

Queensland



LOAN FUND COMPANIES ACT 1982

**Reprinted as in force on 24 April 2002
(includes amendments up to Act No. 17 of 1997)**

This is the reprint current on the repeal date

Reprint No. 2A

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 24 April 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



LOAN FUND COMPANIES ACT 1982

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	5
4	Meaning of terms.	5
PART 2—ADMINISTRATION		
5	Supervisor	9
6	Inspectors.	9
7	Delegation by supervisor.	10
PART 3—CONDUCT OF LOAN FUND SCHEMES		
8	Operation of loan fund schemes prohibited	10
9	Restricted use of certain descriptions	11
PART 4—MANAGEMENT AND OPERATION OF LOAN FUND COMPANIES		
<i>Division 1—Power to declare existing companies to be loan fund companies</i>		
10	Power of Minister to declare an existing company to be a loan fund company, for the purposes of this Act	11
<i>Division 2—Obligations etc. of loan fund companies</i>		
11	Management contracts prohibited	14
12	Company to have only 1 class of shares	16
13	Offer of shares to public	16
14	Loan fund company not to discriminate	17
15	Allocation of priority numbers	17
16	Register of priority numbers	18
17	Offers of loans to share holders.	19
18	Certain information to be published	20

Loan Fund Companies Act 1982

19	Register of members—additional requirements	21
20	Returns.	22
21	Supervisor to be given information	25
22	Company may impose penalty	25
	<i>Division 3—Provisions relating to funds of loan fund companies</i>	
23	Borrowing powers of company	27
24	Investment of surplus funds.	27
25	Restriction on investments.	28
	<i>Division 4—Other provisions relating to operation of loan fund companies</i>	
26	Comments by company concerning its status	28
27	Liens over shares.	29
28	Memorandum or articles void if inconsistent with Act.	29
	PART 5—RIGHTS WITH RESPECT TO SHARES IN LOAN FUND COMPANIES	
	<i>Division 1—Rights of persons acquiring shares</i>	
29	Meaning of terms.	29
30	Enforcement of contracts.	30
31	Requirements as to contracts.	30
32	Cancellation of contracts.	31
33	Effect of cancellation.	32
34	No contracting out.	32
35	Failure to repay money under cancelled contract an offence	33
36	Trustee to consult beneficiary	33
	<i>Division 2—Rights of shareholders to attend and vote at meetings</i>	
37	Voting rights	33
	<i>Division 3—Transmission and transfer of shares</i>	
38	Rights of transferees	35
	<i>Division 4—Forfeiture or surrender of shares</i>	
39	Application of division	36
40	Forfeiture of shares	36
41	Surrender of shares	37
42	Money from forfeited or surrendered shares to be transferred to a reserve	38

43	Register of forfeited and surrendered shares	38
44	Payments by company in respect of forfeited and surrendered shares	40
45	Cancellation of shares	43

**PART 6—SPECIAL POWERS WITH RESPECT TO THE
SUPERVISION OF COMPANIES**

Division 1—Inspections

46	Powers of inspection	43
----	--------------------------------	----

Division 2—Inquiries

47	Meaning of term	45
48	Power to hold inquiry	46
49	Inquiry procedure	46
50	Report of supervisor	48
51	Additional powers of supervisor after inquiry.	50
52	Privileged communication.	50
53	Expenses of inquiry.	50
54	Concealing etc. of records	51

*Division 3—Powers to control prospectuses and advertising, to suspend
acceptances of money and to appoint administrators*

55	Power of supervisor with respect to prospectuses.	52
56	Power of supervisor to suspend acceptance of moneys.	53
57	Appointment and powers of administrator	54
57A	Allocation of loan priority numbers by administrator.	57
57B	Effect of administration on payment of calls etc.	58
58	Supervisor may require meeting for appointment of directors	58
59	Expenses of administration	59
60	Protection from liability	59

PART 7—MISCELLANEOUS PROVISIONS

Division 1—Proceedings

61	Obstructing supervisor or inspector	60
63	Offences by officers of companies	60
64	Evidentiary aids.	61

Division 2—Other matters

65	Restriction on powers of company	61
----	--	----

Loan Fund Companies Act 1982

66	Report to Minister	62
67	Inspection of documents	62
67A	Forms	63
68	Regulation making power	63
69	Special provisions with respect to winding-up	63
70	Avoidance of certain obligations upon administration or winding-up	66

ENDNOTES

1	Index to endnotes	68
2	Date to which amendments incorporated	68
3	Key	68
4	Table of earlier reprints	69
5	Tables in earlier reprints	69
6	List of legislation	69
7	List of annotations	70

LOAN FUND COMPANIES ACT 1982

[as amended by all amendments that commenced on or before 24 April 2002]

An Act to prohibit persons other than companies declared under this Act to be loan fund companies, from operating loan fund schemes and to regulate the affairs and activities of companies so declared

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Loan Fund Companies Act 1982*.

4 Meaning of terms

(1) In this Act—

“**actuary**” means a fellow or associate of the Institute of Actuaries (London), or a fellow or associate of the Faculty of Actuaries (Edinburgh), or any other person of whose actuarial knowledge and experience the Governor in Council approves.

“**advertisement**” means an advertisement in any form or medium, and includes an advertisement in or in the form of a circular, poster, handbill, brochure or other document or in a newspaper, magazine or other periodical publication or in the form of a statement or announcement on radio or television or in, or in the form of a gramophone or tape recording or a cinematographic or videotape film.

“**banker’s books**” means—

- (a) books of a financial institution; or
- (b) cheques, orders for the payment of money, bills of exchange and promissory notes in the possession or under the control of a financial institution; or

Loan Fund Companies Act 1982

- (c) securities or documents of title to securities in the possession or under the control of a financial institution whether by way of pledge or otherwise.

“court” means the Supreme Court of Queensland.

“existing company” means—

- (a) any public company having a share capital; or
(b) any recognised company or foreign company having a share capital which would, if it were incorporated in Queensland, be a public company;

carrying on a loan fund scheme in the State at the date of the commencement of this Act but does not include a loan fund company.

“fee”, in relation to loan entitlement shares or other shares in a loan fund company, includes any brokerage or commission, or any application fee, payable in connection with the granting of those shares and includes any management fee or service fee payable in connection with the holding of those shares.

“foreign company” has the meaning assigned to that expression by the Companies (Queensland) Code, section 5(1).¹

“inspector” means an inspector appointed under this Act.

“issue”, in relation to an advertisement, includes disseminate, circulate and distribute.

“loan entitlement shares” means shares, whether ordinary shares, redeemable preference shares or shares of any other description, which confer on the holder of the shares at the time of allotment a contingent right to receive a loan.

“loan fund company” means a company in respect of which a declaration made under section 10² is in force or that is deemed to be a loan fund company pursuant to section 10(11).

“loan fund scheme” means a scheme which, in substance and irrespective of its form, involves the contribution or subscription of money, directly or indirectly, by persons to a fund and confers on each of those contributors or subscribers or on each of a substantial proportion

1 Companies (Queensland) Code, section 5 (Interpretation)

2 Section 10 (Power of Minister to declare an existing company to be a loan fund company, for the purposes of this Act)

Loan Fund Companies Act 1982

of them an entitlement to receive out of the fund at some date, whether ascertainable or not, a loan the amount of which is determined by reference to the amount of money that each contributor or subscriber has contributed or subscribed or agreed to contribute or subscribe to the fund and includes—

- (a) all activities, matters and things whatsoever associated with a scheme; and
- (b) any part of a scheme.

“member”, in relation to a loan fund company, means a person who is the holder of shares in the company.

“officer”, in relation to a loan fund company, includes—

- (a) any director, secretary or employee of the company; and
- (b) a receiver and manager of any part of the undertaking of the company appointed under a power contained in any instrument; and
- (c) any official manager or deputy official manager of the company; and
- (d) any liquidator of the company appointed in a voluntary winding-up; and
- (e) a trustee or other person administering a compromise or arrangement made between the company and another person or other persons;

but does not include—

- (f) any receiver who is not also a manager;
- (g) any receiver and manager appointed by the court;
- (h) any liquidator appointed by the court or by the creditors;
- (i) an administrator appointed in respect of the company under section 57.³

“option to acquire”, in relation to loan entitlement shares, means an option conferring on its holder a right, subject to the fulfilment of the terms and conditions on which it was granted, to acquire those shares.

3 Section 57 (Appointment and powers of administrator)

“**penalty**”, in relation to a penalty imposed by a loan fund company, includes a fine.

“**promote**” includes advertise.

“**public company**” has the meaning assigned to that expression by the Companies (Queensland) Code, section 5(1).⁴

“**qualifying shares**” means shares, whether ordinary shares, redeemable preference shares or shares of any other description, which confer on the holder of the shares a right, subject to the fulfilment of the terms and conditions on which they were allotted which terms and conditions may include redemption of the shares, to apply for and receive an allotment of loan entitlement shares.

“**recognised company**” has the meaning assigned to the expression ‘recognised company’ by the Companies (Queensland) Code, section 5(1).

“**recognised foreign company**” has the meaning assigned to the expression ‘recognised foreign company’ by the Companies (Queensland) Code, section 5(1).

“**records**” includes books, accounts, minutes, registers, deeds, writings or documents and any other sources of information compiled, recorded or stored in written form or on microfilm, or by electronic process, or in any other manner or by any other means.

“**supervisor**” means the supervisor of loan fund companies under this Act.

“**vested loan entitlement**”, in relation to loan entitlement shares in a loan fund company, means a right vested in the holder of those shares to obtain from the company a loan of an amount which, having regard to the memorandum and articles of association of the company or the prospectus under which those shares were allotted, is appropriate to those shares.

(2) For the purposes of this Act—

- (a) the holder of loan entitlement shares in a loan fund company is deemed to have a vested right to receive a loan from the company when—

4 Companies (Queensland) Code, section 5 (Interpretation)

- (i) the company has offered the holder such a loan, being an offer which is attributable to the holding of those shares; and
 - (ii) the holder has accepted the offer and the conditions (if any) subject to which the offer was made; and
- (b) a reference to an offer of a loan includes an invitation to apply for a loan; and
 - (c) a reference to the acceptance of an offer of a loan includes the making of an application for a loan in response to an invitation to make such an application.

PART 2—ADMINISTRATION

5 Supervisor

(1) The supervisor of loan fund companies is to be employed under the *Public Service Act 1996*.

(2) The supervisor has a seal of office.

6 Inspectors

(1) The Minister may appoint inspectors for the purposes of this Act.

(2) An inspector shall be provided by the supervisor with a certificate of his or her authority as an inspector.

(3) An inspector, on exercising in any place a power conferred on the inspector by or under this Act, shall, if so requested by a person apparently in charge of that place or of any work being performed there, produce the certificate of his or her authority as an inspector.

(4) Notwithstanding any other provision of this Act, neither the supervisor nor an inspector has authority under this Act to enter a dwelling house or other residential premises without the consent of the occupier thereof unless the business of a loan fund company or an activity connected with the operation, management, control or promotion of a loan fund scheme is carried on in that house or in those premises, as the case may be.

7 Delegation by supervisor

The supervisor may delegate the supervisor's powers under this Act to an officer or employee of the department.

PART 3—CONDUCT OF LOAN FUND SCHEMES

8 Operation of loan fund schemes prohibited

(1) Subject to subsections (2), (3) and (4), a person shall not operate, or manage, control or promote the operation of, a loan fund scheme, or invite, either by the issue of advertisements or other means of communication, persons to contribute or subscribe to or participate in, whether by the allotment of shares or the granting of options to acquire shares or otherwise, a loan fund scheme.

Maximum penalty—40 penalty units.

(2) An existing company may operate or manage or control the operation of a loan fund scheme until the expiration of 3 months from the date when this Act commenced or until the expiration of such longer period as the Minister may in the Minister's absolute discretion notify in writing to the existing company.

(3) Nothing contained in subsection (2) allows an existing company to promote the operation of a loan fund scheme or invite, either by advertisement or other means of communication, persons to contribute or subscribe to or participate in, whether by the allotment of shares or the granting of options to acquire shares or otherwise, a loan fund scheme during the period when subsection (2) applies to the existing company.

(4) An existing company may operate and manage a loan fund scheme if the existing company is declared pursuant to section 10⁵ to be a loan fund company and operates and manages the loan fund scheme in accordance with this Act.

5 Section 10 (Power of Minister to declare an existing company to be a loan fund company, for the purposes of this Act)

9 Restricted use of certain descriptions

A person other than a person operating or managing a loan fund scheme pursuant to section 8(2) and a loan fund company shall not—

- (a) in the name, title or description under which that person is carrying on business, take or use or by reference adopt any words indicating or implying that that person is operating a loan fund scheme; or
- (b) take or use, or have attached to or exhibited at any place, a name, title or description implying or tending to lead to the belief that that person is operating a loan fund scheme.

