

AUSTRALIAN CAPITAL TERRITORY.

No. 14 of 1950.

AN ORDINANCE

To amend the Co-operative Trading Societies Ordinance 1939-1946.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1947*, as follows:—

1.—(1.) This Ordinance may be cited as the *Co-operative Trading Societies Ordinance 1950*.*

Short title
and citation.

(2.) The *Co-operative Trading Societies Ordinance 1939-1946* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Co-operative Trading Societies Ordinance 1939-1950*.

2. Section thirty-two of the Principal Ordinance is amended—

Use of word
“co-operative”.

(a) by inserting in sub-section (1.), after the word “society”, the words “or a company in respect of which the Attorney-General has given his consent under sub-section (3.) of section thirty-eight A of this Ordinance”; and

(b) by inserting after sub-section (1.) the following sub-sections:—

“(1A.) A company or society formed or incorporated elsewhere than in the Territory which has in its name or title the word ‘co-operative’ or any other word importing a similar meaning or which, not having any such word in its name or title, in any manner holds out that its trade or business is co-operative may, if it desires to trade or carry on business in the Territory, apply to the Registrar for exemption from the provisions of sub-section (1.) of this section.

“(1B.) If the Registrar is satisfied that a company or society making application under the last preceding sub-section is trading or carrying on business for the purpose of promoting the economic interests of its members in accordance with co-operative principles, he may grant a certificate exempting the company

* Notified in the *Commonwealth Gazette* on 21st December, 1950.

or society from the provisions of sub-section (1.) of this section for such period, and upon such conditions, as he thinks fit, and those provisions shall not apply to the company or society while the certificate of exemption remains in force.”.

3. After section thirty-eight of the Principal Ordinance the following section is inserted:—

Registration
of society as
a company.

“38A.—(1.) A society may, by a special resolution as defined in section forty-eight of this Ordinance, determine that the society shall apply to be registered as a company under the Companies Act.

“ (2.) Before an application is made pursuant to this section, the society, by special resolution—

- (a) shall determine under what name the society shall apply to be registered as a company (which name may be different from the name of the society);
- (b) shall adopt a memorandum of association for the company; and
- (c) shall adopt articles of association where such articles are required by the Companies Act and may adopt articles of association in any other case.

“ (3.) A society shall not, except with the consent of the Attorney-General, be registered as a company under a name which includes the word ‘co-operative’ or any other word importing a similar meaning.

“ (4.) A memorandum of association adopted in pursuance of this section—

- (a) shall contain the particulars prescribed by and otherwise be in accordance with the provisions of the Companies Act;
- (b) shall state as the objects of the company the objects of the society; and
- (c) when lodged for registration shall have as signatories at least seven persons who are members of the society.

“ (5.) The provisions of the Companies Act shall apply with respect to—

- (a) the necessity for articles of association;
- (b) the applicability of the regulations contained in the Table marked A in the Second Schedule to the Companies Act; and
- (c) any articles of association adopted for the company.

“ (6.) In the case of a society the liability of whose members is limited by shares, the memorandum of association and the articles of association (if any) adopted by the society in pursuance of this section shall not impose upon the members of the company who were members of the society at the date of its registration as a company any greater or different liability to contribute to the assets of the company than the liability to which they were subject as members of the society.

“ (7.) The memorandum of association or articles of association as so adopted shall not deprive any member of the company of any preferential rights with respect to dividend or capital to which he was entitled as a member of the society at the date of its registration as a company.

“ (8.) A society may apply to be registered as a company under the Companies Act as follows:—

(a) the society shall register with the Registrar of Co-operative Societies a copy of the special resolutions passed by the society pursuant to sub-sections (1.) and (2.) of this section; and

(b) the society shall lodge with the Registrar of Companies—

(i) an application by the society under its common seal to be registered under the Companies Act;

(ii) a copy of the special resolutions verified under the hand of the Registrar of Co-operative Societies;

(iii) the memorandum of association adopted for the company and the articles of association (if any); and

(iv) a list, verified by a statutory declaration of a director of the society, showing the names, addresses and occupations of all persons who, on a day specified in the list (being not more than six clear days before the day of lodgment), were members of the society and, with respect to each person, the number and nominal amount of, and amount credited as paid up on, any shares held by that person in the society.

“ (9.) The Registrar of Companies shall retain and register the memorandum of association and articles of association (if any), and shall certify under his hand that the company is incorporated, and, in the case of a limited company, that the company is limited.

“ (10.) The registration, certificate and memorandum of association and articles of association (if any) shall have the same operation and effect, and the provisions of the Companies Act shall

apply to the company and the members, contributories and creditors of the company, as if the company had been registered in the manner prescribed by the Companies Act.

“(11.) When a society is registered as a company it shall cease to be registered as a society under this Ordinance.

“(12.) The Registrar of Companies shall give notice of every registration of a company effected in pursuance of this section to the Registrar of Co-operative Societies, who shall remove the name of the society from the register of societies under this Ordinance.

“(13.) Upon the registration of the society as a company all persons who were members of the society at the date of the registration shall be deemed to become members of the company, and their names shall be entered upon the register of members of the company.

“(14.) Every member of the society at the date of the registration who held shares in the society shall be deemed to be the holder of shares in the capital of the company equal in number and nominal value to the shares of which he was then registered as the holder in the register of members of the society, and entry shall be made in the register of members of the company accordingly.

“(15.) The member shall, upon the entry being made, be liable for the amount, if any, unpaid on his shares and the register of the company shall be *prima facie* evidence of the amount of his liability.

“(16.) Where no persons are named as directors of the company in the articles of association of the company when a society is registered as a company under this section, the persons who were directors of the society at the date of the registration shall be the first directors of the company.

“(17.) A certificate of incorporation of a society as a company given by the Registrar of Companies shall be conclusive evidence that all the requirements of this section and of the Companies Act in respect of registration under the Companies Act have been complied with.

“(18.) When a society is registered as a company pursuant to this section the corporation constituted by the company as so registered shall, for all purposes, be deemed to be the same entity as the corporation constituted by the society.

“(19.) In particular and without restricting the generality of the last preceding sub-section, upon the registration—

- (a) all property and proprietary and other rights whatsoever of the society shall become vested in and exercisable and enforceable by the company; and

- (b) all liabilities and obligations of the society, whether certain or contingent and whether then existing or capable of arising at a future time, and whether contractual or other, and all rights against the society and all penalties incurred by the society, shall be enforceable and recoverable against the company.”.

Dated this fourteenth day of December, 1950.

W. J. McKELL
Governor-General.

By His Excellency's Command,

J. A. SPICER
for and on behalf of the Minister of
State for the Interior.