

FRIENDLY SOCIETIES (QUEENSLAND) BILL 1997

EXPLANATORY NOTES

Short title

The short title of the Bill is the *Friendly Societies (Queensland) Bill 1997*.

Policy objectives of Bill and the reasons for those objectives

The primary objective of the Bill is to facilitate the integration of friendly societies into the Financial Institutions Scheme (FI Scheme) by applying of the Friendly Societies (Victoria) Code and Regulations as the law of Queensland. A similar mechanism will be adopted by other States and Territories to provide a uniform approach to the supervision of friendly societies throughout Australia.

Prior to this Bill, friendly societies were regulated by sperate legislation in each State and Territory. These various Acts were sometimes outdated and often differed widely between jurisdictions.

In April 1994, The Ministerial Council for Financial Institutions agreed to develop and establish a uniform strategy for the supervision of friendly societies across Australia. The Ministerial Council decided that the legislation would form part of the FI Scheme, which was introduced in 1992 to supervise building societies and credit unions on a uniform basis.

The way in which these policy objectives will be achieved by the Bill and why this way of achieving the policy objectives is reasonable and appropriate

Victoria was chosen as the seat for the template friendly society legislation. After approval by all jurisdictions, the template legislation will

be adopted, through an “application of laws mechanism,” in each State and Territory that is a party to the Scheme.

Under the FI Scheme, the Queensland based Australian Financial Institutions Commission (AFIC) is the national co-ordinating and standard setting body for these financial institutions. Day-to-day supervision is undertaken by State Supervisory Authorities (SSAs) in each State and Territory. A Ministerial Council, consisting of the relevant Minister from each jurisdiction, maintains a watching brief over the Scheme.

The success of the FI Scheme (now well into its fifth year of operation), particularly the Scheme’s modern legislation and the accompanying system of prudential and other standards, has been recognised by the building society and credit union industries, their members and the supervisory authorities. It is, therefore, both reasonable and appropriate to utilise this Scheme to provide a similar approach to the supervision of friendly societies.

Alternative way of achieving the policy objectives

Uniform supervision of friendly societies may be achieved by either Commonwealth legislation, or some form of State-based Scheme that is agreed between the participating jurisdictions. The Commonwealth was not prepared to develop necessary legislation for the supervision of friendly societies, particularly, as the FI Scheme was already operating successfully in relation to building societies and credit unions.

Ultimately, it is up to each State to decide how it will legislate within its own jurisdiction. It is generally agreed, however, that, in relation to the FI Scheme, the adoption of a “template” approach would maintain uniform consistency over time.

Administrative costs for Government implementation of the Bill

There are no costs for Government arising from this Bill. The Bill deals with supervision by established supervisory authorities, AFIC and the Queensland Office of Financial Supervision (QOFS). AFIC and QOFS are completely funded by levies on the various societies which operate under the FI Scheme.

Consistency with fundamental legislative principles

Care has been taken in drafting this Bill to ensure that no aspects of the Bill infringe upon fundamental legislative principles. The Victorian legislation, which this Bill will apply, has been reviewed by the Victorian Scrutiny of Legislation Committee. In its Alert Digest No. 8, that Committee raised no objections to the contents of the Friendly Societies (Victoria) Act and Code. The Victorian Committee operates under similar guidelines to Queensland's Scrutiny of Legislation Committee.

Consultation

Consultation has taken place with AFIC, QOFS, industry associations, Queensland Health and the Department of Justice.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the Act.

Clause 2 provides for the commencement of the Act.

Clause 3 defines certain words and expressions used in the Act.

Clause 4 provides that the friendly societies legislation of Queensland (that is, this Act and its associated legislation, including in particular the *Friendly Societies (Queensland) Code* and the *Friendly Societies (Queensland) Regulation*) binds the Crown.

**PART 2—FRIENDLY SOCIETIES (QUEENSLAND)
CODE AND FRIENDLY SOCIETIES (QUEENSLAND)
REGULATIONS**

Clause 5 applies, as the law of Queensland, the *Friendly Societies Code* set out in Schedule 1 of the *Friendly Societies (Victoria) Act 1996*. The

applied Code is referred to as the *Friendly Societies (Queensland) Code*.

Clause 6 applies, as regulations for the purpose of the *Friendly Societies (Queensland) Code*, the regulations in force under part 4 of the *Friendly Societies (Victoria) Act 1996*. The applied regulations are to be referred to as the *Friendly Societies (Queensland) Regulations*.

Clause 7 defines certain expressions that occur in the *Friendly Societies (Queensland) Code* and the *Friendly Societies (Queensland) Regulations*, being expressions whose meaning necessarily varies according to the jurisdiction within which they are being applied.

Clause 8 prescribes the *Corporations (Queensland) Act 1990* and the applicable provisions of Queensland under that Act, for section 19 (4) of the *Friendly Societies (Queensland) Code*.

PART 3—CONFERRAL OF FUNCTIONS AND POWERS

Clause 9 is a formal provision that confers on AFIC the functions and powers expressed to be conferred on it under the friendly societies legislation of Queensland.

