

EXPLANATORY STATEMENT

EXECUTIVE COUNCIL MINUTE NO. 40 OF 1982

ATTORNEY-GENERAL

COMPANIES AUDITORS AND LIQUIDATORS DISCIPLINARY BOARD ORDINANCE
1982

No.35 of 1982

INTRODUCTION

The purpose of this explanatory statement is to outline the contents of the proposed Companies Auditors and Liquidators Disciplinary Board Ordinance 1982 and its relationship to the co-operative companies and securities scheme in general and the Companies Act 1981 in particular.

The Co-operative Companies & Securities Scheme

3. On 22 December 1978 the Commonwealth and the six States executed a Formal Agreement that provided the framework for a co-operative Commonwealth/State scheme for a uniform system of law and administration in relation to company law and the regulation of the securities industry in the six States and the Australian Capital Territory. Uniformity of law was to be achieved by a legislative device whereby the Commonwealth Government passed legislation applicable directly to the Australian Capital Territory. Each State was then required to pass legislation that would apply the relevant Commonwealth law as the law of that jurisdiction to the exclusion of its present legislation as from the date of commencement of the Commonwealth law.

4. Uniformity of administration is to be obtained by vesting all administrative functions under the legislation mentioned in the previous paragraph in the National Companies and Securities Commission (hereinafter referred to in this memorandum as the "NCSC") which will delegate most of its functions to the Corporate Affairs authority in each participating State and Territory. This delegation is intended to be subject to such directions and guidelines as are necessary to obtain substantial uniformity in administrative policies and legislative interpretation.

5. The Corporate Affairs Commission Ordinance 1980 established a Corporate Affairs Commission for the Australian Capital Territory. Under delegation from the NCSC, the Corporate Affairs Commission will administer co-operative scheme laws as they apply in the Australian Capital Territory.

The Companies Act 1981

6. The Companies Act 1981 is the major Commonwealth Act forming part of the proposed new Australian companies code under the co-operative companies and securities scheme. The Companies Act 1981 (No. 89) received the Royal Assent on 18 June 1981 but has not yet come into operation. The Federal Executive Council has approved the making of a proclamation to bring the Act into operation on 1 July 1982.

Registration of Auditors and Liquidators

7. Division 2 of Part II of the Companies Act 1981 contains a new scheme for the registration of auditors & liquidators.