the Bank ”; and

(ii) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia ”; and

(b) in subsection (3) by the deletion of the word “ Registrar and the substitution therefor of the words “ Bank of Zambia ”.

Amendment of section 51

26. Section *fifty-one* of the principal Act is amended —

(a) in subsection (1) by the deletion of the word “ Registra ” and the substitution therefor of the words “ Bank of Zambia ”;

(b) by the deletion of subsection (3) and the substitution therefor of the following new subsection:

(3) The annual return shall be in such form and shall contain such information as the Bank of Zambia may, by statutory instrument prescribe.

Amendment of sections 52

27. Section *fifty-two* of the principal Act is amended in subsection (1) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia ”.

Repeal and replacement of section 60

28. The principal Act is amended by the repeal of section *sixty* and the substitution therefor of the following new section:

Advances

60. A building society may make advances out of its funds and such advances shall be secured by a mortgage of real estate or such other security as the rules of such building society may prescribe.

Repeal of sections 61 to 63

29. The principal Act is amended by the repeal of Sections *sixty-one*, *sixty-two* and *sixty-three*.

Amendment of section 76

30. Section *seventy-six* of the principal Act is amended by the deletion of the proviso to subsection (1).

Amendment of section 80

31. Section *eighty* of the principal Act is amended in subsection (1) by the deletion of the words “ up to two per centum of its total assets or such amounts as the Minister may prescribe ” and the substitution therefor of the words “ a per centum of its total assets or such amount as the Bank of Zambia may, by statutory instrument, prescribe ”.

Amendment of section 84

32. Section *eighty-four* of the principal Act is amended by the deletion of the word “ Minister ” and the substitution therefor of the words “ Bank of Zambia ”.

33. Section *eighty-seven* of the principal Act is amended — Amendment of section 87
- (a) in subsection (1) by the deletion of the word “ Minister ” wherever it appears and the substitution therefor of the words “ Bank of Zambia ”;
 - (b) in paragraph (c) of subsection (1) by the deletion of the words “ Governor of the Bank ” and the substitution therefor of the words “ Bank of Zambia ”; and
 - (c) in subsection (2) by the deletion of the word “ Minister ” and the substitution therefor of the words “ Bank of Zambia ”.
34. The principal Act is amended by the repeal of section *eighty-nine* and the substitution therefor of the following new section: Repeal and replacement of section 89
89. (1) Subject to the provisions of the Banking and Financial Services Act, a building society may invest any of its surplus funds in — Authorised investment Cap. 387
- (a) establishing and managing unit trust schemes;
 - (b) establishing and managing pension schemes;
 - (c) establishing subsidiary companies; and
 - (d) such other investments as the Bank of Zambia may, by statutory order, prescribe.
- (2) A building society shall not invest any part of the surplus funds in projects other than those set out in sub-section (1).
35. The principal Act is amended by the repeal of section *ninety*. Repeal of section 90
36. Section *ninety-one* of the principal Act is amended by the deletion of the words “ sections *eighty-nine* and *ninety* ” and the substitution therefor of the words “ section *eighty-nine* ”. Amendment of section 91
37. Section *ninety-two* of the principal Act is amended in paragraph (b) of subsection (5) by the insertion of the words “ or such other amount as the Bank of Zambia may prescribe ” after the words “ amount of the society’s assets ”. Amendment of section 92
38. Section *ninety-three* of the principal Act is amended — Amendment of section 93
- (a) in subsections (1) and (2) by the deletion of the words “ Governor of the Bank ” and the substitution therefor of the words “ Bank of Zambia ”.
 - (b) in subsection (5) by the deletion of the words “ two and one-half per centum ” and the substitution therefor of the words “ such per centum, as the Bank of Zambia may prescribe of ”; and

(c) in subsection (6) by the deletion of paragraph (e) and the substitution therefor of the following new paragraph:

(e) such other assets as the Bank of Zambia may, by *Gazettenotice*, prescribe;

(d) in subsection (7) by the deletion of the words "Registrar" wherever it appears and the substitution therefor of the words "Bank of Zambia"; and

(e) by the deletion of subsection (8).