Maximum penalty—20 penalty units.

PART 4—MANAGEMENT AND OPERATION OF LOAN FUND COMPANIES

Division 1—Power to declare existing companies to be loan fund companies

10 Power of Minister to declare an existing company to be a loan fund company, for the purposes of this Act

(1) Subject to subsection (3) the Minister may, by written notice, declare an existing company to be a loan fund company subject to the provisions of this Act.

(2) An existing company which wishes to be declared to be a loan fund company pursuant to subsection (1) shall apply to the Minister in writing within the time during which it may continue to operate a loan fund scheme pursuant to section 8(2).⁶

(3) Subject to section 11(5) the Minister shall not declare an existing company to be a loan fund company unless the Minister is satisfied that the

⁶ Section 8 (Operation of loan fund schemes prohibited)

loan fund scheme operated and managed by the existing company complies in every respect with the provisions of divisions 2, 3 and 4 and part 5.⁷

(4) For the purpose of satisfying himself or herself as to the matters mentioned in subsection (3) the Minister may require from the existing company such evidence and information as the Minister thinks fit and may require that such evidence or information be provided by way of a statutory declaration or in such other manner as the Minister sees fit to require.

(5) If it is necessary for an existing company in order to comply with the provisions of divisions 2, 3 and 4 and part 5—

- (a) to vary its memorandum and articles of association—it shall so vary them;
- (b) to vary the rights, entitlements, obligations and liabilities of another person including a member of the company—the company shall make the variation in a manner which is just and equitable.

(6) An application referred to in subsection (2) shall be accompanied by a copy of the memorandum and articles of association of the existing company.

(8) If at any time it appears to the Minister that a loan fund company—

- (a) has failed to comply in every respect with any of the provisions of divisions 2, 3 and 4 and part 5; or
- (b) that for any reason it is unlikely that the company will be able to continue to comply in every respect with any of those provisions;

the Minister may call upon the company to show cause within a fixed time why the declaration made under subsection (1) should not be revoked.

(9) If at the expiration of the time referred to in subsection (8) or any extension thereof allowed by the Minister the loan fund company has not shown cause to the satisfaction of the Minister as to why the declaration made under subsection (1) should not be revoked the Minister may, by written notice, revoke the declaration published in the gazette and shall take effect from the date of such publication or from such later date as is specified in the notice.

7 Divisions 2 (Obligations etc. of loan fund companies), 3 (Provisions relating to funds of loan fund companies) and 4 (Other provisions relating to operation of loan fund companies) and part 5 (Rights with respect to shares in loan fund companies)

(10) Where—

- (a) a loan fund company, being a company within the meaning of the Companies (Queensland) Code has been wound-up under that code, part 12⁸ or the registration of that company has been cancelled under that code, section 459;⁹ or
- (b) a loan fund company, being a recognised company—
 - (i) lodges with the National Companies and Securities Commission a notice under the provisions of the law of the State or Territory where it is incorporated that correspond to that code, section 503,¹⁰ to the effect that it has ceased to have a place of business or to carry on business in Queensland; or
 - (ii) is dissolved in the State or Territory where it is incorporated; or
- (c) a loan fund company, being a recognised foreign company—
 - (i) lodges with the National Companies and Securities Commission a notice under the provisions of the law of the State or Territory where it is registered that correspond to that code, section 503, to the effect that it has ceased to have a place of business or to carry on business in Queensland; or
 - (ii) is dissolved in the place where it is incorporated; or
 - (iii) has its registration as a foreign company in a State or Territory cancelled under the provisions of the law of the State or Territory that correspond to that code, part 13, division 5;¹¹ or
- (d) a loan fund company, being a foreign company (other than a recognised foreign company)—
 - (i) lodges with the National Companies and Securities Commission a notice under that code, section 518 to the

8 Companies (Queensland) Code, part 12 (Winding up)

9 Companies (Queensland) Code, section 459 (Power of Commission to deregister defunct company)

10 Companies (Queensland) Code, section 503 (Notice to be lodged of cessation of business in participating State or Territory)

11 Companies (Queensland) Code, part 13, division 5 (Foreign Companies other than Recognized Foreign Companies)

effect that it has ceased to have a place of business or to carry on business in Queensland; or

- (ii) is dissolved in the place where it is incorporated; or
- (iii) has its name removed from or struck off the register pursuant to that code, section 518;¹²

it shall no longer be a loan fund company and the declaration (if any) made under subsection (1) with respect to that company shall thereupon be deemed to be revoked.

(11) Upon and by virtue of an appointment under section 57¹³ of an administrator to administer the affairs and activities of an existing company the company shall become a loan fund company for the purposes of this Act and shall continue as such whilst an administrator continues to administer the affairs and activities of the company.

(11A) If a company that has ceased to be a loan fund company by reason of the termination of the administration of its affairs and activities by an administrator wishes to be declared to be a loan fund company pursuant to subsection (1), then subsection (2) shall apply in relation to its application as if it required application to be made to the Minister within a time prescribed under a regulation in respect of that company.

(12) The Minister may, by written notice, declare that a provision of this Act does not apply to a loan fund company mentioned in subsection (11).

(13) A notice made under subsection (1), (9) or (12) is subordinate legislation.

Division 2—Obligations etc. of loan fund companies

11 Management contracts prohibited

(1) Subject to this section, a loan fund company shall not enter into any contract, agreement, arrangement or understanding with a person by virtue of which the affairs and activities, or any of the affairs or activities, of the company are managed, controlled or promoted by a corporation or by a person who is not employed by the company as an officer under a contract of service.

12 Companies (Queensland) Code, section 518 (Cessation of business etc.)

13 Section 57 (Appointment and powers of administrator)

(2) Any contract, agreement, arrangement or understanding entered into in contravention of subsection (1) shall be void.

(3) Where after an existing company becomes a loan fund company the affairs and activities, or any of the affairs or activities, of the loan fund company are managed, controlled or promoted by a corporation or by a person who is not employed by the loan fund company as an officer under a contract of service, the loan fund company and that corporation or person are each guilty of an offence.

Maximum penalty—20 penalty units.

(4) An offence against subsection (3) is not committed by reason only that a corporation or a person not employed by a loan fund company as an officer under a contract of service undertakes or performs any activity on behalf of the company in the capacity of employee of a financial institution, accountant, auditor, legal adviser, actuary, underwriter or advertising agent or in any other prescribed capacity.

(5) The Minister may, on written application by—

- (a) an existing company which has made an application pursuant to section 10; or
- (b) a loan fund company;

by written notice, exempt—

- (c) the existing company upon its becoming a loan fund company; or
- (d) a loan fund company;

as the case may be, from the provisions of subsections (1), (2) and (3).

(6) The power to exempt contained in subsection (5) includes the power to revoke such exemption and includes the power to, from time to time, determine terms and conditions upon which the exemption shall be granted or shall be continued in existence and where such power is exercised by the Minister the Minister is not required to give any reason therefor.

(7) The Minister may at any time, and from time to time, institute an inquiry, call any witness or do such other things as are, in the Minister's opinion, necessary to assist the Minister to determine whether exemption from the provisions of subsections (1), (2) and (3) should be granted or, where an exemption has been granted, to determine whether that exemption should be continued or revoked.

(8) For the purposes of this subsection the Minister shall have and may exercise all of the powers, authorities, jurisdiction and protection of a

commission of inquiry under and within the meaning of the *Commissions of Inquiry Act 1950* save such as are by that Act reserved to a chairperson who is a judge of the Supreme Court.

(9) A notice made under subsection (5) is subordinate legislation.

12 Company to have only 1 class of shares

(1) A loan fund company shall have only 1 class of loan entitlement shares.

(2) A loan fund company shall not have qualifying shares or issue options to acquire in relation to loan entitlement shares.

13 Offer of shares to public

(1) In this section a reference to offering shares to the public has the meaning assigned to that expression by the Companies (Queensland) Code.

(2) A loan fund company shall not offer loan entitlement shares to the public and, notwithstanding the Companies (Queensland) Code shall not invite members of the public, either by advertisements or other means of communication, to contribute or subscribe to or participate in, whether by the allotment of loan entitlement shares or otherwise, a loan fund scheme.

(3) Subject to section 55¹⁴ a loan fund company shall not issue to any person any form of application for loan entitlement shares in the loan fund company unless the form is issued together with a prospectus which if it were a prospectus within the meaning of the Companies (Queensland) Code would accord with the provisions of that code relating to the form and content of prospectuses.

(4) Where the applicant for loan entitlement shares is a trustee, the trustee shall, before completing the form of application and in sufficient time to allow a proper consideration of the prospectus by the cestui que trust prior to such completion, provide the cestui que trust with a copy of the prospectus issued to the trustee pursuant to this section.

14 Section 55 (Power of supervisor with respect to prospectuses)

14 Loan fund company not to discriminate

Subject to sections 15 and 17,¹⁵ a loan fund company shall not—

- (a) discriminate against or in favour of a person by allotting to the person loan entitlement shares in the company on terms and conditions that are less favourable or, as the case may be, more favourable than those on which the company allots loan entitlement shares, to other persons; or
- (b) in making or offering a loan to the holder of loan entitlement shares in the company—
 - (i) discriminate against the holder by making or offering the loan on terms and conditions less favourable; or
 - (ii) discriminate in the holder's favour by making or offering the loan on terms and conditions more favourable;

than those on which loans are made or offered to other holders of loan entitlement shares in the company.

Maximum penalty—20 penalty units.

15 Allocation of priority numbers

(1) A loan fund company shall on allotting loan entitlement shares in the company allocate in respect of those loan entitlement shares, a loan priority number in accordance with subsection (2).

Maximum penalty—10 penalty units.

(2) All loan priority numbers allocated by a loan fund company under subsection (1), shall, be consecutive cardinal numbers commencing with the number '1' and each such number shall be allocated successively in chronological order by reference to the time at which the application for the allotment of the loan entitlement shares was made.

(3) Where the holder of loan entitlement shares in a loan fund company is subsequently allotted further loan entitlement shares in the company, the company shall not—

- (a) allocate in respect of those further loan entitlement shares the same loan priority number as that allocated in respect of the loan entitlement shares already held by the holder; or

15 Section 17 (Offers of loans to share holders)

- (b) tack those further loan entitlement shares to the loan entitlement shares already held by the holder so that those further shares have the same loan priority number as that allocated in respect of the loan entitlement shares already held by the holder.

Maximum penalty—10 penalty units.

16 Register of priority numbers

(1) A loan fund company—

(a) shall—

- (i) if it is a company within the meaning of the Companies (Queensland) Code—keep at the place at which the register of members is kept; or
- (ii) if it is a recognised company or a foreign company and keeps a branch register in Queensland of members who are resident in Queensland—keep at the place where that branch register is kept; or
- (iii) if it is a recognised company or a foreign company to which subparagraph (ii) does not apply—keep at its principal or registered office in Queensland;

a register of loan priority numbers; and

- (b) shall enter in that register in the prescribed manner and in order of allocation not later than 7 days after allocation, all loan priority numbers allocated by the company under section 15(1)¹⁶ together with such particulars with respect to the loan entitlement shares to which those numbers relate as are prescribed.

Maximum penalty—10 penalty units.

(2) The register kept under subsection (1) shall be evidence of any matters entered in it as required or authorised by or under this Act.

(3) Any person who is the holder of loan entitlement shares in a loan fund company, without payment of any fee, and any other person, on the payment of a fee (if any) determined by the company, being a fee not exceeding the maximum amount prescribed for the purpose of this subsection, may inspect the register kept by the company under subsection (1) at any time during which the register of members or, if the

16 Section 15 (Allocation of priority numbers)

company keeps a branch register in Queensland of members who are resident in Queensland, that register is open for inspection and may make copies of, or take extracts from, the register so kept.

17 Offers of loans to share holders

(1) In this section—

“**loan**”, in relation to loan entitlement shares in a loan fund company, means a loan of an amount which, having regard to the memorandum and articles of association of the company or the prospectus under which those shares were allotted, is appropriate to those shares.

(2) Subject to this section, a loan fund company shall not offer a loan to the holder of loan entitlement shares in the company which have a higher loan priority number than that allocated in respect of other loan entitlement shares in the company unless—

- (a) the company has made a loan in relation to those other loan entitlement shares, either to the holder or to a former holder; or
- (b) where the company has not made a loan in relation to those other loan entitlement shares—
 - (i) the company has offered a loan in relation to those shares, but the holder of those shares has refused the loan or has failed or has been unable to comply with the terms and conditions or any of the terms or conditions on which the loan is offered; or
 - (ii) the holder of those shares is for the time being in arrear with the payment of calls or instalments in respect of those shares or has failed to pay any penalty or other amount that is for the time being due in respect of those shares.

