

AUSTRALIAN CAPITAL TERRITORY

CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE 1984 No. 11

EXECUTIVE COUNCIL EXPLANATORY STATEMENT

Permanent building societies in the ACT and the States, with the support and assistance of the Government, have devised a scheme to protect the interests of building society investors should individual societies fail or experience liquidity problems. A company (the "Insurance Corporation") is to be incorporated in the ACT by participating building societies, with Commonwealth Government representation, to act as an insurer. Participating societies will enter into agreements with the Insurance Corporation under which the Corporation will indemnify investors against loss in the event that a society is unable to meet its commitments, or will provide liquidity support to societies when necessary. The Corporation will raise money from premiums payable by societies under the agreements, loans and deposits from societies and advances from banks.

The purpose of the Co-operative Societies (Amendment) Ordinance 1984 is to provide a legislative framework that will enable ACT permanent building societies to participate in the insurance scheme.

Sections 1-2 of the Ordinance deal with preliminary formal matters.

Section 3 amends section 4 of the Principal Ordinance, the interpretation section, by defining what the amending Ordinance means by the "Insurance Corporation".

Section 4 inserts into the existing Ordinance a new section, section 5C, dealing with access by the Insurance Corporation to records of the Registrar of Co-operative Societies. The new sub-section 5C (1) is designed to permit an officer of the Insurance Corporation, upon payment of any prescribed fee, to have access to records kept by the Registrar in relation to a building society with which the Insurance Corporation has an agreement under paragraph 16A (1) (e).

The new sub-section 5C (2) prevents communication outside the Insurance Corporation of any information concerning the affairs of a building society acquired in the course of making a search under sub-section 5C (1). Should unauthorised disclosure of such information occur, the officer of the Insurance Corporation who was responsible will be liable to a penalty of \$1,000. The new sub-section 5C (3) defines "officer" to have, for the purposes of the section, the same meaning as in the Companies Act 1981.

Section 5 inserts into the Principal Ordinance an amendment to section 14B, which prohibits in certain circumstances a registered building society from lending money on the security of a property already subject to a mortgage. The new sub-section 14B (4) exempts a loan from a registered building society to the Insurance Corporation from this prohibition. Thus, a registered building society will be able to advance money to the Insurance Corporation despite the fact that the security is subject to a prior mortgage.

Section 6 repeals the former sections 14CC and 14CD of the Principal Ordinance and substitutes new sections in their place. The new section 14CC encompasses the matters covered by the former sections 14CC and 14CD, but in lieu of their requirement that advertisements by building societies have the prior approval of the Registrar, provides that the Registrar may direct a building society not to publish advertisements, or specified advertisements. The Registrar is not, however, empowered to give such a direction unless he is satisfied that it is in the interests of members or prospective members of, or persons investing in, the society. A society which fails to comply with a direction by the Registrar is liable to a penalty not exceeding \$1,000 and any officer of the society knowingly concerned in the failure is liable to a penalty not exceeding \$500.

The new sub-section 14CD(1) prohibits a building society from falsely advertising that it has an agreement with the Insurance Corporation. The new sub-section 14CD(2) is designed to ensure that investors, present and future, are put on notice that a building society has withdrawn from its agreement with the Insurance Corporation under paragraph 16A(1)(e). A society which fails to comply with this section is liable to a penalty not exceeding \$1,000 and any officer of the society knowingly concerned in the failure is liable to a penalty not exceeding \$500.

Section 7 repeals the former section 16A and substitutes a new section 16A. The new section incorporates the previous section 16A in paragraphs (1)(a), (b), (c) and (d). The new paragraph 16A(1)(e) is concerned with permitting a building society to enter into agreements with the Insurance Corporation to indemnify persons who lend money to, deposit money with or invest in the society or to maintain the liquidity of the society. The new sub-section 16A(2) then confers on building societies which enter into such agreements the additional powers in relation to their funds and property that are needed for their full participation in the services to be offered by the Insurance Corporation.

Section 8 amends section 37 of the Principal Ordinance by increasing the range of investments available for building society funds. A registered building society is thus now authorised to invest moneys with the Insurance Corporation in accordance with the new sub-section 16A(2).

Ord 51/83