

AUSTRALIAN CAPITAL TERRITORY

Co-operative Societies (Amendment) Ordinance 1985

No. 4 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 15 February 1985.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to amend the *Co-operative Societies Ordinance 1939*

Short title

1. This Ordinance may be cited as the *Co-operative Societies (Amendment) Ordinance 1985*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Co-operative Societies Ordinance 1939*.²

Interpretation

3. Section 4 of the Principal Ordinance is amended—

- (a) by omitting from the definition of "Insurance Corporation" in subsection (1) "Shares and Deposits" and substituting "Share and Deposit"; and

- (b) by inserting after the definition of “officer” in sub-section (1) the following definition:

“ ‘permanent building society’ means a building society that is not by the Rules to terminate on a fixed date, or on the occurrence of a particular event;”.

Shares

4. Section 22 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (3) “Except as provided in the next succeeding sub-section” and substituting “Subject to this section”; and

- (b) by inserting after sub-section (3A) the following sub-sections:

“(3B) A society may, if authorized by the Rules, issue different classes of shares described in the Rules.

“(3C) The Rules of a society may provide for—

- (a) the payment of different rates of dividend or interest; and
(b) different conditions relating to issue,

as determined from time to time by the Board of the society in respect of the different classes of shares that the society may issue.

“(3D) Where different classes of shares have been issued by a society, those classes of shares shall rank equally in the event of the winding-up of the society.”.

Liquidity

5. Section 23A of the Principal Ordinance is amended by omitting from the definition of “League” in sub-section (2) “A.C.T. Credit Union League Co-operative Limited” and substituting “A.C.T. Credit Union Association Co-operative Limited”.

6. Section 25 of the Principal Ordinance is repealed and the following section substituted:

Purchase or repayment of shares

“25. (1) Subject to sub-section (2), a society may, if so authorized by the Rules—

- (a) purchase a share of a member of the society; or

- (b) with the consent of a member of the society, repay to him the value of his shares ascertained in accordance with the Rules.

“(2) A society shall not, without the consent of the Registrar, make any purchase or repayment referred to in sub-section (1) if the society has received from any person who is not a member of the society any money on loan or deposit that is not secured by mortgage and has not been repaid.

“(3) The Registrar shall not give his consent under sub-section (2) where, in his opinion, the proposed purchase or repayment could be prejudicial to the interest of—

- (a) members of the society other than the member referred to in paragraph (1) (a) or (b), as the case requires;
- (b) prospective members of the society; or
- (c) creditors of the society.”.

Repeal of section 27

- 7. Section 27 of the Principal Ordinance is repealed.

Fees

8. Section 33 of the Principal Ordinance is amended by omitting from sub-section (1) “prescribed” and substituting “determined under section 80C”.

9. After section 37 of the Principal Ordinance the following sections are inserted:

Investments in corporations

“37A. (1) Subject to sub-section (2), a registered credit society or a registered permanent building society may, with the consent of the Registrar, invest its funds in a corporation—

- (a) by the purchase of shares; or
- (b) by deposit,

where such an investment is necessary to obtain from that corporation or any other corporation, for the society or its members, a service that —

- (c) is an administrative, financial or prescribed service; and
- (d) will further the objects of the society.

“(2) A society proposing to invest in a corporation pursuant to sub-section (1) shall lodge a written application with the Registrar for his consent to the proposed investment.

“(3) An application under sub-section (2) shall state—

- (a) the amount proposed to be invested;
- (b) the name of the corporation with which the society proposes to invest;
- (c) the service to be provided by that corporation or any other corporation;
- (d) where the service is to be provided by a corporation other than the corporation in which the society proposes to invest—the name of that other corporation;
- (e) the purpose for which that service is required; and
- (f) the circumstances which render it necessary for the society to invest its funds in a corporation in order to obtain the proposed service.

“(4) The Registrar shall not consent to a proposed investment where, in his opinion, the investment—

- (a) would involve undue risk or prejudice to the interests of—
 - (i) members of the society; or
 - (ii) persons lending money to, depositing money with or otherwise investing in, the society;
- (b) is not necessary to achieve the purpose specified in the application; or
- (c) would cause the society to commit a breach of this Ordinance or of the Rules.

“(5) In this section, ‘corporation’ means any body corporate, whether formed or incorporated within or outside the Territory, and includes any company, foreign company or recognized company within the meaning of the *Companies Act 1981* but does not include—

- (a) a corporation sole;
- (b) a society registered under this Ordinance; or
- (c) an association, society, institution or body incorporated under the *Associations Incorporation Ordinance 1953*.

Investment by A.C.T. Credit Union Association Co-operative Limited

“37B. (1) In addition to the investments which may be made in pursuance of section 37, the A.C.T. Credit Union Association Co-operative Limited may invest its funds by deposit with all or any of the following companies—

- (a) Australian Federation of Credit Unions Ltd;
- (b) AFCUL Services Corporation Pty Ltd;
- (c) Credit Union Financial Services (Australia) Ltd.

“(2) The consent of the Registrar is not required for an investment referred to in sub-section (1).”.

10. Before section 81 of the Principal Ordinance the following sections are inserted in Part VIII:

Review of decisions

“80A. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Registrar—

- (a) refusing to consent to a proposed purchase or repayment of shares under sub-section 25 (2); or
- (b) refusing to consent to a proposed investment under section 37A.

Notification of decision

“80B. (1) Where the Registrar makes a decision referred to in section 80A he shall cause a statement in writing to be given to the society whose interests are adversely affected by the decision, setting out the decision, the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and giving reasons for the decision.

“(2) A statement by the Registrar under sub-section (1) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, a person whose interests are adversely affected by the decision to which the statement relates is entitled to apply to the Tribunal for a review of the decision.

“(3) The validity of a decision to which a statement under sub-section (1) relates shall not be taken to be affected by a failure to comply with this section.

Power of Minister to determine fees

“80C. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Ordinance.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 25 February 1985.
2. No. 9, 1939 as amended by No. 1, 1946; No. 14, 1950; No. 14, 1954; No. 10, 1956; No. 18, 1958; Nos. 3 and 7, 1962; No. 10, 1963; No. 18, 1966; No. 6, 1972; Nos. 16 and 29, 1973; Nos. 35 and 47, 1974; Nos. 13 and 15, 1975; No. 14, 1977; No. 46, 1978; No. 35, 1979; Nos. 38, 39 and 90, 1982; No. 11, 1984.