Amendment
of section 95

39. Section *ninety-five* of the principal Act is amended in the proviso to subsection (2) by the insertion of the words "or does not comply with section *one hundred and eighteen* of the Banking and Financial Services Act" after the words "is undesirable".

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Amendment
of section 97

40. Section *ninety-seven* of the principal Act is amended by the insertion after subsection (3) of the following new subsections:

(3A) If the Registrar finds that the alteration is not in conformity with the Act and any applicable regulations the Registrar shall not register the alteration and shall notify the building society of the decision.

(3B) Any alteration of rules by a building society shall only become affective upon registration.

Amendment
of section 98

41. Section *ninety-eight* of the principal Act is amended—

(a) in subsection (1) by the insertion of a comma and the words "with the consent of the Bank of Zambia" after the words "may unite";

(b) by the deletion of subsection (2) and the substitution therefor of the following new subsection:

(2) Notice of any proposed union of building societies shall be sent to the Bank of Zambia, and if the Bank of Zambia consents to the union, the Registrar shall, upon completion of the union, register the new society;

(c) by the insertion after subsection (2) of the following new subsection:

(2A) Where a new society is registered under subsection (2), the societies unified shall be deemed to be dissolved and their registrations cancelled; and

(d) in subsection (3) by the deletion of the word "Registrar" and the substitution therefor of the words "Bank of Zambia".

42. Section *ninety-nine* of the principal Act is amended — Amendment of section 99
- (a) in subsection (1) by the insertion of a comma and the words “ with the consent of the Bank of Zambia ” after the words “A building society may”;
 - (b) in paragraph (b) of subsection (1) by the deletion of the words “ with the consent of the Registrar ”;
 - (c) by the deletion of subsection (2) and the substitution therefor of the following new subsection:
 - (2) Notice of any proposed transfer shall be sent to the Bank of Zambia by the building society transferring its engagements and if the Bank of Zambia consents to the transfer, the Registrar shall register the notice of the transfer.; and
 - (d) in subsection (4) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia ”.
43. Section *one hundred* of the principal Act is amended in subsections (1) and (2) by the deletion of the word “ Registrar ” wherever it appears and the substitution therefor of the words “Bank of Zambia”. Amendment of section 100
44. The principal Act is amended by the repeal of sections *one hundred A, one hundred and three, one hundred and four, one hundred and five* and *one hundred and six*. Repeal of sections 100A, 103, 104, 105, and 106
45. Section *one hundred and eight* of the principal Act is amended — Amendment of section 108
- (a) in subsection (1) by the deletion of the words “ Minister, on the advice of the Registrar ” and the substitution therefor of the words “ Bank of Zambia ”;
 - (b) in subsection (2) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia ”;
 - (c) by the deletion of subsection (3) and the substitution therefor of the following new subsection:
 - (3) At least twenty-one days before an order is made under this section, the Bank of Zambia shall give the building society concerned, and each of its directors, written notice that it proposes to make such an order and the notice shall set out the considerations which have led to the conclusion that it is expedient to do so:

Provided that before issuing an order the Bank of Zambia shall consider any representations which may be made by the building society within a period of fourteen days after the service of the notice and, if the society so requests, shall afford it an opportunity to be heard within that period; and

(d) in subsection (4) by the deletion of the word "Minister" and the substitution therefor of the words "Bank of Zambia".

Amendment
of section
109

46. Section *one hundred and nine* of the principal Act is amended —

(a) in subsection (1) by the deletion of the word "Registrar" and the substitution therefor of the words "Bank of Zambia"; and

(b) by the deletion of subsection (2) and the substitution therefor of the following new subsection:

(2) Before serving a direction under this section, the Bank of Zambia shall give the building society concerned, and each of its directors, written notice that the Bank proposes to make the direction, and such notice shall set out the considerations which have led to the conclusion that it is expedient to do so, and the Bank shall consider any representations which may be made by the society within seven days from the date of service of the notice; and if the society so requests, the Bank shall afford it an opportunity to be heard within that period.

Amendment
of section
110

47. Section *one hundred and ten* of the principal Act is amended by the insertion of a comma and the words "with the approval of the Bank of Zambia" after the words "A building society may".