Maximum penalty—10 penalty units.

(3) Where the holder of loan entitlement shares in a loan fund company is offered a loan in relation to those shares and the holder refuses the offer, or fails or is unable to comply with the terms and conditions or any of the terms or conditions on which the loan is offered, the company may offer the loan to the holder of the loan entitlement shares in the company which have the next highest loan priority number and so on until the offer is accepted, but any such refusal, failure or inability shall not affect the loan priority number allocated in respect of the loan entitlement shares of the firstmentioned holder or the company's obligation to offer to the holder a

loan in relation to those shares on the next occasion that the company makes offers of loans in relation to loan entitlement shares.

(4) If a loan has been offered by a loan fund company to all of the holders of loan entitlement shares in the company who are eligible by virtue of the memorandum and articles of association of the company to be offered loans by the company and none of those holders has accepted the loan, the company may vary the terms and conditions on which the loan is offered (including the rate of interest at which the loan is to be repayable), but, if the company exercises that power, the provisions of this section shall apply to the offer of the loan as if the loan had not previously been offered and the terms and conditions on which the loan is offered had not been varied.

18 Certain information to be published

(1) A loan fund company shall (unless notified in writing by the supervisor that such publications are not required) not later than 14 days after the last day of each month, publish in the gazette and in such newspaper or newspapers circulating in Queensland as the supervisor may have specified or approved for the purpose, either generally or specifically—

- (a) the particulars specified in subsection (2) of every offer of a loan made during that month to a person holding loan entitlement shares in the company or, if during that month the company has not made any such offer, a statement to that effect; and
- (b) the particulars specified in subsection (3) of every loan made during that month to a person holding loan entitlement shares in the company or, if during that month the company has not made any such loan, a statement to that effect.

Maximum penalty—10 penalty units.

(2) The particulars referred to in subsection (1)(a) are—

- (a) the date on which the offer was made; and
- (b) the loan priority number allocated in respect of the loan entitlement shares held by the person to whom the offer was made; and
- (c) the amount offered to that person as a loan; and

- (d) the rate of interest expressed as a percentage per annum that will be payable with respect to the loan if made and the period within which the loan will, if made, be required to be repaid.

(3) The particulars referred to in subsection (1)(b) are—

- (a) the date on which the loan was made; and
- (b) the loan priority number allocated in respect of the loan entitlement shares held by the person to whom the loan was made; and
- (c) the amount of the loan; and
- (d) the rate of interest expressed as a percentage per annum that is payable with respect to the loan and the period within which the loan is required to be repaid.

19 Register of members—additional requirements

(1) A loan fund company which is a company within the meaning of the Companies (Queensland) Code shall, within the period specified in subsection (3), enter in the register of members kept pursuant to that code, section 256¹⁷ in respect of each member who holds loan entitlement shares in the company—

- (a) the loan priority number allocated in respect of those shares; and
- (b) when an offer of a loan is made to the member with respect to those shares, the fact that such a loan has been offered, the date of the offer, the amount of the loan offered, the rate of interest expressed as a percentage per annum payable in respect of the loan and the period within which the loan is to be repaid; and
- (c) when a loan is made to the member with respect to those shares, the fact that such a loan has been made, the date on which the loan was made, the amount of the loan, the rate of interest expressed as a percentage per annum payable in respect of the loan and the period within which the loan is repayable; and
- (d) when a loan referred to in paragraph (c) is repaid, the fact and date of repayment; and
- (e) such other particulars (if any) as are prescribed.

17 Companies (Queensland) Code, section 256 (Register and index of members)

Maximum penalty—4 penalty units.

(2) A loan fund company which, pursuant to the Companies (Queensland) Code, section 262¹⁸ or, as the case may be, section 521,¹⁹ keeps a branch register in Queensland of members who are resident in Queensland shall, within the period specified in subsection (3) enter in that branch register the particulars referred to in subsection (1).

Maximum penalty—4 penalty units.

(3) The period within which a loan fund company is required to make an entry referred to in subsection (1) or (2), whichever is applicable, is—

- (a) in the case of a person who became a member before the company became a loan fund company—7 days after the date on which the company becomes a loan fund company; and
- (b) in the case of a person who becomes a member after the company became a loan fund company—7 days after the date on which he or she becomes a member.

20 Returns

(1) A loan fund company shall—

- (a) within 2 months after the date on which the company becomes a loan fund company or within such further period as the supervisor may in any particular case allow; and
- (b) in each year within 3 months after the last day of the company's financial year or within such further period as the supervisor may in any particular case allow;

lodge with the supervisor a return containing the particulars specified in subsection (2) and accompanied by such documents as are specified in subsection (3).

Maximum penalty—4 penalty units.

(2) The particulars required to be contained in the return under subsection (1) are—

- (a) the address, as at the date of lodgment of the return, of—

18 Companies (Queensland) Code, section 262 (Branch registers)

19 Companies (Queensland) Code, section 521 (Branch register of shares in foreign company)

Loan Fund Companies Act 1982

- (i) the registered office of the loan fund company; and
 - (ii) where the company is a recognised company—the principal office of the company in Queensland; and
 - (iii) where the company is a foreign company—the registered office of the company in Queensland; and
- (b) if the company, being a company within the meaning of the Companies (Queensland) Code keeps the register of members at a place other than its registered office—the address, as at the date of lodgment of the return, at which that register is kept; and
- (c) if the company, being a recognised company or a foreign company, keeps the branch register (if any) of members who are resident in Queensland at a place other than its principal office or, as the case may be, its registered office in Queensland—the address, as at the date of lodgment of the return, at which that register is kept; and
- (d) all such particulars with respect to the person who, as at the date of lodgment of the return, are directors of the company and any person who, as at that date, is a principal executive officer or secretary of the company as are required by the Companies (Queensland) Code, section 238²⁰ to be contained in the register of directors, principal executive officers and secretaries of the company or, where the company is a recognised company or a foreign company, would be so required if the company were a company within the meaning of that code; and
- (e) the name and address of every person who, as at the date of lodgment of the return, is an auditor of the company; and
- (f) the name and address of every financial institution at which the company, as at the date of lodgment of the return, maintains an account or keeps any of its funds; and
- (g) such other particulars (if any) as are prescribed.

(3) The documents required to accompany the return under subsection (1) are—

- (a) a copy, certified by a director, or by the principal executive officer or secretary, of the loan fund company to be a true copy of

²⁰ Companies (Queensland) Code, section 238 (Register of directors, principal executive officer and secretaries)

Loan Fund Companies Act 1982

all accounts relating to the company required by the Companies (Queensland) Code, section 269²¹ to be made out for or with respect to its financial year immediately preceding the date on which the return is required to be lodged with the supervisor under subsection (1) or, where the company is a recognised company or a foreign company, a copy so certified of all accounts relating to the company which would be required by that section if the company were a public company within the meaning of the Companies (Queensland) Code; and

- (b) a copy of the statements required by the Companies (Queensland) Code, section 269 to be attached to those accounts or, where the company is a recognised company or a foreign company, which would be so required to be attached to those accounts if the company were a public company within the meaning of the Companies (Queensland) Code; and
- (c) a copy of the auditor's report or reports required to be made by the Companies (Queensland) Code, section 285²² on those accounts or, where the company is a recognised company or a foreign company, which would be required to be made on those accounts if the company were a public company within the meaning of the Companies (Queensland) Code; and
- (d) a list in the approved form containing the prescribed particulars of loans made by the company during the financial year referred to in paragraph (a); and
- (e) a list in the approved form containing the particulars of all vested loan entitlements held by members as at the last day of the financial year referred to in paragraph (a).

(4) A loan fund company shall, not later than 14 days after a change occurs in any particular referred to in subsection (2) in relation to the company, lodge with the supervisor details in writing of the change.

Maximum penalty—4 penalty units.

21 Companies (Queensland) Code, section 269 (Profit and loss account, balance-sheet and group accounts)

22 Companies (Queensland) Code, section 285 (Powers and duties of auditors as to reports on accounts)

21 Supervisor to be given information

(1) The supervisor may, by notice in writing served on a loan fund company or on any officer or agent of any such company, require the company or that officer or agent to lodge with the supervisor, within such period as is specified in the notice—

- (a) such particulars as may be so specified with respect to—
 - (i) the allocation by the company of loan priority numbers; or
 - (ii) the offering of loans by or on behalf of the company; or
 - (iii) the making of loans by or on behalf of the company; or
 - (iv) the borrowing of money by the company or its methods of raising its funds, whether by means of the allotment of shares or otherwise; or
- (b) a report by an actuary appointed by the company on the company's financial position; or
- (c) a special return containing such information with respect to the company or to any of its officers or agents or to its affairs or activities as may be so specified.

(2) A loan fund company on which, or an officer or agent of a loan fund company on whom, a notice under subsection (1) has been served shall not neglect or fail to comply with a requirement contained in the notice when it is within the power of the company or, as the case may be, the officer or agent to comply with that requirement.

Maximum penalty—10 penalty units.

(3) Any information provided pursuant to a requirement contained in a notice served under subsection (1) shall not, if the person providing the information objected, at the time of providing it, to doing so on the ground that it might tend to incriminate the person, be admissible in evidence in any proceedings against that person for any offence, not being the offence of contravening subsection (2).

(4) Any requirement contained in a notice served under subsection (1) may be varied or revoked by a later notice served under that subsection.

22 Company may impose penalty

(1) Subject to this section, a loan fund company may, if authorised by its articles of association to do so, impose a penalty on any member for

Loan Fund Companies Act 1982

the non-payment of calls or instalments due with respect to shares, whether loan entitlement shares or shares of any other description in the company but no penalty exceeding \$5, or such larger amount as may be prescribed, shall be imposed.

(1A) If written notice of intention to impose the penalty and of the reason therefor has not been transmitted to that member or person and the member or person has not had an opportunity of sending to the company a written statement for the purpose of showing cause why the penalty should not be imposed, no penalty shall be imposed.

(2) The regulations may fix a maximum amount that a loan fund company may, if authorised by its articles of association to do so—

- (a) charge as a fee for or with respect to any prescribed matter; or
- (b) impose as a penalty on any member, for or with respect to any prescribed matter.

(3) A loan fund company shall not—

- (a) charge a fee which exceeds the maximum amount fixed under subsection (2)(a) for or with respect to any prescribed matter; or
- (b) impose on a member, a penalty which exceeds the maximum amount fixed under subsection (2)(b) for or with respect to any prescribed matter.

Maximum penalty—4 penalty units.

(4) Where a loan fund company—

- (a) imposes a penalty without complying with subsections (1) and (1A); or
- (b) charges a fee, or imposes a penalty, in excess of the maximum amount fixed under subsection (2)(a) or (b) for or with respect to any prescribed matter;

that penalty or, as the case may be, that fee or penalty to the extent that it exceeds the amount so fixed, shall not be enforceable against or be recoverable from the member or person in respect of whom it was charged or imposed or, if the penalty or fee has been paid to the company, shall be recoverable in a court of competent jurisdiction by the person who made the payment as a debt due from the company.

Division 3—Provisions relating to funds of loan fund companies**23 Borrowing powers of company**

(1) Subject to this section, a loan fund company may, unless prohibited or restricted by its memorandum or articles of association from so doing, receive money on deposit or loan, either at interest or at no interest, from any member or from any other person to be applied for the purposes of the company.

(2) A loan fund company shall not receive any money by way of deposit or loan if by so doing the total amount of money so received by the company would exceed an amount equivalent to four-fifths, or such other proportion as may be prescribed, of the unpaid principal secured to the company by mortgage from its members.

Maximum penalty—20 penalty units.

(3) Every acknowledgment or security of any kind given by a loan fund company with respect to the receipt of a deposit or loan shall have printed or written on it a statement that the company is only entitled to receive deposits or loans within the limits prescribed by this section.

Maximum penalty—4 penalty units.

(4) No member or other person depositing money with or lending money to a loan fund company shall be concerned with the application of that money by the company or be in any way affected or prejudiced by the fact that the company, in receiving the deposit or loan, has contravened the provisions of this or any other Act or the company's memorandum or articles of association.

24 Investment of surplus funds

(1) Subject to subsection (2), a loan fund company may invest any of its funds that are not immediately required for the purpose of operating a loan fund scheme or for any purpose incidental to that purpose in—

- (a) securities authorised by law for the investment of trust funds; or
- (b) any securities, or any securities of a class, prescribed for the purposes of this paragraph.

(2) A loan fund company shall not invest any of the funds of the company referred to in subsection (1)—

- (a) in securities, by way of mortgage or charge, over real or leasehold property; or
- (b) in securities that are not redeemable within a period of 3 years after the date of their acquisition by or on behalf of the company, or, where some other period is prescribed, within the prescribed period.

