

**EXPLANATORY STATEMENT**

**AUSTRALIAN CAPITAL TERRITORY**

**CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE 1989**

**ORDINANCE NO. 9 OF 1989**

The Co-operative Societies Ordinance 1939 (the Principal Ordinance) regulates the administration of Co-operative Societies in the Territory.

The Co-operative Societies (Amendment) Ordinance 1989 (the Ordinance) amends the Principal Ordinance to make societies more accountable to their members and to effect certain other changes.

A limitation relating to the capacity of building societies to lend as second mortgagee is removed.

The provisions relating to the ranking of shares in a society are amended so that, in the event of the winding up of that society, all withdrawable shares will rank equally and all fixed shares will rank equally. Withdrawable shares will rank in priority to fixed shares.

The statutory obligations imposed upon an auditor of a society are strengthened. An auditor is required to report whether the provisions of the Ordinance and the Rules of the society in respect of the administration of funds have been observed and whether the accounts have been properly drawn up in accordance with the Principal Ordinance.

Details of the Ordinance are included in the Attachment.

**ISSUED BY AUTHORITY OF  
THE MINISTER OF STATE  
FOR THE ARTS AND TERRITORIES**

Co-operative Societies (Amendment) Ordinance 1989

Section 1 cites the proposed Ordinance as the Co-operative Societies (Amendment) Ordinance 1989.

Section 2 defines the Principal Ordinance as the Co-operative Societies Ordinance 1939.

Section 3 inserts a definition of 'accounts'. The definition is the same as the definition of 'accounts' in Schedule 7 to the Companies Regulations made under the Companies Act 1981.

Section 4 omits paragraph 14B(1)(a) of the Principal Ordinance which provides that a registered building society shall not advance money on the security of property subject to a prior mortgage if the prior mortgage is not in favour of the registered building society or another such society, the Commonwealth, the Commissioner of Housing or the Director of War Service Homes.

Section 5 substitutes a new subsection 22(3D) which clarifies the ranking of different classes of shares if a society registered under the Ordinance is wound up. In that event all fixed shares shall rank equally and all withdrawable shares shall rank equally with withdrawable shares ranking in priority to fixed shares.

Section 5 also inserts a new subsection 22(3E) which links the definition of the terms 'fixed share' and 'withdrawable share' to the definitions of these terms contained in Division 2 of Part IIIA of the Principal Ordinance.

Section 6 amends section 56 of the Principal Ordinance in order to strengthen the duties imposed on auditors.

Paragraph 56(4)(b) of the Principal Ordinance is recast so that it accords with Schedule 7 to the Companies Regulations by imposing upon an auditor of a society a duty to report whether the accounts are drawn up so as to exhibit a true and fair view of the financial position of the society.

New paragraph 56(4)(ba) imposes a general duty upon an auditor of a society to report whether the accounts are drawn up in accordance with the Principal Ordinance.

Paragraph 56(4)(c) of the Principal Ordinance is similarly amended so as to require an auditor of a society to state whether the provisions of both the Principal Ordinance and the society's Rules relating to the administration of the funds of the society have been observed.

New paragraph 56(4)(d) obliges the auditor of a building society to state whether the society has complied with sections 14AB, 14AC and 14CH of the Principal Ordinance. These sections relate, respectively, to the obligation imposed upon a building society:

- . not to have at any time less than the prescribed percentage of the value of the society's assets associated with its primary object;
- . not to advance on prescribed loans (for personal occupants of residential dwellings) less than the prescribed percentage of money advanced annually on loans by the society; and
- . not to fail to maintain its capital adequacy.

Subsection 56(5) is amended to substitute a reference to accounts for a reference to balance sheet and profit and loss account in order to have the subsection accord with Schedule 7 to the Companies Regulations.