

1989

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**TRUSTEE (AMENDMENT) BILL 1989**

**EXPLANATORY MEMORANDUM**

**Circulated by Authority of the Attorney-General**

**Ms Rosemary Follett MLA**

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## TRUSTEE (AMENDMENT) BILL 1989

### OUTLINE

The Trustee (Amendment) Bill 1989 (the Bill) will provide for amendment of the Trustee Act 1957 (the Principal Act) in respect of the Second Schedule to the Principal Act.

The Bill will modify the effect of certain provisions of the New South Wales Trustee Act 1942 in its application in the Australian Capital Territory. The amendments will modify section 14 of the NSW Act (Item 11 of the Second Schedule) to permit a building society which has been established for less than 10 years in the Australian Capital Territory to be approved for investment of trustee funds. Approval will only be granted if a building society has complied substantially with the Co-operative Societies Act 1939 during the period which it has carried on business, and it can provide an undertaking issued by another established (10 years or longer) building society which has withdrawable funds of not less than \$50,000,000 and which has complied substantially with relevant State or Territory laws during the immediately preceding period of 5 years.

Details of the Bill are included in the attached notes on clauses.

### FINANCIAL IMPACT STATEMENT

The Bill will have no effect on income or expenditure.

## Notes on Clauses

### Trustee (Amendment) Bill 1989

#### Clause 1 : Short Title

This clause cites the short title, when enacted, as the Trustee (Amendment) Act 1989.

#### Clause 2 : Principal Act

This clause provides that where the term "Principal Act" is used, it refers to the Trustee Act 1957.

#### Clause 3 : Second Schedule

This clause refers to the Second Schedule to the Principal Act and amends the Second Schedule to replace subsection (2A) from paragraph (a) in the third column of item 11 and replaces that subsection with revised subsection (2A) and a new subsection (2AA). The proposed amendments are:

Subparagraph (b) of revised subsection (2A) will extend the opportunity for a building society which has not carried on business in the ACT over a period of 10 years to be approved by the Minister for the investment of trust funds provided:

- (i) the building society has complied substantially with the Co-operative Societies Act 1939 during the period which it has carried on business in the ACT; and
- (ii) the building society can furnish an irrevocable undertaking for the payment of \$50 million on demand by the Minister in the event of that building society being wound up or unable to meet its liabilities.

New subsection (2AA) will provide that the irrevocable undertaking mentioned in revised subparagraph (2A)(b) can only be provided on behalf of the ACT-based building society provided that the building society giving the irrevocable undertaking:

- (i) has carried on business in a State or Territory for not less than 10 years;
- (ii) has withdrawable funds of not less than \$50 million; and
- (iii) has complied substantially with the relevant law in each State or Territory in which it has carried on business at any time during the immediately preceding period of 5 years.