

AUSTRALIAN CAPITAL TERRITORY

MONEY LENDERS (AMENDMENT) ORDINANCE (NO.2) 1983

EXPLANATORY STATEMENT

No.25,1983

Under the Money Lenders Ordinance 1936 (the "Principal Ordinance") persons who carry on a business of money lending are required to register as money lenders and to comply with certain prescribed obligations in transacting their business. In addition, sections 11 and 12 of the Principal Ordinance require all lenders of money at rates of interest exceeding 12 per cent per annum to state in the contract the annual rate of the interest payable and supply to the borrower and to any surety written particulars of all essential parts of the transaction.

The Principal Ordinance was not intended to regulate the lending activities of banks, and accordingly the definition of "money lender" in the Ordinance purports expressly to exclude banks from its scope. Owing to doubts as to the effectiveness of the exclusion, however, banks have felt constrained to comply with all requirements of the Ordinance, incurring needless administrative costs in the process. Further, sections 11 and 12, which formerly did not affect bank loans, have come to apply to them as a result of the higher rates of interest that now prevail in money lending transactions generally.

The purpose of the Money Lenders (Amendment) Ordinance (No.2) 1983 (the "amending Ordinance") is to restore to banks their intended exemption from the obligations imposed by the Principal Ordinance.

Details of the amending Ordinance are set out below:

Section 1 cites the short title of the amending Ordinance as the Money Lenders (Amendment) Ordinance (No.2) 1983.

Section 2 provides that "Principal Ordinance" means the Money Lenders Ordinance 1936.

Section 3 of the amending Ordinance clarifies the meaning of paragraph (a) of the definition of "money lender" in section 4(1) of the Principal Ordinance. The content of the existing paragraph (a) has been divided among two new paragraphs, the first of which will ensure that, as originally intended, persons and bodies corporate bona fide carrying on the business of banking or insurance will not be regarded as money lenders for the purposes of the Ordinance.

Sections 4 and 5 of the amending Ordinance exempt banks from the obligation to comply with sections 11 and 12 respectively of the Principal Ordinance. The changes bring the position of banks under the Ordinance into line with that of co-operative building and credit societies, which were exempted from compliance with sections 11 and 12 by the Money Lenders (Amendment) Ordinance 1983.

Ord. 16/83