

AUSTRALIAN CAPITAL TERRITORY.

No. 10 of 1956.

AN ORDINANCE

To amend the Co-operative Trading Societies Ordinance 1939-1954.

BE it ordained by the Administrator of the Government of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government (Administration) Act 1910-1955*, as follows:—

1.—(1.) This Ordinance may be cited as the *Co-operative Societies Ordinance 1956*.^{*} Short title and citation.

(2.) The *Co-operative Trading Societies Ordinance 1939-1954*† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Co-operative Societies Ordinance 1939-1956*.

2. The title of the Principal Ordinance is amended by omitting the word "Trading".

3. Section three of the Principal Ordinance is repealed and the following section inserted in its stead:—

"3. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1-4).

Part II.—Administration (Sections 5-12).

Part III.—Co-operative Trading Societies (Sections 13-14).

Part IIIA.—Co-operative Building Societies (Sections 14A-14C).

Part IIIB.—Co-operative Credit Societies (Sections 14D-14H).

Part IV.—Incorporation (Sections 15-48).

Part V.—Rules, Management and Disputes (Sections 49-58).

Part VI.—Winding Up (Sections 59-62).

Part VII.—Evidence and Offences (Sections 63-80).

Part VIII.—Miscellaneous (Section 81)."

^{*} Notified in the *Commonwealth Gazette* on 4th October, 1956.

† Ordinance No. 9, 1939, as amended by No. 1, 1946; No. 14, 1950; and No. 14, 1954.

Definitions.

4. Section four of the Principal Ordinance is amended—

(a) by inserting after the definition of “bond” the following definitions:—

“‘building society’ means a society formed in pursuance of section fourteen A of this Ordinance;

“‘credit society’ means a society formed in pursuance of section fourteen D of this Ordinance;”;

(b) by inserting after the definition of “officer” the following definition:—

“‘registered’ means registered under this Ordinance;”;

(c) by inserting after the definition of “the Companies Act” the following definition:—

“‘the Court’ means the Supreme Court of the Australian Capital Territory;”;

(d) by adding at the end thereof the following definition:—

“‘trading society’ means a society formed in pursuance of section thirteen of this Ordinance.”.

5. Section fourteen of the Principal Ordinance is repealed and the following section inserted in its stead:—

Additional powers.

“14. A registered trading society, if so authorized by its rules, has, in addition to any other powers conferred on it by this Ordinance, power to make advances to its members against products delivered to the society.”.

6. After Part III. of the Principal Ordinance the following Parts are inserted:—

“PART IIIA.—CO-OPERATIVE BUILDING SOCIETIES.

Objects.

“14A. A building society may be formed for all or any of the following objects:—

(a) to assist its members to acquire or erect homes;

(b) to assist its members to acquire other freehold property or leasehold property; and

(c) to make loans to its members upon the security of freehold property or leasehold property.

Second mortgages.

“14B.—(1.) A registered building society shall not advance money on the security of property which is subject to a prior mortgage if—

(a) the prior mortgage is not in favour of the society or another registered building society; or

(b) the making of the advance would result in the amount advanced on the security of the property, including the principal, and the interest and charges, if any, due under the prior mortgage, exceeding ninety per centum of the value of the property.

“(2.) If a registered building society suffers loss by reason of the society making an advance in contravention of the last preceding sub-section, the members of the Board of the society who authorized the advance are jointly and severally liable for the loss.

“(3.) Where—

(a) a registered building society advances money on the security of property which is subject to a prior mortgage; and

(b) the Board of the society, when authorizing the advance, acted upon a report as to the value of the property made within the preceding period of three months by a person employed or instructed by the society to value the property,

the value of the property stated in the report shall, for the purposes of paragraph (b) of sub-section (1.) of this section, be deemed to be the value of the property.

“14c.—(1.) A registered building society shall not employ or instruct a person to value a property tendered as a security to the society unless the person has been previously approved by the Registrar and that approval has not been withdrawn by the Registrar. Valuation of securities.

“(2.) The Registrar may approve of a person for the purposes of the last preceding sub-section either unconditionally or subject to such conditions as the Registrar thinks fit.

“(3.) A person approved by the Registrar under this section who fails to comply with the conditions, if any, subject to which the approval was granted is guilty of an offence and is punishable, upon conviction, by a fine not exceeding Twenty pounds.

“PART IIIB.—CO-OPERATIVE CREDIT SOCIETIES.