Maximum penalty—20 penalty units.

(3) Subsection (2) does not affect the validity of any investment of any of the funds of a loan fund company before it became a loan fund company, but on the redemption or disposal of any such investment, the company shall not reinvest the proceeds from the redemption or disposal in contravention of that subsection or in contravention of section 25.

25 Restriction on investments

A loan fund company shall not make any investment in securities which it would, but for this section, be authorised to make if the total value of the investments of the company in securities at cost or at their current market value, whichever is the lower, would, after the making of the investment, exceed a value equal to an amount produced by applying the proportion prescribed for the purpose of this section to the aggregate of—

- (a) the total amount paid up in cash for or with respect to the shares in the company including amounts so paid as premiums but excluding any amounts so paid by way of fees or penalties; and
- (b) the total amount of capital and revenue reserves of the company as disclosed in the last balance sheet of the company.

Maximum penalty—20 penalty units.

Division 4—Other provisions relating to operation of loan fund companies

26 Comments by company concerning its status

A loan fund company or person representing or acting on behalf of a loan fund company shall not by any statement made to a person or made in an advertisement represent or indicate, expressly or impliedly, that the company—

- (a) has any special status by virtue of being a loan fund company; or
- (b) has in any respect been approved by the supervisor; or
- (c) is supervised or in any way guaranteed or otherwise supported by the government or any of its agencies or instrumentalities.

Maximum penalty—20 penalty units.

27 Liens over shares

A loan fund company which, whether by its memorandum or articles of association or otherwise, has a lien over any loan entitlement shares in the company shall not, by virtue of that lien, have a power to sell the loan entitlement shares, but with that exception the company may enforce the lien by the exercise of any other power conferred on it whether by its memorandum or articles of association or otherwise.

28 Memorandum or articles void if inconsistent with Act

Any provision contained in the memorandum or articles of association of a loan fund company which is inconsistent with a provision of this Act or of the regulations shall, to the extent of the inconsistency, be void.

PART 5—RIGHTS WITH RESPECT TO SHARES IN LOAN FUND COMPANIES

Division 1—Rights of persons acquiring shares

29 Meaning of terms

(1) In this division—

“**shares**” means loan entitlement shares.

(2) A reference in this division to a loan fund company includes a reference to any officer of the company and any person who, with the expressed or implied consent of the company or of any such officer acting in his or her capacity as such, holds himself or herself out as being a representative of the company.

(3) A reference in this division to a person includes a reference to a trustee including a trustee which is a corporation who purchases shares on the instructions of the cestui que trust.

30 Enforcement of contracts

(1) A loan fund company which enters into a contract with a person for the allotment to that person of shares in the company, shall not be entitled to enforce the contract unless the requirements of section 31 are complied with.

(2) Where by virtue of subsection (1) a loan fund company is not entitled to enforce a contract—

- (a) the company shall not be entitled to enforce any collateral contract or contract of guarantee relating to that contract; and
- (b) no security given by—
 - (i) the person acquiring the shares in respect of money payable under that contract or any such collateral contract; or
 - (ii) a guarantor in respect of money payable under that contract or any such collateral contract; or
 - (iii) a guarantor in respect of money payable under a contract of guarantee relating to that contract or any such collateral contract;

shall be enforceable against the person acquiring the shares or against the guarantor, as the case may be, by the holder of such a security.

31 Requirements as to contracts

(1) The requirements of this section with respect to a contract referred to in section 30 are that—

- (a) the contract shall—
 - (i) be in writing; and
 - (ii) be signed by the person who is acquiring the shares and executed by or on behalf of the company; and
 - (iii) be retained by the company; and

- (b) the contract must contain a notice to purchaser in the approved form; and
- (c) a copy of the contract, a copy of a notice of cancellation of contract in the approved form and a copy of the prospectus under which the shares are or will be allotted shall be given to the person acquiring the shares at the time when the contract is entered into.

(2) If, in proceedings before any court, the court is satisfied that—

- (a) a failure to comply with any requirement of subsection (1) is a failure of a minor nature which has not detrimentally affected the person acquiring the shares; and
- (b) it would be just and equitable to dispense with the requirement;

the court may, subject to such conditions as it thinks fit to impose, dispense with that requirement for the purposes of those proceedings.

32 Cancellation of contracts

(1) A person acquiring shares under a contract which complies with section 31(1) may cancel that contract at any time before the end of the period of 1 month beginning with the day after the date on which the contract was entered into by giving to the loan fund company named in the statement required under section 31(1)(b) a notice of cancellation of contract in the approved form or any other written form of notice if, however expressed, it indicates the intention of the person to cancel the contract.

(2) Notice pursuant to subsection (1) may be given—

- (a) by delivering it personally at the address specified in the statement required under section 31(1)(b); or
- (b) by properly addressing, prepaying the postage on and posting a letter containing the notice to the loan fund company specified in that statement at that address.

(3) If the notice is posted in accordance with subsection (2)(b), the notice shall be deemed to have been given to the loan fund company at the time when it is posted.

33 Effect of cancellation

(1) Where notice of cancellation is given pursuant to section 32—

- (a) the contract to which the notice relates shall be deemed to have been rescinded by mutual consent and never to have had effect; and
- (b) any collateral contract or contract of guarantee relating to that contract shall be deemed never to have had effect; and
- (c) any security given by—
 - (i) the person acquiring the shares in respect of money payable under that contract or any such collateral contract; or
 - (ii) a guarantor in respect of money payable under that contract or any such collateral contract; or
 - (iii) a guarantor in respect of money payable under a contract of guarantee relating to that contract or any such collateral contract;shall be deemed never to have been enforceable; and
- (d) any money paid under that contract or any such collateral contract or contract of guarantee shall be due from and repayable by the loan fund company.

(2) Any money repayable under subsection (1)(d) shall be recoverable in a court of competent jurisdiction as a debt, and in any proceedings by a person for the recovery of that money, that person shall, if successful, be entitled to recover the person's full costs, fees and other reasonable expenses, including reasonable costs incurred between solicitor and client.

34 No contracting out

(1) This division shall have effect with respect to a contract referred to in section 30²³ notwithstanding any provision to the contrary in the contract.

(2) Any transaction entered into or any contract or arrangement made, whether orally or in writing, for the purpose of or having the effect of in any way, whether directly or indirectly, defeating, evading, avoiding or preventing the operation of this division in any respect shall be unenforceable except that any money paid as part of any such transaction

23 Section 30 (Enforcement of contracts)

or under any such contract or arrangement may be recovered by the person who paid it from the person to whom it was paid.

35 Failure to repay money under cancelled contract an offence

(1) Any loan fund company which fails, within 1 month after a person has given notice to the company under section 32²⁴ of the cancellation of a contract, to repay any money due to or in respect of that person by virtue of section 33(1)(d)²⁵ is guilty of an offence.

Maximum penalty—10 penalty units.

(2) On the conviction of a loan fund company of an offence under subsection (1), the court may make an order for the payment by the company of an amount equal to the money due from the company by virtue of section 33(1)(d), to or in respect of the person referred to in subsection (1) unless the money has previously been recovered by that person under section 33(2).

36 Trustee to consult beneficiary

A person being a trustee who enters into a contract with a loan fund company for the allotment of shares on the instructions of a cestui que trust shall provide the cestui que trust with a copy of the documents referred to in section 31(1)(c)²⁶ immediately upon the person receiving the documents and the trustee shall exercise the rights given to him or her as a person under this division, in accordance with the instructions of the cestui que trust.

Division 2—Rights of shareholders to attend and vote at meetings

37 Voting rights

(1) In respect of—

- (a) loan entitlement shares in a loan fund company; and
- (b) shares in a loan fund company other than loan entitlement shares;

24 Section 32 (Cancellation of contracts)

25 Section 33 (Effect of cancellation)

26 Section 31 (Requirements as to contracts)

there shall, notwithstanding any provision of the Companies (Queensland) Code, to the contrary, be attached a right to exercise, subject to subsection (2), such number of votes at general meetings of the company as equals the number of whole dollars paid up, or credited as paid up, in respect of the loan entitlement shares or other shares, including any money paid, or credited as paid, as a premium in respect thereof but excluding any money paid as a fee or penalty in respect thereof.

(2) Every holder of loan entitlement shares in a loan fund company or other shares in a loan fund company, to which a voting right is attached by virtue of subsection (1) shall notwithstanding any provisions of the Companies (Queensland) Code to the contrary, be entitled—

- (a) to be given, subject to the provisions of the Companies (Queensland) Code relating to special resolutions and agreements for shorter notice, notice of the place at which, the date on which and the time at which any general meeting of the company is to be held at least 14 days before the date of the meeting, and if any special business is to be conducted at the meeting, particulars of the nature of the business; and
- (b) to attend any general meeting of the company; and
- (c) on attending a general meeting of the company, to speak at the meeting and—
 - (i) in the case of a resolution put to the meeting and decided by a show of hands—to exercise 1 vote; or
 - (ii) in the case of a resolution so put in respect of which a poll is taken—to exercise the voting right conferred on the holder by subsection (1) and ascertained in accordance with that subsection as at the 14th day before the date of the meeting; and
- (d) to be given notice in terms of paragraph (a) and to exercise the rights conferred on the holder by paragraphs (b) and (c), notwithstanding that all calls, instalments or other sums presently due and payable by the holder in respect of the shares held by the holder may not have been paid.

(3) Where, in relation to the calling and holding of general meetings of a loan fund company, the moving of resolutions at such meetings and the voting on those resolutions—

- (a) any provision of the memorandum or articles of association of the company confers a right on, or imposes on the company an

obligation towards, some of the holders of shares to which voting rights are attached by virtue of this section but not on other such holders; and

- (b) the right so conferred or the obligation so imposed, as the case may be, is in addition to the rights conferred, or the obligations imposed, by this section;

that provision shall be deemed to apply so as to confer that right on, or impose on the company that obligation towards, those other holders in the same way and to the same extent as it confers that right, or imposes on the company that obligation towards, the firstmentioned holders.

(4) For the purpose of any provision of the articles of association of a loan fund company which requires a quorum of members to be present at the time when the meeting proceeds to business, the reference to 'members' shall be construed as including the holder of any shares to which a voting right is attached by virtue of subsection (1).

Division 3—Transmission and transfer of shares

38 Rights of transferees

(1) A person to whom any loan entitlement shares in a loan fund company are transmitted by operation of law or transferred shall have the same rights under or with respect to the loan entitlement shares, including all rights with respect to the obtaining of a loan from the company, as those which were held by the person from or by whom the loan entitlement shares were transmitted or transferred.

(2) The transmission or transfer of any loan entitlement shares referred to in subsection (1) shall not affect the loan priority number allocated in respect of those loan entitlement shares.

*Division 4—Forfeiture or surrender of shares***39 Application of division**

The provisions of this division have effect notwithstanding the Companies (Queensland) Code, section 123²⁷ or any other enactment or rule of law.

40 Forfeiture of shares

(1) If at any time the holder of loan entitlement shares in a loan fund company in respect of which the company has not made a loan or the holder does not have a vested loan entitlement is in arrears with the payment of calls or instalments due with respect to the loan entitlement shares and the amount of those arrears, together with any penalties that may have been imposed on the holder by the company in respect of the loan entitlement shares, exceeds an amount calculated as prescribed, the directors of the company may, at any time during which those arrears and any such penalties exceed the amount so calculated, serve a notice on the holder requiring payment of so much of those calls or instalments as is unpaid, together with any penalties which may have accrued in respect thereof.

(2) The notice referred to in subsection (1) shall, in addition to specifying the amount due and required to be paid with respect to the loan entitlement shares, specify—

- (a) a date, not earlier than the expiration of 2 months from the date of service of the notice, on or before which the payment required by the notice is to be made; and
- (b) that, in the event of non-payment of the amount at or before that date, the loan entitlement shares will be liable to be forfeited to the loan fund company.

(3) If the requirements of the notice referred to in subsection (1) are not complied with within the period specified in the notice, the loan fund company may, by resolution of its directors at any time thereafter and before the payment required by the notice has been made, declare the loan

²⁷ Companies (Queensland) Code, section 123 (Special resolution for reduction of share capital)

entitlement shares to which the notice relates to be forfeited to the company and thereupon the loan entitlement shares shall be so forfeited.

(4) A forfeiture of shares under subsection (3) in respect of which any dividend has been declared but not actually paid before the forfeiture shall include that dividend.

(5) A person whose loan entitlement shares have been forfeited under this section shall cease to be a member with respect to those shares, but the person shall remain liable to pay to the loan fund company all money (including the amount of any penalty lawfully imposed by the company with respect to the loan entitlement shares) which, at the date of forfeiture, was payable by the person to the company in respect of the loan entitlement shares.