Clause 10 is a formal provision that confers on the Appeals Tribunal the functions and powers expressed to be conferred on it by the friendly societies legislation of Queensland.

PART 4—STATE SUPERVISORY AUTHORITY

Clause 11 provides that QOFS is to be the SSA for Queensland. Various functions and powers are conferred on an SSA by the *Friendly Societies (Queensland) Code* and the *Friendly Societies (Queensland) Regulations*.

PART 5—IMPOSITION OF FEES

Clause 12 is a formal provision that imposes the fees prescribed by the *Friendly Societies (Queensland) Regulations* or by the *AFIC (Queensland) Regulations* in respect of matters concerning the friendly societies legislation of Queensland.

Clause 13 provides that all fees or other amounts that, under the friendly societies legislation of Queensland are not payable to a specified person, must be paid to the consolidated fund.

PART 6—MISCELLANEOUS

Clause 14 provides that a decision by a friendly society to stop carrying on the business of a pharmacy must be made by a special resolution under section 307 of the *Friendly Societies (Queensland) Code* and carried out by postal ballot in accordance with the regulations made for the purpose of section 307(1)(b) of that Code.

Clause 15 is a regulation making power for the purposes of this Act.

PART 7—SAVINGS, TRANSITIONAL, AMENDMENT AND REPEAL

Clause 16 aligns the meanings of words and expressions used in this part with the corresponding meaning of those words and expressions used in the *Friendly Societies (Queensland) Code*.

Clause 17 is a general savings provision for all persons, things and circumstances appointed or created by or under the *Friendly Societies Act 1991*.

Clause 18 provides that where a society has commenced formation procedures under previous legislation but has not been registered under that

previous legislation, then the previous legislation continues to apply to the formation of the society and it may then be registered under the *Friendly Societies (Queensland) Code*.

Clause 19 provides that a disclosure of interests made by a director under sections 4.7(5), (6) or (7) of the *Friendly Societies Act 1991* is taken to have been made under sections 292(5), (6) or (7) of the *Friendly Societies (Queensland) Code*.

Clause 20 provides that the rules of a continuing friendly society pharmacy are taken to include certain objects set out in the *Friendly Societies (Queensland) Code*.

Clause 21 provides for the continuation of management contracts entered into by a friendly society pharmacy under the *Friendly Societies Act 1991*.

Clause 22 requires that copies of existing management contracts must be given to the SSA within one month from the commencement of the section.

Clause 23 provides for the continuation of investor information memorandums issued under the *Friendly Societies Act 1991* until either the anniversary date of the memorandum's issue, or a relevant disclosure document is lodged under the *Friendly Societies (Queensland) Code*.

Clause 24 provides that certain actions, taken under the *Friendly Societies Act 1991*, in relation to a transfer of engagements are taken to be done under the *Friendly Societies (Queensland) Code* so that a transfer of engagements that commenced under the previous legislation can continue.

Clause 25 provides that a direction, in relation to a transfer of engagements, that is in force immediately before the commencement of this section is taken to be a direction under the *Friendly Societies (Queensland) Code*.

Clause 26 provides that certain actions, taken under the *Friendly Societies Act 1991*, in relation to a merger or amalgamation are taken to be done under the *Friendly Societies (Queensland) Code* so that a merger or amalgamation that commenced under the previous legislation may continue.

Clause 27 continues the exemption for duty under the *Stamp Act 1894* in relation to the vesting of assets as a result of certain transfers of engagements or mergers.

Clause 28 provides for the continuation of appointment of an administrator or director appointed under section 9.4 of the *Friendly Societies Act 1991*.

Clause 29 provides for the continuation, under the *Friendly Societies (Queensland) Code*, of a direction that is in force immediately before the commencement of this section.

Clause 30 provides for the continuation, under the *Friendly Societies Act 1991*, of the winding up and dissolution of a continuing society that was commenced but not finished under that legislation.

Clause 31 provides for the continuation, under the *Friendly Societies (Queensland) Code*, of an investigation commenced under the previous legislation.

Clause 32 provides for the continuation, under the *Friendly Societies (Queensland) Code*, of certain warrants issued under the previous legislation.

Clause 33 provides that section 13.4 of *Friendly societies Act 1991* continues to apply for certain land vested in a continuing society.

Clause 34 provides that the membership of a continuing society shall continue to be as set out in the Society's rules until the end of the first annual general meeting after the commencement of this section. Thereupon, the provisions of the *Friendly Societies (Queensland) Code* will apply for deciding who are the members of the society.

Clause 35 provides for regulations of a savings or transitional nature.

Clause 36 is a formal provision that gives effect to a Schedule of amendments to other Acts.

Clause 37 repeals the *Friendly Societies Act 1991*.

SCHEDULE**CONSEQUENTIAL AND OTHER MINOR
AMENDMENTS**

Schedule 1 amends the following Acts:

Acts Interpretation Act 1954.

Criminal Code Act 1899.

Family Security Friendly Society (Distribution of Moneys) Act 1991.

Funeral Benefit Business Act 1982.

Queensland Office of Financial Supervision Act 1992.