“14d. A credit society may be formed for all or any of the following objects:—

- (a) to assist its members to purchase materials for the erection of homes;
- (b) to assist its members to pay the cost of painting, adding to or repairing their homes;
- (c) to assist its members to purchase furniture for their homes;
- (d) to assist its members to pay the cost of removing household furniture and effects from or to their homes;
- (e) to assist its members to commence, acquire or carry on a business or trade;

- (f) to assist its members to purchase or lease a home or a place of business or trade;
- (g) to assist its members to acquire tools, implements, machinery, materials or stock-in-trade for a business or trade; and
- (h) to assist its members to discharge financial liabilities.

Additional powers.

“ 14E. A registered credit society, if so authorized by its rules, has, in addition to any other powers conferred on it by this Ordinance, power—

- (a) to make, arrange or guarantee a loan or loans to a member for any purpose included in the objects of the society; and
- (b) to supervise the expenditure of a loan made, arranged or guaranteed by the society.

Applications for loans.

“ 14F. A registered credit society shall not make a loan to a member of the society, or guarantee the repayment by a member of a loan, unless—

- (a) the member makes application in accordance with the rules of the society; and
- (b) the member furnishes to the Board of the society a statutory declaration stating—
 - (i) whether or not he is a member of another credit society;
 - (ii) where he is a member of another credit society—whether or not he owes money to that other society;
 - (iii) where he owes money to that other credit society—particulars of the amount owing and of the conditions of repayment of that amount; and
 - (iv) that he is aware that the making or guaranteeing, as the case may be, of the loan by the society is subject to this Ordinance and the rules of the society.

Loan limit.

“ 14G. A registered credit society shall not make a loan to a member of the society, or guarantee the repayment by a member of a loan, if the sum of that loan and the total amount owing by the member under any other loan or loans—

- (a) which has or have been made to him by the society; or
- (b) the repayment by him of which has been guaranteed by the society,

exceeds Three hundred pounds.

Supervision of expenditure of loans.

“ 14H. Where a registered credit society undertakes to supervise the expenditure by a member of the society of a loan made, or to be made, to him by another person, the society is, unless the society

and the lender agree otherwise, bound only to take reasonable care to ensure that the loan is used for the purpose for which it was, or is to be, made.”.

7. The Principal Ordinance is amended by inserting after section sixteen the following section:—

“16A. A society has power to do all things necessary for the purpose of carrying out its objects and, for that purpose, a society may, if so authorized by its rules— Powers of registered societies.

- (a) raise money on loan;
- (b) receive money on deposit; and
- (c) acquire shares in another society.

8. Section eighteen of the Principal Ordinance is amended by omitting from sub-section (1.) the words “societies registered under this Ordinance” and inserting in their stead the words “registered trading societies, registered building societies or registered credit societies.” Amalgamation.

9. Section thirty-five of the Principal Ordinance is amended by omitting from sub-section (4.) the words “Companies (Registration of Securities) Act, 1918, in its application to the Territory,” and inserting in their stead the words “Companies Act”. Borrowing powers.

10. Section thirty-seven of the Principal Ordinance is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-section:— Investments.

“(1.) A society may invest its funds—

- (a) in any securities authorized by law for the investment of trust funds;
- (b) by deposit with a bank, including a savings bank, carrying on business in Australia;
- (c) by deposit with a society which is authorized by its rules to receive deposits; or
- (d) in any prescribed security.”.

11. Section thirty-eight of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:— Transfer of engagements.

“(1.) Where a registered trading society, a registered building society or a registered credit society undertakes to fulfil the engagements of another registered trading society, registered building society or registered credit society, as the case may be, that last-mentioned society may, by special resolution, transfer its engagements to that first-mentioned society.”.

12. Section thirty-eight A of the Principal Ordinance is amended by omitting from paragraph (b) of sub-section (5.) the words “the Table marked A in the Second Schedule” and inserting in their stead the words “Table A in Schedule Two”. Registration of society as a company.

13. After section forty of the Principal Ordinance the following section is inserted:—

Service of documents on Society.

“40A. A document, including a summons, notice, order or other legal process, may be served on a society—

- (a) by leaving it at the registered office of the society with some person apparently in the service of the society; or
- (b) by sending it by post enclosed in a prepaid registered letter addressed to the society at its registered office.”.

Returns.

14. Section forty-four of the Principal Ordinance is amended by omitting from sub-section (2.) the words “before the thirtieth day of September in each year, or before such later date as the Registrar authorizes” and inserting in their stead the words “within three months after the end of the financial year of the society, or within such further period as the Registrar authorizes”.