(6) The forfeiture of any loan entitlement shares referred to in subsection (1) for non-payment of calls or instalments on terms less favourable to the holder of those shares than those provided for in this section shall be of no effect.

41 Surrender of shares

(1) Subject to this section, the holder of loan entitlement shares in a loan fund company in respect of which the company has not made a loan or in respect of which the company has made a loan and the loan has been repaid, may by notice in writing served on the company surrender those loan entitlement shares to the company if, at the date of service of the notice, all amounts due to the company in respect of those loan entitlement shares have been paid.

(2) The right conferred by subsection (1) is not, except with the agreement of the loan fund company concerned, exercisable until the expiration of the prescribed period from the date, whether before or after the commencement of this section, on which the loan entitlement shares were allotted.

(3) The notice referred to in subsection (1) shall—

- (a) be in the approved form; and
- (b) be accompanied by the loan entitlement shares that are to be surrendered.

(4) A surrender of loan entitlement shares in accordance with this section shall be effective on and from the date of the service of the notice on the loan fund company under subsection (1).

(5) Not later than 7 days after being served with a notice under subsection (1), the loan fund company shall send to the person who surrendered the loan entitlement shares a letter by certified mail acknowledging the receipt of the notice.

Maximum penalty—4 penalty units.

(6) A person whose loan entitlement shares have been surrendered under this section shall cease to be a member in respect of those shares and shall not be required to pay to the loan fund company any further calls or instalments in respect of the shares, but the person shall not be entitled to receive any dividends declared in respect of those loan entitlement shares and not actually paid before the surrender.

42 Money from forfeited or surrendered shares to be transferred to a reserve

A loan fund company—

- (a) shall have and maintain a reserve for the purposes of this division and shall transfer to that reserve all money received by it with respect to loan entitlement shares forfeited or surrendered to the company under section 40 or 41,²⁸ as the case may be, after deducting any part of that money that is attributable to fees or penalties; and
- (b) shall not distribute any money transferred to the reserve maintained under paragraph (a) as dividends, but may use the money in the repayment of amounts under section 44,²⁹ or for any purpose for which the company is, by its memorandum or articles of association, authorised to use its capital.

Maximum penalty—10 penalty units.

43 Register of forfeited and surrendered shares

(1) A loan fund company—

- (a) shall—

28 Section 40 (Forfeiture of shares) or 41 (Surrender of shares)

29 Section 44 (Payments by company in respect of forfeited and surrendered shares)

Loan Fund Companies Act 1982

- (i) if it is a company within the meaning of the Companies (Queensland) Code—keep at the place at which the register of members is kept; or
- (ii) if it is a recognised company or a foreign company and keeps a branch register in Queensland of members who are resident in Queensland—keep at the place where that branch register is kept; or
- (iii) if it is a recognised company or a foreign company to which subparagraph (ii) does not apply—keep at its principal or registered office in Queensland;

a register of forfeitures and surrenders of loan entitlement shares; and

- (b) shall, within 7 days after the date on which any loan entitlement shares are forfeited or surrendered to the company in accordance with section 40 or 41,³⁰ as the case may be, enter in that register—
 - (i) the name of the person whose shares were forfeited or surrendered and such other particulars with respect to that person as are prescribed; and
 - (ii) such particulars with respect to those shares as are prescribed;

in the order in which the forfeiture or surrender occurred.

Maximum penalty—10 penalty units.

(2) The register kept by a loan fund company under subsection (1) shall be evidence of any matters entered in it as required or authorised by or under this Act.

(3) Any member and any person whose loan entitlement shares have been forfeited or surrendered to a loan fund company under section 40 or 41, as the case may be, without payment of any fee, and any other person, on the payment of a fee (if any) determined by the company, being a fee not exceeding the maximum amount prescribed for the purpose of this subsection, may inspect the register kept by the company under subsection (1) at any time during which the register of members or, if the company keeps a branch register in Queensland of members who are

30 Section 40 (Forfeiture of shares) or 41 (Surrender of shares)

resident in Queensland, that register, is open for inspection and may make copies of, or take extracts from, the register so kept.

44 Payments by company in respect of forfeited and surrendered shares

(1) Where, after a company has become a loan fund company, any loan entitlement shares have been forfeited or surrendered to the company under section 40 or 41, there shall be payable by the company to the person whose shares were forfeited or surrendered, or if that person is dead or under a legal disability, to such person as appears to the company to be the person's lawful representative—

- (a) the total amount that was paid in respect of the loan entitlement shares (including any amount so paid as a premium) after deducting—
 - (i) any fee or penalty paid or payable in respect of the loan entitlement shares before or at the date of the forfeiture or surrender; and
 - (ii) in the case of forfeited loan entitlement shares—an amount equal to the prescribed proportion of the nominal value of the forfeited loan entitlement shares; and
 - (iii) if the last balance sheet of the company preceding the date on which the amount becomes payable discloses an accumulated loss—an amount, which shall be offset against that loss, calculated by reference to the following formula—

$$a = b \times \frac{c}{d}$$

where—

“a” means the amount to be deducted under this subparagraph.

“b” means the amount of the accumulated loss.

“c” means the total nominal value of the forfeited or surrendered loan entitlement shares.

“d” means the total nominal value of all issued shares of the company as at the date to which the balance sheet referred to in this subparagraph is made up; or

Loan Fund Companies Act 1982

(b) if—

- (i) any provision of the memorandum or articles of association of the company provides; or
- (ii) the prospectus under which the loan entitlement shares were allotted provided;

for an amount to be payable by the company in respect of forfeited or surrendered loan entitlement shares in the company which is greater than that which would, but for this paragraph, be payable under paragraph (a), that amount;

but the amount so payable shall not become due until—

- (c) 3 years after the date of forfeiture; or
- (d) 3 years after the date of surrender of loan entitlement shares in respect of which the company has not made a loan; or
- (e) 5 years after the date of surrender of loan entitlement shares in respect of which the company has made a loan and the loan has been repaid; or
- (f) if any provision of the memorandum or articles of association of the company, or any relevant prospectus, provides for that amount to become due at a date before the expiration of that period—that date has arrived.

(2) Where—

- (a) in relation to a company that has become a loan fund company, any option to acquire loan entitlement shares in the company, or any option nomination relating to any such shares, has, before the company became a loan fund company, been surrendered to the company or to any person managing, controlling or promoting the affairs and activities, or any of the affairs or activities, of the company; and
- (b) the prospectus under which the option or option nomination was granted provided for an amount, ascertainable by reference to the prospectus, to be payable in respect of the option or option nomination in the event of its being surrendered; and
- (c) the amount referred to in paragraph (b) has not, before the company became a loan fund company, been paid in accordance with the terms and conditions of the prospectus to any person entitled to receive it;

that amount shall be payable by the company to the person whose option or option nomination was surrendered or, if the person has died or is under a legal disability, to such person as appears to the company to be the lawful representative of that person, but shall not become due from the company until the expiration of a period of 3 years after the date on which the company became a loan fund company or, if the prospectus referred to in paragraph (b) provides for the amount to become due at a date before the expiration of that period, until that date has arrived.

(3) If at any time amounts are payable to 2 or more persons by a loan fund company either under subsection (1) in respect of forfeited or surrendered loan entitlement shares or under subsection (2) in respect of surrendered options or option nominations, the company shall pay those amounts to those persons only according to the order in which the forfeiture or surrender of those loan entitlement shares, or, as the case may be, the surrender of those options or option nominations, occurred and not otherwise.

(4) Subject to this section, a loan fund company may, notwithstanding that its memorandum of association does not, or its articles of association do not, so provide or provides or provide to the contrary, pay an amount payable under subsection (1) or (2) before it becomes due, but only if it is paid out of money received from members as repayments of the principal of loans made by the company to those members or out of the reserve kept under section 42.³¹

(5) If a loan fund company has not paid an amount payable by it under subsection (1) or (2) before the date on which the amount becomes due thereunder, the following provisions shall apply—

- (a) all of the company's funds shall be available for the payment of the amount;
- (b) the company shall not, until the amount has been paid, offer or make any further loans to members or to any other persons;
- (c) without prejudice to any prosecution for an offence against subsection (6), the amount shall, on and after that date, be recoverable from the company as a debt in a court of competent jurisdiction by the person to whom the amount is payable.

(6) Any loan fund company which—

31 Section 42 (Money from forfeited or surrendered shares to be transferred to a reserve)

- (a) fails to pay any amount payable under subsection (1) or (2) within 3 months after the date on which the amount becomes due; or
- (b) pays any amount in contravention of subsection (3) or (4); or
- (c) contravenes subsection (5)(b);

is guilty of an offence.

Maximum penalty—10 penalty units.

45 Cancellation of shares

On the forfeiture or surrender of any shares under section 40 or 41,³² as the case may be, the shares shall be deemed to be cancelled.

PART 6—SPECIAL POWERS WITH RESPECT TO THE SUPERVISION OF COMPANIES

Division 1—Inspections

46 Powers of inspection

(1) The supervisor or any inspector may—

- (a) for the purpose of ascertaining whether a person is, or at any time has been, operating, or managing, controlling or promoting the operation of, a loan fund scheme in contravention of this Act or whether a loan fund company is contravening or not complying with, or has contravened or not complied with, this Act or for any purpose that is associated with the operation of a loan fund scheme, inspect and make copies of, or take extracts from or seize and detain—
 - (i) any records kept by that person or company with respect to any of the affairs or activities of that person or company; and

32 Section 40 (Forfeiture of shares) or 41 (Surrender of shares)

Loan Fund Companies Act 1982

- (ii) any bankers' books so far as they relate to the business carried on by that person or company; and
 - (iii) in the case of an existing company or a loan fund company that is being wound-up—any records kept by the liquidator of the company; and
 - (iv) any records or bankers' books that relate or that in the supervisor's opinion formed on reasonable grounds may relate to the operation of a loan fund scheme; and
- (b) for that purpose may, subject to section 6,³³ enter at any reasonable time any place at which that person or company carries on business or at which the supervisor or that inspector has reasonable grounds for believing that any such records or bankers' books, as the case may be, are kept.

(2) For the purpose of and in connection with an inspection under subsection (1), the supervisor or any inspector may—

- (a) request any person employed or engaged at any place entered pursuant to that subsection to produce to the supervisor or inspector such records, or, as the case may be, such bankers' books, relating to any of the affairs or activities of a person or company as are in the custody or under the control of the person so employed or engaged; and
- (b) examine with respect to matters under this Act any person employed or engaged at any place so entered; and
- (c) make such examination and inquiries as the supervisor or inspector thinks necessary to ascertain whether the requirements of this Act are being or have been complied with or contravened.

(3) Subject to subsection (4), the expenses of and incidental to the carrying out of inspections under subsection (1) shall be defrayed out of money appropriated by Parliament for the purpose.

(4) Where an inspection has been carried out under subsection (1) with respect to a person or a loan fund company, the supervisor may give a direction in writing requiring that person or company, within such period (being not less than 7 days) as is specified in the direction, to pay to the supervisor in respect of that inspection a fee of such amount or at such rate as is prescribed and may serve the direction on that person or company.

(5) If the person on whom or the loan fund company in which the direction is served fails to pay the fee specified in the direction within the period so specified, the amount of the fee shall be recoverable from that person or company in a court of competent jurisdiction as a debt due to the Crown.

(6) Where pursuant to subsection (1) the supervisor or an inspector seizes and detains any records or other documents the supervisor or inspector may arrange to have those records or other documents taken from the place where they were seized to another place specified by the supervisor or inspector.

(7) A person shall not without the consent of the supervisor or an inspector interfere with any records or other documents after their seizure pursuant to this section.

Maximum penalty—20 penalty units.

(8) Where any records or other documents are seized and detained pursuant to this section any person having an interest in the records or documents may apply to the court for an order that such person be permitted access to the records or other documents and the court may make such an order in a case where that person has established to the satisfaction of the court that the person would suffer in the conduct of any business lawfully carried on by the person if such an order was not made.

(9) An order made pursuant to subsection (8) may be made subject to such terms and conditions as the court thinks fit to impose and in particular may contain terms and conditions relating to—

- (a) the time and place at which the person may inspect the records or other documents; and
- (b) the making of copies of or the taking of extracts from the records or other documents by the person.

Division 2—Inquiries

47 Meaning of term

In this division—

“specified person” means a person suspected or believed by the supervisor, on reasonable grounds, to be capable of giving information concerning any matter being inquired into pursuant to this division.

48 Power to hold inquiry

(1) Where the Minister is of the opinion that to do so would be in the public interest or in the interest of any members or creditors of an existing company or a loan fund company, the Minister may, either of the Minister's own volition or on the application of any person claiming to have an interest in the company, whether as a member or creditor of the company or otherwise, authorise the supervisor to hold an inquiry into the affairs and activities of the company, including the operation and financial circumstances of the company, or into such of those affairs or activities as the Minister may determine.