Amendment
of section
112

48. Section *one hundred and twelve* of the principal Act is amended —

(a) in subsections (1) and (2) by the deletion of the word "Registrar" and the substitution therefor of the words "Bank of Zambia";

(b) in subsection (3) by the deletion of the words "Registrar shall on the advise of the Minister" and the substitution therefor of the words "Bank of Zambia";

(c) in paragraph (a) of subsection (3) by the deletion of the word "he" and the substitution therefor of the words "the Bank";

(d) in paragraph (b) of subsection (3) —

- (i) by the deletion of the word “ he ” and the substitution therefor of the words “ the Bank ”; and
- (ii) by the deletion of the word “ Minister ” and the substitution therefor of the words “ Bank of Zambia; and ”

(e) in subsection (4) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia ”.

49. Section *one hundred and thirteen* of the principal Act is amended in subsection (3) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia. ”

Amendment
of section
113

50. The principal Act is amended by the repeal of section *one hundred and fourteen* and the substitution therefor of the following new section:

Repeal and
replacement
of section
114

114 (1) In the event of a building society becoming insolvent the Bank of Zambia may, in accordance with Chapter VII of the Banking and Financial Services Act, dissolve and liquidate the building society.

Insolvent
building
society
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(2) In subsection (1) insolvency has the meaning assigned to it by section *eighty-six* of the Banking and Financial Services Act.

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51. Section *one hundred and seventeen* of the principal Act is amended —

Amendment
of section
117

(a) in subsection (6) —

- (i) by the deletion of the word “ Registrar ” and the substitution therefor of the words “ Bank of Zambia ”; and
- (ii) by the insertion of the words “ or such other amounts as the Bank of Zambia may prescribe ” after the words “ one hundred thousand kwacha ”; and

(b) In the proviso to subsection (7) —

- (i) by the deletion in paragraph (i) of the word “ Minister ” wherever it appears and the substitution therefor of the words “ Bank of Zambia ”; and
- (ii) by the insertion in paragraph (ii) of the words “ or such other amount as the Bank of Zambia may prescribe ” after the words “ in which such land is purchased ”.

52. Section *one hundred and eighteen* of the principal Act is amended in subsection (3) by the deletion of the word “ Registrar ” wherever it appears and the substitution therefor of the words “ Bank of Zambia ”.

Amendment
of section
118

Amendment of section 119 53. Section *one hundred and nineteen* of the principal Act is amended in subsection (2) by the insertion of the words "or the Bank of Zambia" after the words "the Registrar".

Amendment of section 120 54. Section *one hundred and twenty* of the principal Act is amended —
 (a) in paragraph (f) of subsection (1) by the deletion of the words "with the approval of the Minister"; and
 (b) in subsection (3) by the deletion of the words "with the approval of the Minister".

Repeal of section 124 55. The principal Act is amended by the repeal of section *one hundred and twenty-four*.

Repeal and replacement of section 127 56. The principal Act is amended by the repeal of section *one hundred and twenty-seven* and the substitution therefor of the following new section:

Regulations 127. The Minister may, on the recommendation of the Bank of Zambia, by statutory instrument, make regulations prescribing anything requiring to be prescribed under this Act, other than a matter required or permitted to be prescribed by the Bank of Zambia, and for the better carrying into effect of the provisions of this Act.

Amendment of section 128 57. Section *one hundred and twenty-eight* of the principal Act is amended —
 (a) by the deletion of the word "Registrar" and the substitution therefor of the words "Bank of Zambia";
 (b) by the deletion of the word "he" after the words "the form which" and the substitution therefor of the words "the Bank";
 (c) by the deletion of the word "he" after the words "intends to prescribe and"; and
 (d) by the deletion of the word "him" after the words "may be made to" and the substitution therefor of the words "the Bank".

Insertion of new section 134A 58. The principal Act is amended by the insertion immediately after section *one hundred and thirty-four* of the following new section:

134 A. Notwithstanding subsection (4) of section *three*, section *fifty-one*, subsections (1) and (2) of section *sixty-one*, subsection (1) of section *sixty-two*, section *sixty-four*, section *seventy* and subsection (7) of section *seventy-three* of the Banking and Financial Services Act shall not apply to a building society.

Buildings
societies
exempt
from
certain
provisions of
Banking and
Financial
Services
Act 387

STAIR CASE