

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

CO-OPERATIVES SOCIETIES (AMENDMENT) ORDINANCE (NO.2) 1985

CREDIT (AMENDMENT) ORDINANCE 1985

No. 38 of 1985

Section 12(10) of the Act defines "determination" to mean a determination made by a Minister pursuant to a provision of an Ordinance empowering him to determine by notice in writing published in the Gazette, fees or charges for the purposes of the Ordinance.

Section 12(9A) of the Act provides that every determination shall be laid before each House of Parliament within fifteen sitting days of that House after the day on which the determination is made and if not so laid before each House of Parliament, shall be void and of no effect.

Section 12(9B) of the Act provides that sections 12(4) to 12(7) inclusive of the Act, which deal with the disallowance of Ordinances, shall apply to a determination laid before a House of Parliament as if the references in those sub-sections to an Ordinance were a reference to a determination.

The Co-operative Societies (Amendment) Ordinance (No.2) 1985 amends the Co-operative Societies Ordinance 1938 ("the principal Ordinance") to enable the Minister to determine fees for the purposes of the principal Ordinance.

The Credit (Amendment) Ordinance 1985 amends the Credit Ordinance 1985 to provide that the Minister may determine a fee for the purpose of section 247 of the Credit Ordinance relating to the approval of proposed credit documents by the Credit Tribunal.

The amending Ordinances relate to matters of a Commonwealth budgetary nature and were not referred to the ACT House of Assembly prior to making.

Details of the amending Ordinances are set out in attachments A and B.

ORD 41/85

ORD 42/85

CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE (NO. 2) 1985

Sections 1, 2 and 3 deal with citation, commencement and interpretation.

Section 4 inserts into section 4 of the principal Ordinance a new sub-section, sub-section 4(3) which provides that a reference in the Ordinance to a determined fee means a reference to a fee determined under section 80C of the Ordinance.

Section 5 amends section 5C of the principal Ordinance which deals with access by the Insurance Commissioner to records held by the Registrar by deleting a reference to a prescribed fee and replacing it with a reference to a determined fee.

Section 6 amends section 9 of the principal Ordinance which relates to the inspection of documents held by the registrar by deleting a reference to a prescribed fee and substituting a reference to the determined fee.

Section 7 amends section 16 of the principal Ordinance to provide that an application for the formation and registration of a Society under the principal Ordinance must be accompanied by the determined fee.

Section 8 amends section 17 of the principal Ordinance to provide that an application for the change of name of a Society registered under the Ordinance shall be accompanied by the determined fee.

Section 9 amends section 18 of the principal Ordinance to provide that an application for the amalgamation of Societies registered under the Ordinance shall include the payment of the determined fee.

Section 10 inserts at the end of section 20 of the principal Ordinance new sub-sections 20(3), 20(4) and 20(5). Sub-section 20(3) provides that a person may apply to the Registrar for a replacement certificate of incorporation where the original is lost, stolen, destroyed or defaced. Sub-section 20(4) provides that such an application shall include payment of the determined fee and a statement of reasons for the application. Sub-section 20(5) provides that where the Registrar receives such an application he shall issue a replacement certificate.

Section 11 amends section 32 of the principal Ordinance to provide that an application for the use of the word "Co-operative" in a business name shall be lodged with the Registrar together with the determined fee.

Section 12 amends section 40 of the principal Ordinance to provide that a notice of a change of address lodged with the Registrar should be accompanied by the determined fee.

Section 13 amends section 44 of the principal Ordinance which relates to notification of changes in the membership of the board of a Society and the lodgement of annual returns by Societies. Sub-section 44(1) is amended to provide that a notification of changes in the membership of a board shall be accompanied by the determined fee. A new sub-section 44(2A) is inserted which provides that the Registrar may of his own volition or upon payment of the determined fee, allow a society an extension of time to submit an annual return. A new sub-section 44(5) is inserted, which provides that an annual return shall be accompanied by the determined fee.

Section 14 amends section 48 of the principal Ordinance to provide that where a copy of a special resolution is transmitted to the Registrar it shall be accompanied by the determined fee.

Section 15 amends section 50 of the principal Ordinance by adding a new paragraph (c) which provides that an application for the alteration of the rules of a Society shall be accompanied by the determined fee.

Section 16 inserts into section 52 of the principal Ordinance a new sub-section, sub-section 52(1A) which provides that the Registrar may of his own volition or upon payment of the determined fee, authorize an extension of time for a Society to hold an annual meeting.

Section 17 inserts into the principal Ordinance new sections, 80C, 80D and 80E.

New section 80D provides that where no other provision has been made in the Ordinance the imposition of a fee for the

- (a) lodgement of applications with the Registrar;
- (b) supply of documents by the Registrar;
- (c) the affixing of the Registrar's seal to a document the Minister may determine a fee for the purposes of that lodgement, supply or affixing as the case may be.

Section 80E provides that the Minister may determine a fee in respect of a provision of the Companies Act which extends to Co-operative Societies under the Ordinance which relates to:

- (a) the lodgement of a notice, copy of a resolution, an instrument or copy of an instrument under section 201 of the Companies Act;
- (b) the lodgement of a notice under section 206 of the Companies Act;
- (c) the lodgement or registration of a memorandum under section 207(2) of the Companies Act;
- (d) the issue of a certificate under section 210 of the Companies Act.

Section 80F deals with the payment of determined fees. Sub-section (1) provides that where a fee is determined under the

Ordinance it shall be paid to the Registrar. Sub-section (2) provides that where a document is lodged without the payment of the determined fee, the document shall be considered not to have been lodged until the determined fee has been paid. Sub-section (3) provides that notwithstanding any other provision of the Ordinance, the Registrar shall not do any act or thing until the determined fee is payable.

Section 18 repeals section 81(b) of the principal Ordinance which provides that the Minister may make regulations imposing fees for the purposes of the Ordinance.

CREDIT (AMENDMENT) ORDINANCE 1985

Sections 1 and 2 deal with citation and commencement.

Section 3 amends section 247 of the Credit Ordinance 1985 to provide that an application for the consideration of a form of document lodged by a credit provider or mortgagee with the tribunal must be accompanied by the determined fee.