(2) If an application referred to in subsection (1) is made by a person for an inquiry to be held under this division, the Minister may require the applicant to produce such evidence as the Minister thinks necessary to enable the Minister to determine whether there are reasonable grounds for appointing the supervisor to hold an inquiry under this division.

(3) Where the supervisor has been authorised to hold an inquiry under this division, the supervisor shall forthwith notify the existing company or the loan fund company concerned in writing of that appointment and of the terms of that appointment.

49 Inquiry procedure

(1) For the purposes of an inquiry under this division, the supervisor may, by written notice given in the prescribed manner, require a specified person—

- (a) to produce to the supervisor such records relating to a matter to which his or her inquiry relates as are in the custody or under the control of that person; and
- (b) to give to the supervisor all reasonable assistance in connection with the inquiry; and
- (c) to attend before the supervisor for examination on oath;

and may administer an oath to that person.

(2) Where records are produced to the supervisor under this section, the supervisor may take possession of those records for such period as the supervisor thinks necessary for the purposes of the inquiry, and during that period the supervisor shall permit a person who would be entitled to inspect those records if they were not in the possession of the supervisor to

inspect at all reasonable times such of those records as that person would be so entitled to inspect.

(3) A specified person shall not—

- (a) refuse or fail to comply with a requirement of the supervisor under subsection (1) to the extent to which the person is able to comply with it; or
- (b) in purported compliance with such a requirement provide information which is to the person's knowledge false or misleading as to a material particular; or
- (c) when appearing before the supervisor for examination pursuant to such a requirement—
 - (i) make a statement which is to the person's knowledge false or misleading as to a material particular; or
 - (ii) refuse or fail to take an oath.

Maximum penalty—20 penalty units.

(4) A duly qualified legal practitioner acting for a specified person may—

- (a) attend an examination of that person; and
- (b) with the permission of the supervisor—
 - (i) address the supervisor; and
 - (ii) examine that person;

in relation to matters in respect of which the supervisor has questioned that person.

(5) A specified person is not excused from answering a question put to the person by the supervisor on the ground that the answer might tend to incriminate the person but, where that person claims, before answering the question, that the answer might incriminate the person, neither the question nor the answer is admissible in evidence against the person in criminal proceedings other than proceedings under subsection (3) or in relation to a charge of perjury in respect of the answer.

(6) A specified person who complies with a requirement of the supervisor under subsection (1) does not incur a liability to any person by reason only of that compliance.

(7) A specified person who is required to attend for examination under subsection (1) is entitled to such allowances and expenses (if any) as are

prescribed, whether by reference to a scale of expenses for witnesses who attend before a court or otherwise.

(8) Where the supervisor is satisfied that a specified person has failed without lawful excuse to comply with a requirement of the supervisor to the extent to which that person is capable of complying with it, the supervisor may certify the failure by signed writing to the court.

(9) Where the supervisor gives a certificate under subsection (8), the court may inquire into the case and, if it is satisfied that the specified person to whom the certificate relates has failed without lawful excuse to comply with a requirement of the supervisor to the extent to which that person is capable of complying with it—

- (a) may order the specified person to comply with the requirement within such period as is fixed by the court; or
- (b) may punish the specified person in the same way as if the person had been guilty of contempt of the court and, if it thinks fit, also make an order under paragraph (a).

(10) An inquiry under this division shall, for the purpose of the *Evidence Act 1977*, part 5, division 6³⁴ be deemed to be a proceeding.

(11) The supervisor shall cause notes of an examination made by the supervisor under this section to be recorded in writing and may require a specified person to sign the notes and, subject to this section, notes signed by that person may be used in evidence in any proceedings against that person.

(12) A copy of the notes signed by a specified person shall be provided by the supervisor, without charge, to that person on request made by that person in writing.

(13) Notes made pursuant to this section that relate to a question the answer to which a specified person has claimed might tend to incriminate the person may not be used as evidence in criminal proceedings other than proceedings under subsection (3) or in relation to a charge of perjury in respect of the answer.

50 Report of supervisor

(1) When the supervisor has completed his or her inquiry under this division, the supervisor shall prepare and give to the Minister a report of

34 *Evidence Act 1977*, part 5, division 6 (Books of account)

the supervisor's findings and, subject to subsection (2), unless there is in the opinion of the Minister good reason for not divulging the contents of the report, give a copy of the report to each person to whom, in the opinion of the Minister, the report ought to be given by reason that it extends to any of the affairs or activities of that person to a material extent.

(2) Subject to subsection (3), the supervisor shall not give a copy of a report prepared under subsection (1) to a person if the Minister believes that legal proceedings that have been, or that in the Minister's opinion might be, instituted might be unduly prejudiced by giving the report to that person.

(3) The court before which legal proceedings are brought against a person for or in respect of matters dealt with in a report prepared under subsection (1) may order that a copy of the report be given to that person.

(4) The Minister may, if the Minister is of the opinion that it is in the public interest to do so, cause the whole or any part of a report prepared under subsection (1) to be printed and published.

(5) If, from a report prepared under subsection (1) or from notes of an examination made under section 49, it appears to the Minister that an offence may have been committed by a person and that a prosecution ought to be instituted, the Minister shall cause a prosecution to be instituted and prosecuted.

(6) Where it appears to the Minister that a prosecution ought to be instituted, the Minister may, by notice in writing given before or after the institution of a prosecution in accordance with subsection (5), require a person whom the Minister suspects or believes on reasonable grounds to be capable of giving information concerning any matter to which the prosecution relates (not being a person who is or, in the opinion of the Minister, is likely to be a defendant in the proceedings or is or has been a duly qualified legal practitioner acting for such a person) to give all assistance in connection with the prosecution or proposed prosecution that that person is reasonably capable of giving.

(7) Where a person to whom a notice has been given under subsection (6) fails to comply with a requirement specified in the notice, the court referred to in subsection (3) may, on the application of the Minister, direct that person to comply with the requirement.

(8) If from a report prepared under subsection (1) or from the notes of an examination made under section 49 the Minister is of the opinion that proceedings ought in the public interest to be brought by an existing company or a loan fund company for the recovery of damages in respect of

fraud, misfeasance or other misconduct in connection with the matters to which the inquiry relates or for the recovery of property of the company, the Minister may cause proceedings to be brought accordingly in the name of the company.

51 Additional powers of supervisor after inquiry

After completing an inquiry under this division, the supervisor—

- (a) may retain the records of which the supervisor has taken possession under section 49³⁵ for such period as the supervisor considers to be necessary to enable a decision to be made as to whether or not legal proceedings ought to be instituted as a result of the inquiry; and
- (b) may retain the records for such further period as the supervisor considers to be necessary to enable any such proceedings to be instituted and prosecuted; and
- (c) may permit other persons to inspect the records while they are in the supervisor's possession; and
- (d) may permit the use of the records for the purposes of legal proceedings instituted as a result of the inquiry; and
- (e) shall permit a person who would be entitled to inspect any 1 or more of the records if they were not in the possession of the supervisor to inspect at all reasonable times such of the records as that person would be so entitled to inspect.

52 Privileged communication

The supervisor shall not require disclosure by a duly qualified legal practitioner of a privileged communication made to the practitioner in the practitioner's capacity as such except as regards the name and address of the practitioner's client.

53 Expenses of inquiry

(1) Subject to this section, the expenses of and incidental to an inquiry under this division (including the expenses incurred and payable by the

35 Section 49 (Inquiry procedure)

Minister in proceedings brought by the Minister in the name of an existing company or a loan fund company under section 50(8)³⁶) shall be defrayed out of money appropriated by Parliament for the purpose.

(2) The Minister may, with respect to an inquiry under this division, give a direction—

- (a) that any existing company, loan fund company or specified person concerned in the inquiry, within such period (being not less than 7 days) as is specified in the direction, pay the whole or a specified part of the expenses of and incidental to the inquiry; or
- (b) where expenses have been defrayed under subsection (1)—that any existing company, loan fund company or specified person concerned in the inquiry, within such period (being not less than 7 days) as is specified in the direction, pay those expenses or reimburse the Crown to the extent thereof; or
- (c) that any existing company, loan fund company or specified person concerned in the inquiry, within such period (being not less than 7 days) as is specified in the direction, pay, or reimburse the Crown in respect of, the remuneration of any servant of the Crown concerned with the inquiry;

and serve the direction on that company or person.

(3) If an existing company or a loan fund company on which or a person on whom a direction has been served under subsection (2) fails to pay the amount specified in the direction within the period so specified, that amount shall be recoverable from that company or person in a court of competent jurisdiction as a debt due to the Crown.

54 Concealing etc. of records

(1) A person who—

- (a) conceals, destroys, mutilates or alters a record that is the subject of an inquiry by the supervisor under this division; or
- (b) sends, attempts to send or conspires with another person to send such a record out of Queensland;

is guilty of an offence.

36 Section 50 (Report of supervisor)

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) It is a defence to a prosecution under this section to prove that the person charged did not act with intent to defeat the purposes of this division or to delay or obstruct the holding of an inquiry under this division.

Division 3—Powers to control prospectuses and advertising, to suspend acceptances of money and to appoint administrators

55 Power of supervisor with respect to prospectuses

(1) A prospectus relating to a loan fund company shall not be issued, circulated or distributed before the expiration of 7 days after the date on which a copy of the proposed prospectus has first been lodged with the supervisor.

(2) Where a copy of a proposed prospectus has been lodged with the supervisor in accordance with subsection (1) the supervisor may, by notice served on the company concerned within 7 days after the date of that lodgment, require—

- (a) that, before the prospectus is issued, circulated or distributed, there be included in the prospectus such information relating to the rights and obligations of persons who may apply for, subscribe for, purchase or otherwise acquire shares in the company as may be specified in the notice; and
- (b) that that information be in such form, or be presented in such manner, as may be so specified.

(3) Where the supervisor has served a notice in accordance with subsection (2), a prospectus to which the notice relates shall not be issued, circulated or distributed unless the requirements of that notice have been complied with.

(4) If a prospectus is issued, circulated or distributed in contravention of subsection (1) or (3), the company concerned and every person who is knowingly a party to that issue, circulation or distribution is guilty of an offence.

Maximum penalty—10 penalty units.

(5) Nothing in this section affects the operation of the Companies (Queensland) Code, part 4³⁷ with respect to a company to which this section applies and the provisions of that part which relate to a prospectus shall apply in so far as they are capable of applying and with such adaptations as are necessary to and in relation to a prospectus referred to in section 13(3)³⁸ of this Act.

56 Power of supervisor to suspend acceptance of moneys

(1) If with respect to any loan fund company the supervisor considers that it is desirable to do so in the interest of persons who may become members of or who may deposit money with or otherwise lend money to, the company, the supervisor may, by notice in writing served on the company, give to the company either or both of the following directions—

- (a) a direction not to accept money in consideration of the allotment of loan entitlement shares in the company;
- (b) a direction not to accept money on deposit or otherwise on loan.

(2) Where notice of a direction under subsection (1) is served on a loan fund company, that direction does not prevent the company—

- (a) from accepting the whole or any part of an amount which became due and payable to the company in respect of shares allotted by the company before the service of the notice; or
- (b) with the consent of the supervisor, from receiving money—
 - (i) pursuant to the powers conferred under section 23;³⁹ or
 - (ii) from a financial institution or finance company; or
 - (iii) from an officer of the company.

(3) The supervisor may and, if so required to do so by the Minister, shall revoke a direction under subsection (1) and on so doing shall notify the loan fund company concerned in writing that the direction has been revoked.

(4) The supervisor may at any time vary a direction under subsection (1) by notice in writing served on the loan fund company concerned.

37 Companies (Queensland) Code, part 4 (Prospectuses, securities and charges)

38 Section 13 (Offer of shares to public)

39 Section 23 (Borrowing powers of company)

(5) A loan fund company shall, while a direction under subsection (1) remains in force in respect of the company, comply with the direction.

Maximum penalty for subsection (5)—20 penalty units.

57 Appointment and powers of administrator

(1) Subject to this division and with the approval of the Minister, the supervisor may, by instrument in writing, appoint an administrator to administer the affairs and activities of an existing company or a loan fund company if—

- (a) the company has suspended business for a period of more than 2 months; or
- (b) after being notified by the supervisor of any contravention of or failure to comply with a provision of this Act, of the Companies (Queensland) Code or of the *Companies Act 1961* that is applicable to it, the company has failed to remedy the contravention to the extent that it is capable of remedy, or has committed a further contravention of the provision or the failure to comply has continued; or
- (c) following an inquiry into the affairs of the company under the Companies (Queensland) Code, part 7⁴⁰ or this Act, division 2⁴¹ or following an investigation under the *Companies Act 1961*, part 6A the supervisor is of the opinion that, in the interests of—
 - (i) members; or
 - (ii) creditors of the company;an administrator ought to be appointed to conduct the affairs and activities of the company; or
- (d) if the supervisor is of the opinion that an administrator ought to be appointed to administer the affairs and activities of the company and that the lapse of time required for an inquiry into the affairs of the company under this Act, division 2 or for an investigation under the Companies (Queensland) Code, part 7 would be detrimental to the interests of—
 - (i) members; or

40 Companies (Queensland) Code, part 7 (Special investigations)

41 Division 2 (Inquiries)

(ii) creditors of the company.

