

EXPLANATORY STATEMENT

No.93 of 1982

ORDINANCES REVISION (COMPANIES AMENDMENTS) ORDINANCE (NO.2) 1982

Introduction

The purpose of this explanatory statement is to explain the contents of the Ordinances Revision (Companies Amendments) Ordinance (No.2) 1982.

2. The Companies Act 1981, which is the major Commonwealth Act forming part of the Australian companies code under the co-operative companies and securities scheme, came into force on 1 July 1982. The Companies Act replaced the Companies Ordinance 1962 as the law in relation to the formation and regulation of companies in the Australian Capital Territory.

3. The Ordinances Revision (Companies Amendments) Ordinance 1982, which came into force on 1 July 1982, made a number of amendments to various Ordinances of the Australian Capital Territory consequent upon the repeal of the Companies Ordinance and the commencement of the Companies Act.

Ordinances Revision (Companies Amendments) Ordinance (No.2) 1982

4. The Ordinances Revision (Companies Amendments) Ordinance (No.2) 1982 makes a number of further amendments to Ordinances of the Australian Capital Territory. The amendments are consequent upon the repeal of the Companies Ordinance 1962 on 1 July 1982 and also upon amendments to the Companies Act by Part XIX of the Statute Law (Miscellaneous Amendments) Act (No.2) 1982, which Part came into operation on 1 December 1982. These

Companies Act amendments were necessary before the amendments to Australian Capital Territory Ordinances were made by the Ordinances Revision (Companies Amendments) Ordinance (No.2) 1982. Other Ordinance amendments would have been inconsistent with the Companies Act and therefore ineffective in law.

5. In accordance with the procedure that has been followed in relation to all legislation relating to the co-operative companies and securities scheme, the Ordinance has not been placed before the Australian Capital Territory House of Assembly.

Cl.1 Short Title

6. The Ordinance is cited as the Ordinances Revision (Companies Amendments) Ordinance (No.2) 1982 (cl.1).

Cl.2 Commencement

7. The Ordinance will come into operation on a date to be fixed by the Minister for the Capital Territory by notice published in the Gazette (cl.2).

Cl.3 Amendment to the Trustee Companies Ordinance 1947

8. Section 24 of the Trustee Companies Ordinance 1947 limited the activities of a trustee company to specified activities notwithstanding anything contained in the Companies Ordinance. Section 581 of the Companies Act was amended by section 55 of the Statute Law (Miscellaneous Amendments) Act (No.2) 1982 in order to preserve the operation of section 24 of the Trustee Companies Ordinance.

9. "Companies Act 1981" was substituted for "Companies Ordinance 1962" in section 24 of the Trustee Companies Ordinance (cl.3).

Cl.4 Amendment of the Unit Titles Ordinance 1970

10. Section 33 of the Unit Titles Ordinance 1970 provided that the Companies Ordinance does not apply to a unit title body corporate constituted under section 29 of the Unit Titles Ordinance.

11. Section 52 of the Statute Law (Miscellaneous Amendments) Act (No.2) 1982 amended the definition of "corporation" in section 5 of the Companies Act so as to exclude a corporation constituted under the Unit Titles Ordinance from the operation of the Companies Act. Therefore, because section 33 of the Unit Titles Ordinance no longer has any operation, it has been repealed (cl.4).

Cl.5 Amendments to the Workmen's Compensation Supplementation Fund Ordinance 1980

12. In relation to a worker's compensation claim a liquidator of an insurance company could exercise the powers specified under section 236 of the Companies Ordinance with the authority of the Manager of the Workmen's Compensation Supplementation Fund (s.39 of the Workmen's Compensation Supplementation Fund Ordinance 1980).

13. Section 55 of the Statute Law (Miscellaneous Amendments) Act (No.2) 1982 amended section 581 of the Companies Act so as to preserve the operation of section 39 of the Workmen's Compensation Supplementation Fund Ordinance 1980. Therefore section 39 of that Ordinance was amended to apply the Companies Act to it in the same manner as the Companies Ordinance applied to it. The references in section 39 of the Ordinance to sections 236 and 292 of the Companies

4.

Ordinance were changed to the corresponding sections 377 and 441 respectively of the Companies Act (paras 5(a) and (c)). Also section 39 of the Ordinance was amended to reflect the language of sub-section 377(1) of the Companies Act (para 5(b)).

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