Rules.

15. Section forty-nine of the Principal Ordinance is amended by omitting from paragraph (xii) of sub-section (1.) the word “of” (second occurring) and inserting in its stead the word “or”.

Financial year.

16. Section fifty-seven of the Principal Ordinance is amended by inserting at the end of sub-section (1.) the words “or, where the Registrar has given his consent in writing to the financial year of the society ending on another date, being a date not earlier than the thirty-first day of May and not later than the thirtieth day of September, on that other date”.

Winding up.

17. Section fifty-nine of the Principal Ordinance is amended—

- (a) by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

“ (1.) A society may be wound up voluntarily, by the Court, subject to the supervision of the Court or upon the certificate of the Registrar.

“ (2.) In the case of a winding up voluntarily, by the Court or subject to the supervision of the Court, the society may, subject to this Part, be wound up in the same manner and in the same circumstances in which a company formed and registered under the Companies Act may be so wound up.”;

- (b) by adding at the end of paragraph (e) of sub-section (3.) the words “or fraud”; and

- (c) by omitting sub-sections (5.) to (10.) (inclusive) and inserting in their stead the following sub-sections:—

“ (5.) Upon the issue of a certificate by the Registrar under this section, the Registrar may appoint a person to be the liquidator of the society and, in the event of a vacancy in that office, may appoint a person to fill the vacancy.

“ (6.) A person appointed under the last preceding sub-section shall give such security, and is entitled to such fees, as are prescribed.

“ (7.) A winding up of a society upon the certificate of the Registrar shall be deemed to commence at the time the certificate is issued and the liquidator of the society shall give notice of the commencement of the winding up in the *Gazette* and in a newspaper published and circulating in the Territory.”.

18. Section sixty of the Principal Ordinance is repealed and the following sections are inserted in its stead :—

“ 60.—(1.) In the case of a winding up of a society, the provisions of Part X. of the Companies Act with respect to the winding up of a company formed and registered under that Act, including the provisions as to dissolution contained in Division 6 of that Part, shall, subject to this Part, apply to and in relation to the winding up of the society. Application of Companies Act in a winding up.

“ (2.) In the application of the provisions of Part X. of the Companies Act to the winding up of a society—

- (a) a reference in that Part to a company shall be read as a reference to the society;
- (b) a reference in that Part to a special resolution or an extraordinary resolution shall be read as a reference to a special resolution as defined by section forty-eight of this Ordinance;
- (c) a reference in that Part to the Registrar-General or the Registrar shall be read as a reference to the Registrar of Co-operative Societies appointed under this Ordinance;
- (d) a reference in that Part to the articles of a company shall be read as a reference to the Rules of the society;
- (e) the following paragraph shall be read in lieu of paragraphs (d) and (e) of sub-section (1.) of section two hundred of the Companies Act :—

‘ (d) a contribution shall not be required from a member in excess of the sum of—

- (i) the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (ii) the amount of the contingent liability, if any, attached to those shares; and
- (iii) the amount of any charge payable by the member to the society in accordance with the rules of the society;’;

- (f) a reference in section two hundred and eight or two hundred and ten of that Part to a proprietary company shall be read as a reference to an association or union registered under this Ordinance; and
- (g) in the case of a winding up on the certificate of the Registrar, the winding up shall be deemed to be a voluntary winding up and, without in any way limiting the generality of any provision of this Part, sections two hundred and sixty-nine, two hundred and seventy and two hundred and seventy-one of the Companies Act apply to and in relation to the winding up as if it were a member's voluntary winding up within the meaning of that Act.

Filling vacancy
in position of
liquidator
(voluntary
winding up).

“ 60A. Where—

- (a) a society is being wound up voluntarily;
- (b) a vacancy occurs in the office of liquidator of the society; and
- (c) the Registrar is of opinion that the vacancy is unlikely to be filled in the manner provided by Part X. of the Companies Act as applied by this Ordinance to the winding up,

the Registrar may appoint a person to fill the vacancy.”

Fraud or
misappropriation.

19. Section seventy-six of the Principal Ordinance is amended by omitting from sub-section (2.) the words “the Court” and inserting in their stead the words “the court by which he was convicted”.

Dated this thirteenth day of September, 1956.

J. NORTHCOTT
Administrator.

By His Excellency's Command,

NEIL O'SULLIVAN
for and on behalf of the Minister of
State for the Interior.

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.