(1A) Upon the appointment of an administrator or at any time while an administrator is appointed the supervisor may, with the approval of the Minister, by instrument in writing, appoint a person to be deputy administrator.

(1AA) The function of a deputy administrator shall be to act as administrator to administer the affairs and activities of the company at any time or during any period when—

- (a) there is a vacancy in the office of the administrator; or
- (b) the administrator is through illness, infirmity or absence unable to act as such; or
- (c) the deputy administrator is requested so to act by the supervisor;

and, while the deputy administrator so acts, a deputy administrator shall have the functions, duties, powers and status of an administrator prescribed by this Act and the affairs and activities of the company shall be taken to be administered by an administrator.

(1B) Where a deputy administrator is acting pursuant to subsection (1AA)(c) the deputy administrator may act concurrently with the administrator whose deputy he or she is.

(2) On the appointment of an administrator under subsection (1), the supervisor shall serve on the existing company or, as the case may be, the loan fund company a copy of the instrument of the appointment and thereupon—

- (a) the affairs and activities of the company shall be administered by the administrator until the administrator's appointment is terminated under this division; and
- (b) the administrator shall assume and be responsible for the management of the company and shall perform all of the duties and may perform any of the functions and exercise any of the powers of the directors of the company; and
- (c) the directors of the company shall cease to hold office; and
- (d) any delegation made by the directors shall cease to have effect; and
- (e) unless the administrator otherwise determines within 3 days after the service on the company of the copy of the instrument of the administrator's appointment, either generally or with respect to

Loan Fund Companies Act 1982

any particular contract or contracts, all contracts of service and for the performance of services entered into by or on behalf of the company shall terminate at the expiration of that period.

(3) Subject to this division, as administrator appointed under this section—

- (a) shall, as soon as practicable after the administrator's appointment as such, take into his or her custody or under his or her control all the property and things in action to which the existing company or the loan fund company is or appears to be entitled; and
- (b) shall, subject to and in accordance with any direction given to the administrator by the supervisor, conduct the affairs and activities of the company in such manner as the administrator thinks most economical and most beneficial to the interests of the members and creditors of the company and for the purpose of administering those affairs and activities shall be an exempt dealer within the meaning of the Securities Industry (Queensland) Code.

(4) While an administrator of an existing company or a loan fund company holds office as such, the administrator shall be chairperson of any meeting or adjourned meeting of the company.

(5) Except as provided under section 58, a person shall not be appointed as a director of the company while an administrator of the company holds office as such.

(6) An administrator of an existing company or a loan fund company shall be deemed to have vacated office if—

- (a) the administrator dies; or
- (b) the administrator becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration as administrator, or of his or her estate, for their benefit; or
- (c) the administrator becomes of unsound mind or becomes a person whose person or estate is liable to be dealt with in any way under any law which relates to mental health; or
- (d) the administrator is convicted in Queensland of a crime or an offence punishable by imprisonment for 12 months or more or the administrator is convicted elsewhere than in Queensland of a

crime or an offence which, if committed in Queensland, would be a crime or an offence so punishable; or

- (e) the administrator resigns office by signed notice addressed to the supervisor; or
- (f) the administrator's appointment is revoked by the supervisor under subsection (7).

(7) The supervisor may, and, if required to do so by the Minister, shall, revoke the appointment of an administrator appointed under this section.

(8) Where the office of administrator of an existing company or a loan fund company is deemed to have been vacated under subsection (6), the supervisor, by instrument in writing, shall, unless before the occurrence of the vacancy directors have been appointed at a general meeting of the company called under section 58, appoint another person to fill the vacancy.

(9) Notwithstanding the appointment of an administrator of an existing company or a loan fund company under this section and for so long as the administrator holds office, the provisions of the Companies (Queensland) Code relating to the appointment and reappointment of auditors and the rights and duties of auditors shall continue to apply to and in relation to the company, and in the application of those provisions to and in relation to the company any reference in those provisions to the directors of the company shall be construed as a reference to the administrator of the company.

57A Allocation of loan priority numbers by administrator

(1) Where an administrator has been appointed to administer the affairs and activities of a company under section 57 the administrator shall comply with sections 15 and 16⁴² in respect of that company so far as the administrator is able in the circumstances.

(2) The allocation of loan priority numbers by an administrator to comply with section 15 shall be in accordance with the lawful obligations of the company in respect of such allocation and to that end an administrator may rearrange existing allocations of loan priority numbers made by the company.

(3) Where an administrator has rearranged existing allocations of loan priority numbers as permitted by subsection (2) the administrator shall

42 Sections 15 (Allocation of priority numbers) and 16 (Register of priority numbers)

adjust the register (if any) kept pursuant to section 16 or, if there is no such register, establish such a register in accordance with the rearrangement.

57B Effect of administration on payment of calls etc.

(1) Whilst an administrator appointed under section 57⁴³ is administering the affairs and activities of a loan fund company—

- (a) no calls shall be made in respect of loan entitlement shares in that company; and
- (b) a member shall not be liable to make any payment in respect of loan entitlement shares in that company whether in payment of a call made by that company or of an instalment due to that company or of any arrears owed by the member to the company in respect of any such call or instalment.

(2) A member shall not be in any way penalised on account of the member's exercising his or her rights conferred by subsection (1).

58 Supervisor may require meeting for appointment of directors

(1) The supervisor may, at any time while an administrator of an existing company or a loan fund company is holding office as such, give to the administrator a direction requiring the administrator to call a general meeting of the company for the purpose of appointing new directors of the company.

(2) Where a direction has been given under subsection (1) to the administrator of an existing company or a loan fund company, the administrator shall call a meeting of the company by notice in writing given not less than 14 days before the meeting or, where the articles of association of the company provide for more than 14 days notice for the calling of extraordinary general meetings, by notice in writing given as if the meeting were an extraordinary general meeting.

(3) A meeting called under subsection (2) shall, notwithstanding that it is called by notice shorter than is required by that subsection, be deemed to be duly called if it is so agreed by a majority in number of the persons having a right to attend and vote at meetings of the existing company or the loan fund company.

43 Section 57 (Appointment and powers of administrator)

(4) So far as the articles of association of the existing company or the loan fund company do not make other provision in that behalf, notice of a meeting called under subsection (2) shall be served on every person having a right to vote at general meetings of the company in the manner in which notices are required to be served by the Companies (Queensland) Code, schedule 3, table A.⁴⁴

(5) The accidental omission to give notice of a meeting called under subsection (2) to, or the non-receipt of notice of a meeting by, any person shall not invalidate proceedings at the meeting.

(6) The persons present at a meeting called under subsection (2) and having a right to vote at that meeting shall appoint directors of the existing company or the loan fund company and immediately at the conclusion of that meeting the appointment of the administrator shall cease and the directors so appointed shall take office.

59 Expenses of administration

(1) The expenses of and incidental to the administration of the affairs and activities of an existing company or a loan fund company by an administrator appointed under section 57⁴⁵ are payable by the company.

(2) The remuneration of an administrator of an existing company or a loan fund company who is not a servant of the Crown is an expense referred to in subsection (1) and shall be fixed by the Minister.

(3) Where an administrator of an existing company or a loan fund company is a servant of the Crown, the reimbursement of the Crown of an amount certified by the supervisor in respect of the remuneration of that servant is an expense referred to in subsection (1) and is recoverable from the company in a court of competent jurisdiction as a debt due to the Crown.

60 Protection from liability

(1) An administrator of an existing company or loan fund company does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

44 Companies (Queensland) Code, schedule 3, table A (Regulations for Management of a Company Limited by Shares)

45 Section 57 (Appointment and powers of administrator)

(2) If subsection (1) prevents a civil liability attaching to an administrator, the liability attaches instead to the State.

PART 7—MISCELLANEOUS PROVISIONS

Division 1—Proceedings

61 Obstructing supervisor or inspector

Any person who—

- (a) refuses or intentionally delays the admission to any place of the supervisor or an inspector in the exercise of powers under this Act; or
- (b) intentionally obstructs the supervisor or an inspector in the exercise of any such power; or
- (c) fails to comply with a request of the supervisor or an inspector made under any such power; or
- (d) conceals any person from the supervisor or an inspector or prevents any person from appearing before or being examined by the supervisor or an inspector or attempts so to conceal or prevent any person;

is guilty of an offence.

Maximum penalty—10 penalty units.

63 Offences by officers of companies

(1) Subject to this section, where an existing company or a loan fund company contravenes or fails to comply with a provision of this Act that is applicable to it and any officer of the company has—

- (a) failed to take all reasonable steps within the officer's power to prevent the contravention or to secure the compliance by the company with the provision; or

- (b) connived at or, by the officer's own intentional act, either by himself or herself or together with others, been the cause of that contravention or failure to comply;

that officer is guilty of an offence.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) If an offence under subsection (1) is committed with intent to deceive or defraud members or creditors of the existing company or the loan fund company, or for a fraudulent purpose, the offender is liable on conviction to a maximum penalty of 40 penalty units or 12 months imprisonment.

(3) A person shall not be sentenced to imprisonment for an offence against subsection (1)(a) unless, in the opinion of the court, the offence was committed intentionally.

(4) Proceedings for an offence against subsection (1) may be taken against an officer of an existing company or a loan fund company whether or not proceedings are taken against the company with respect to the contravention or failure to comply referred to in that subsection.

64 Evidentiary aids

(1) In any proceedings before a court a copy of, or an extract from, a return or other document lodged with the supervisor under this Act and purporting to be signed by the supervisor and to be certified by the supervisor as such shall be admissible in evidence and, until the contrary is proved, be evidence of the contents of the return or document or, as the case may be, of the part extracted therefrom.

(2) Judicial notice shall be taken of the signature and of the seal of any person who holds or has held office as supervisor and of the signature of a person to whom any duty, power or authority has been delegated under section 7.⁴⁶

Division 2—Other matters

65 Restriction on powers of company

- (1) Where—

46 Section 7 (Delegation by supervisor)

- (a) an existing company or a loan fund company has granted a loan to a member of the company whether before or after the commencement of this Act; and
- (b) as security for the repayment of the loan the company has a mortgage over any property;

then notwithstanding any enactment or rule of law the company is not competent to—

- (c) transfer its interest in the mortgage; or
- (d) exercise any power of sale it may have as mortgagee of that property;

without the consent of the supervisor first had and obtained and the purported transfer of any such interest or the purported exercise of any such power without that consent is void and of no effect.

(2) Notwithstanding any other provision of this Act and notwithstanding the provisions of the Companies (Queensland) Code or any other enactment it is not competent to an existing company or a loan fund company to make any call upon shares in the company or to forfeit any shares in the company unless it has obtained the consent of the supervisor, given at least 6 months prior to the making of the call or the forfeiture of the share so to do and the purported making of any such call or the purported forfeiture of any such share without that consent is void and of no effect.

66 Report to Minister

The supervisor shall, as soon as practicable after 30 June in each year, prepare and submit to the Minister a report with respect to the operation of, and the supervisor's activities under, this Act during the period of 12 months, ending on that date.

67 Inspection of documents

The supervisor shall, on being requested to do so by any person attending the supervisor's office during the ordinary business hours of that office and on the payment by that person of the prescribed fee (if any), make available for inspection any return or document lodged with the

supervisor under section 20⁴⁷ and, where the person so requires, shall provide that person with a copy of any such return or document, or of such part of the return or document as the person specifies, certified under the supervisor's hand and seal.

67A Forms

The chief executive may approve forms under this Act.

68 Regulation making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may—

- (a) impose fees; and
- (b) create offences and prescribe penalties of not more than 10 penalty units for each offence.

