

AUSTRALIAN CAPITAL TERRITORY

CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE 1985

EXPLANATORY STATEMENT

No. 4 of 1985

The Co-operative Societies Ordinance 1939 (the "Principal Ordinance") provides for the registration of co-operative societies in the Territory, deals with their powers and duties and matters connected with their management as corporations and establishes machinery for oversight of their operations.

The principal purpose of the Co-operative Societies (Amendment) Ordinance 1985 is to broaden the powers of co-operative societies in two areas in which, in the past, the societies' activities have been unduly restricted. Two additional powers are provided for: a wider power to issue different classes of shares, which will be available to all registered societies, and a power applicable only to permanent building societies and credit societies to invest funds in corporations. A number of amendments to sections of the Principal Ordinance which flow from these changes are included in the Ordinance. The opportunity has also been taken to make provision for a change in the name of the A.C.T. Credit Union League Co-operative Limited and for a new procedure for determining fees payable under the Principal Ordinance.

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

Ord 85/83

DETAILS OF AMENDMENTS

CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE 1985

Section 1 of the Ordinance deals with the citation of the Ordinance.

Section 2 identifies the Co-operative Societies Ordinance 1939 as the "Principal Ordinance" referred to in the Ordinance.

Section 3 corrects, by paragraph (a), an inaccurate reference in the Principal Ordinance to the Australian Building Societies Share and Deposit Insurance Corporation Limited. Paragraph (b) of section 3 amends section 4 of the Principal Ordinance by inserting a definition of "permanent building society". The definition is needed to distinguish permanent building societies from terminating building societies for the purpose of the new section 37A.

Section 4 relaxes restrictions previously imposed by section 22 of the Principal Ordinance which authorized co-operative societies to issue only two classes of shares: borrowers' shares and ordinary shares. Societies will now be entitled to issue any classes of shares that may be specified in their rules and, under sub-section 22(3C), be able to provide in their rules for the determination of different rates of dividend or interest and different conditions of issue in respect of the different classes of shares. As before, all shares rank equally in the winding up of a society. The change will allow co-operative societies, and particularly building societies and credit unions, greater flexibility in raising funds by the issue of shares.

The amendment of section 23A of the Principal Ordinance which is contained in section 5 deletes from the Ordinance a reference to the A.C.T. Credit Union League Co-operative Limited. Section 23A will now refer to that society under its new name, the A.C.T. Credit Union Association Co-operative Limited.

A new section 25 is inserted into the Principal Ordinance by section 6. The new section draws together the powers conferred on societies by the previous sections 25 and 27 to purchase a share of a member or to repay to a member, with his consent, the value of his shares. These powers will no longer be subject to qualifications as to the maximum value of the shares that may be purchased in any one year and the use only of money which is surplus to the society's requirements. Neither purchases nor repayments of the value of shares will be permitted, however, if the society owes money to a non-member which is not secured by mortgage. While the Registrar of Co-operative Societies has power to waive this condition in particular cases, no proposed purchase or repayment could be approved if it could prejudice the interests of members or prospective members or creditors of the society.

In consequence of the absorption into the new section 25 of the provisions previously contained in section 27 of the Principal Ordinance, section 7 repeals section 27.

Section 8 amends sub-section 33(1) of the Principal Ordinance to provide for payment to the Registrar of fees determined under the new procedure in section 80C of the Ordinance.

Section 9 inserts into the Principal Ordinance two new sections dealing with the investment of the funds of permanent building societies and credit societies in corporations. New section 37A confers power on the societies to purchase shares in or deposit funds with a corporation where such investments are necessary to obtain an administrative, financial or other prescribed service that will further the objects of the society. Each investment is to be subject to obtaining the consent of the Registrar of Co-operative Societies, who is required to withhold consent if he considers that the investment would involve undue risk or prejudice to the interests of members of the society or persons lending money to, depositing money with or investing in the society; that the investment is not necessary to achieve the stated purpose; or that the investment would result in a breach of the Ordinance or of the rules of the society.

New section 37B makes separate provision for the investment of funds by the A.C.T. Credit Union Association Co-operative Limited in several corporations established by the national credit union movement. These investments, which are of a continuing kind, are a necessary element of participation by A.C.T. credit societies in the investment management services and other services offered by their national organization. The Registrar's consent is not required for investments under section 37B.

Section 10 inserts three new sections into the Principal Ordinance. New section 80A creates a right of review by the Administrative Appeals Tribunal where the Registrar refuses consent either to the purchase or repayment of the value of a member's shares by a society or to a proposed investment of funds in a corporation. In section 80B provision is made consistently with the Administrative Appeals Tribunal Act 1975 (in particular, section 28 of that Act) in relation to the form in which societies are to be notified where the Registrar makes a decision adverse to their interests. New section 80C will enable the Minister to determine fees for the purposes of the Principal Ordinance by notice published in the Gazette, rather than by means of regulations.