

AUSTRALIAN CAPITAL TERRITORY

CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE 1986

Ordinance No. 9 1986

EXPLANATORY STATEMENT

The Co-operative Societies Ordinance 1939 (the Principal Ordinance) regulates the activities of co-operative societies in the Australian Capital Territory. The Co-operative Societies (Amendment) Ordinance 1986 removes a number of limitations upon the financial activities of permanent building societies, thereby permitting limited diversification and enabling such societies to remain competitive in the financial market. The Ordinance at the same time ensures that adequate prudential controls will be maintained.

Building societies are required to retain as their primary object the provision of housing finance and are required at all times to maintain certain levels of capital adequacy. In addition to their primary object building societies are permitted to adopt secondary objects which will permit their entry into the consumer lending field.

Building societies have also been given greater flexibility in the manner in which they may raise money and are permitted to act as agents for persons or organisations offering specialist services such as travel and insurance to the societies' members.

The effect of each of the provisions of the proposed Ordinance is outlined in the attachment.

ATTACHMENT

CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE 1986

Sections 1, 2 and 3 are interpretation provisions.

Section 4 amends section 5B of the Principal Ordinance to provide for inspection of subsidiary corporations.

Section 5 inserts the heading "Division 1-General" to the new Division.

Section 6 repeals section 14A of the Principal Ordinance and inserts new sections 14A, 14AA, 14AB, 14AC and 14AD.

Section 14A provides that a building society shall have as its primary object the making of loans to its members upon the security of mortgages over land that is used for residential purposes and may determine such secondary objects as it thinks fit.

Section 14AA provides for restriction by regulation of the scope of secondary objects determined by a building society.

Section 14AB provides that a prescribed percentage of a building society's assets must be associated with its primary object at any time. The penalty for non-compliance is \$5,000. A similar penalty applies where a building society fails to provide a monthly statement to the Registrar showing the value of its assets and which of these were associated with its primary object.

Section 14AC provides that, in any financial year, a building society must advance a prescribed percentage of the total amount which it advances and loans, to owner occupiers on the security of a mortgage over land. This will ensure that building societies retain as their principal function the provision of housing finance, particularly to first home buyers. Penalties of \$5,000 apply where this requirement is not met or where the required annual statement is not furnished.

Section 14AD provides for the prescription of limits on loans other than primary loans.

Section 7 of the proposed Ordinance inserts a new Division into Part IIIA of the Principal Ordinance. This Division will relate to Capital Adequacy and comprises sections 14CG, 14CH, 14CJ, 14CK and 14CL.

Section 14CG is an interpretation provision.

Section 14CH provides that a building society must maintain its capital adequacy. A penalty of \$5,000 applies.

Section 14CJ provides for notification of the Registrar where capital adequacy has not been maintained. A daily penalty of \$5,000 applies.

Section 14CK empowers the Registrar to require that certain statements in relation to capital adequacy be furnished. A penalty of \$5,000 applies.

Section 14CL provides that where the Registrar becomes aware that a building society has failed to maintain its capital adequacy, he or she shall direct that capital adequacy be restored. A daily penalty of \$10,000 applies.

Section 8 of the proposed Ordinance amends section 16A of the Principal Ordinance to extend the powers of building societies to raise money.

Section 9 amends section 35 of the Principal Ordinance and removes the current restriction on societies to raising money on loans or by negotiating prescribed bills of exchange. Building societies may raise money through the normal range of commercial transactions.

Section 10 amends section 36 of the Principal Ordinance to take into account the extension of money raising powers.

Section 11 inserts a new section 39A which empowers building or credit societies to act as agents.

Section 12 amends section 42 of the Principal Ordinance to require that building societies keep records detailing matters in relation to association of assets with primary object and relating to loans for residential purposes and maintenance of capital adequacy.

Section 13 amends section 44 of the Principal Ordinance to require returns in respect of subsidiary corporations. Paragraph (b) corrects a typographical error.

Section 14 amends section 81 of the Principal Ordinance to give the Minister power to make regulations in relation to the application and scope of secondary objects, those items which are to be included in the calculation of the assets of a building society and the method by which the value of those assets is to be calculated. The Minister is also empowered to make regulations for the purposes of determining whether an asset is associated with the primary object of a building society and in respect of record keeping for the purposes of section 42.

Section 15 clarifies the application of the new legislation by providing that where the Ordinance comes into effect part way through a financial year of a society, the period from the commencement of the Ordinance to the end of a financial year shall be regarded as a financial year for the purposes of section 14AC.