69 Special provisions with respect to winding-up

(1) In its application to companies to which this section applies the Companies (Queensland) Code shall be read as if—

(a) after section 363(1) the following subsection had been inserted—

‘(1A) Without prejudice to the application of subsection (1) to an existing company or a loan fund company within the meaning of the *Loan Fund Companies Act 1982* or a company that is operating or managing, controlling or promoting the operation of a loan fund scheme in contravention of section 8 of that Act, such a company may be wound-up under an order of the court on the application of the supervisor of loan fund companies or on the application of the supervisor and 1 or more of the parties specified in that subsection.’; and

(b) after section 364(1)(j) the following paragraphs had been inserted—

47 Section 20 (Returns)

Loan Fund Companies Act 1982

- ‘(k) in the case of a loan fund company within the meaning of the *Loan Fund Companies Act 1982*—the company has failed to lodge with the supervisor of loan fund companies any return or document required to be lodged with the supervisor under section 20, or to comply with a notice served on the company under section 21, of that Act; or
- (l) in the case of an existing company or a loan fund company within the meaning of the *Loan Fund Companies Act 1982*—the supervisor of loan fund companies has, after holding an inquiry under part 6, division 2, reported that the supervisor is of the opinion that the company cannot pay its debts and should be wound-up, or that it is in the interests of the public or of the shareholders or of the creditors of the company that the company should be wound-up; or
- (m) in the case of an existing company or a loan fund company within the meaning of the *Loan Fund Companies Act 1982*—the supervisor has certified that in the supervisor’s opinion the company should be wound-up; or
- (n) the company is operating or managing, controlling or promoting the operation of a loan fund scheme in contravention of the *Loan Fund Companies Act 1982*, section 8.’; and
- (c) after the words ‘Securities Industry (Queensland) Code’, in section 441(j), the words ‘or pursuant to a direction given under the *Loan Fund Companies Act 1982*, section 53(2),’ had been inserted; and
- (d) after the words ‘wound up,’ in section 442(1) the words ‘or a direction given under the *Loan Fund Companies Act 1982*, section 53(2) is served on an existing company or a loan fund company that is being wound up,’ had been inserted; and
- (e) after the words ‘the order’ in section 442(1), the words ‘or, as the case may be, the service of the direction’ had been inserted; and
- (f) the words ‘wound up.’ had been omitted from section 470(1)(c)(iv) and the words ‘wound up; or’ had been inserted instead; and
- (g) after section 470(1)(c)(iv), the following subparagraph had been inserted—

Loan Fund Companies Act 1982

‘(v) if the company is operating, or managing, controlling or promoting the operation of, a loan fund scheme in contravention of the *Loan Fund Companies Act 1982*, section 8.’

(2) If, on the winding-up of a company to which this section applies, any surplus remains after all claims of creditors, both secured and unsecured, have been satisfied or provided for, other than claims of holders of shares in the company in relation to amounts paid up, or credited as paid up, in respect of those shares the following provisions shall apply—

- (a) the holders of shares in the company shall, subject to subsection (6), be entitled to be repaid all amounts paid up, or credited as paid up, by them respectively in respect of those shares;
- (b) if, after making the repayments under paragraph (a), any part of the surplus remains—that part shall, subject to subsection (7), be distributed among the holders of shares in the company in proportion to the amounts paid up, or credited as paid up, by them respectively in respect of those shares.

(3) The holder of shares in a company to which this section applies who, at the time repayments are to be made under subsection (2)(a), is in arrear in making payment of any call or instalment due in respect of those shares shall be entitled to repayment under subsection (2)(a).

(4) The holder of shares in a company to which this section applies who is in arrear in making payment on any call or instalment due in respect of those shares at the date of commencement of the winding-up of that company, shall not be liable to make any payment in relation to such arrear.

(5) After the date of commencement of winding-up of a company to which this section applies no calls shall be made in respect of shares in that company.

(6) The amounts referred to in subsection (2)(a) shall rank equally between themselves and shall be paid in full, unless the surplus is insufficient to satisfy them, in which case they shall abate in equal proportions between themselves.

(7) The holder of shares in a company to which this section applies who, at the time a distribution is made under subsection (2)(b), is in arrear in making payment of any call or instalment due in respect of those shares shall be entitled to participate in that distribution.

(8) Subsections (2) to (7) shall apply on the winding-up of a company to which this section applies notwithstanding anything in the Companies (Queensland) Code to the contrary.

(9) A reference in subsection (2) to an amount paid up, or credited as paid up, in respect of shares includes any premium paid, or credited as paid, in respect of those shares.

(10) This section applies to an existing company, a loan fund company and a company that is operating or managing, controlling or promoting the operation of a loan fund scheme in contravention of section 8.⁴⁸

70 Avoidance of certain obligations upon administration or winding-up

(1) Where an administrator has been appointed under section 57⁴⁹ to administer the affairs and activities of an existing company or a loan fund company or the winding-up of such a company has commenced the supervisor may examine—

- (a) any agreement or undertaking made or given by the company that provides for a liability that would arise upon the termination of an agreement or the occurrence of an event consisting of or connected with the administration of the affairs and activities of the company under any law or the winding-up of the company; and
- (b) any charge or encumbrance created by the company that becomes fixed upon demand, or upon the occurrence of an event consisting of or connected with the administration of the affairs and activities of the company under any law or the winding-up of the company or that gives rise to a liability such as is referred to in paragraph (a);

and to make such other inquiry in relation thereto as the supervisor thinks fit.

(2) If upon such examination and inquiry made by the supervisor pursuant to subsection (1) the supervisor is of the opinion that one purpose of the agreement, undertaking, charge or encumbrance is to allow for the stripping of the company's assets to the detriment of any member of the

48 Section 8 (Operation of loan fund schemes prohibited)

49 Section 57 (Appointment and powers of administrator)

company, the supervisor shall issue the supervisor's certificate under the supervisor's hand that the agreement or undertaking, to the extent that it provides as referred to subsection(1)(a), is unenforceable or that the charge or encumbrance is unenforceable.

(3) Where a certificate of the supervisor has been issued under subsection (2) the administration of the affairs and activities of the company (whether by an administrator appointed under section 57 or by new directors after the termination of his or her administration) or the winding-up of the company shall proceed without regard to—

- (a) any agreement or undertaking to the extent that it has been so certified as unenforceable; and
- (b) any charge or encumbrance so certified as unenforceable.

(4) No action or other proceeding shall be brought in any court in respect of—

- (a) the examination or inquiry conducted by the supervisor under subsection (1); or
- (b) the issue of the supervisor's certificate under subsection (2); or
- (c) the administration of the affairs and activities of a company or the winding-up of a company in accordance with subsection (3).

(5) A writing purporting to be a certificate under the hand of the supervisor and to have been issued under subsection (2) shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

(6) The provisions of this section shall apply and be given effect notwithstanding any Act or law or rule of practice to the contrary.

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	68
3	Key	68
4	Table of earlier reprints	69
5	Tables in earlier reprints	69
6	List of legislation	69
7	List of annotations	70

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 24 April 2002.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 57 of 1995	8 December 1995
1A	to Act No. 37 of 1996	16 December 1996
1B	to Act No. 17 of 1997	14 November 1997
2	to Act No. 17 of 1997	26 June 1998

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Loan Fund Companies Act 1982 No. 1

date of assent 25 March 1982
commenced on date of assent (see s 2)
rep 24 April 2002 (2002 No. 13 s 123(1))
amending legislation—

Loan Fund Companies Act Amendment Act 1982 No. 36

date of assent 2 September 1982
commenced on date of assent

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 6

date of assent 14 November 1990
commenced on date of assent (see s 2(1))

Treasury Legislation Amendment Act 1995 No. 15 pts 1, 5 sch 3

date of assent 11 April 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1995 (see s 2)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2

date of assent 28 November 1995
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17**ss 1–2, 74 sch**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 163)

7 List of annotations**Commencement**

s 2 om R1 (see RA s 37)

Arrangement of Act

s 3 om R1 (see RA s 36)

Meaning of terms

s 4 def “**actuary**” amd 1995 No. 15 s 25 sch 3
 def “**banker’s books**” amd 1997 No. 17 s 74 sch
 def “**foreign company**” sub 1982 No. 36 s 8
 def “**loan fund company**” amd 1982 No. 36 s 2
 def “**Minister**” sub 1990 No. 80 s 3 sch 6
 om 1995 No. 15 s 25 sch 3
 def “**officer**” amd 1982 No. 36 s 8
 def “**public company**” amd 1982 No. 36 s 8
 def “**recognised company**” sub 1982 No. 36 s 8
 def “**recognised foreign company**” ins 1982 No. 36 s 8

Supervisor

s 5 sub 1995 No. 15 s 26; 1996 No. 37 s 147 sch 2

Delegation by supervisor

s 7 sub 1995 No. 15 s 27

Operation of loan fund schemes prohibited

s 8 amd 1995 No. 15 s 25 sch 3

Restricted use of certain descriptions

s 9 amd 1995 No. 15 s 25 sch 3

Power of Minister to declare an existing company to be a loan fund company, for the purposes of this Act

s 10 amd 1982 No. 36 s 3; 1995 No. 15 s 25 sch 3

Management contracts prohibited

s 11 amd 1995 No. 15 s 25 sch 3; 1997 No. 17 s 74 sch

Offer of shares to public

s 13 amd 1982 No. 36 s 8

Loan fund company not to discriminate

s 14 amd 1995 No. 15 s 25 sch 3

Allocation of priority numbers

s 15 amd 1995 No. 15 s 25 sch 3

Register of priority numbers

s 16 amd 1982 No. 36 s 8; 1995 No. 15 s 25 sch 3

Offers of loans to share holders

s 17 amd 1995 No. 15 s 25 sch 3

Certain information to be published

s 18 amd 1995 No. 15 s 25 sch 3

Register of members—additional requirements

s 19 amd 1982 No. 36 s 8; 1995 No. 15 s 25 sch 3

Returns

s 20 amd 1982 No. 36 s 8; 1995 No. 15 s 25 sch 3; 1997 No. 17 s 74 sch

Supervisor to be given information

s 21 amd 1995 No. 15 s 25 sch 3

Company may impose penalty

s 22 amd 1995 No. 15 s 25 sch 3

Borrowing powers of company

s 23 amd 1995 No. 15 s 25 sch 3

Investment of surplus funds

s 24 amd 1995 No. 15 s 25 sch 3

Restriction on investments

s 25 amd 1995 No. 15 s 25 sch 3

Comments by company concerning its status

s 26 amd 1995 No. 15 s 25 sch 3

Requirements as to contracts

s 31 amd 1995 No. 15 s 25 sch 3

Cancellation of contracts

s 32 amd 1995 No. 15 s 25 sch 3

Failure to repay money under cancelled contract an offence

s 35 amd 1995 No. 15 s 25 sch 3

Voting rights

s 37 amd 1982 No. 36 s 8

Application of division

s 39 amd 1982 No. 36 s 8

Surrender of shares

s 41 amd 1995 No. 15 s 25 sch 3

Money from forfeited or surrendered shares to be transferred to a reserve

s 42 amd 1995 No. 15 s 25 sch 3

Register of forfeited and surrendered shares

s 43 amd 1982 No. 36 s 8; 1995 No. 15 s 25 sch 3

Payments by company in respect of forfeited and surrendered shares

s 44 amd 1995 No. 15 s 25 sch 3; 1995 No. 57 s 4 sch 2

Powers of inspection

s 46 amd 1995 No. 15 s 25 sch 3

Power to hold inquiry

s 48 amd 1982 No. 36 s 8

Inquiry procedure

s 49 amd 1995 No. 15 s 25 sch 3

Expenses of inquiry

s 53 amd 1982 No. 36 s 8

Concealing etc. of records

s 54 amd 1995 No. 15 s 25 sch 3

Power of supervisor with respect to prospectuses

s 55 amd 1982 No. 36 s 8; 1995 No. 15 s 25 sch 3

Power of supervisor to suspend acceptance of moneys

s 56 amd 1995 No. 15 s 25 sch 3; 1997 No. 17 s 74 sch

Appointment and powers of administrator

s 57 amd 1982 No. 36 ss 4, 8

Allocation of loan priority numbers by administrator

s 57A ins 1982 No. 36 s 5

Effect of administration on payment of calls etc.

s 57B ins 1982 No. 36 s 5

Supervisor may require meeting for appointment of directors

s 58 amd 1982 No. 36 s 8

Protection from liability

s 60 sub 1995 No. 15 s 28

Obstructing supervisor or inspector

s 61 amd 1995 No. 15 s 25 sch 3

Proceedings for offences

s 62 om 1995 No. 15 s 25 sch 3

Offences by officers of companies

s 63 amd 1995 No. 15 s 25 sch 3

Restriction on powers of company

s 65 amd 1982 No. 36 s 8

Forms

s 67A ins 1995 No. 15 s 29

Regulation making power

s 68 ins 1995 No. 15 s 29

Special provisions with respect to winding-up

s 69 amd 1982 No. 36 s 6

Avoidance of certain obligations upon administration or winding-up

s 70 ins 1982 No. 36 s 7

SCHEDULE 1

om 1995 No. 15 s 25 sch 3

SCHEDULE 2—NOTICE OF CANCELLATION

om 1995 No. 15 s 25 sch 3