

# NORTHERN TERRITORY OF AUSTRALIA

## CO-OPERATIVE TRADING SOCIETIES (LOANS GUARANTEE) ACT

As in force at 1 July 1996

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 1996

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## CO-OPERATIVE TRADING SOCIETIES (LOANS GUARANTEE) ACT

**An Act to authorize the Territory to guarantee the repayment of money borrowed by certain societies**

### 1 Short title

This Act may be cited as the *Cooperative Trading Societies (Loans Guarantee) Act*.

### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

### 3 Definition

In this Act, unless the contrary intention appears:

***agricultural production*** includes cleaning or processing of seeds or grain.

***society*** means a society registered under the *Co-operative Trading Societies Ordinance 1945* or that Ordinance as amended at any time.

### 4 Guarantee of loans

Subject to this Act, the Treasurer may, on behalf of the Territory, by writing under his hand, guarantee the repayment, with interest, of the amount or any part of the amount of a loan to be given by a bank to a society.

### 5 Delegation by treasurer

- (1) The Treasurer may, either generally or otherwise as provided by the instrument of delegation, by writing under his hand, delegate any of his powers and functions under this Act except this power of delegation.
- (2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

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- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Treasurer.

**6 Eligibility for a guarantee**

A guarantee under this Act shall not be given in respect of a loan unless all the members of the society proposing to raise the loan are engaged in agricultural production or pastoral production in the Territory.

**7 Terms of guarantee**

A guarantee under this Act shall be for such amount and for such period and be subject to such conditions (including the giving of any security by the society in respect of the whole or part of the amount of the loan) as the Treasurer determines.

**8 Conditions for guarantee**

The Treasurer shall not give a guarantee under this Act in respect of a loan unless:

- (a) the Administrator, by writing under his hand, recommends that the guarantee be given; and
- (b) he is satisfied:
  - (ii) that the society proposing to raise the loan has complied with the directions (if any) given by the Treasurer in relation to the guarantee.

**9 Annual audits**

A society shall, during the period of a guarantee under this Act in respect of a loan raised by it, submit, once in each financial year of the society, a statement of its properly audited accounts to the Treasurer.

**10 Application for guarantee**

- (1) A society may apply for a guarantee under this Act to be given in respect of a loan proposed to be raised by it by submitting to the Administrator an application in writing setting out the following information:
- (a) the registered name and office of the society;
  - (b) the purpose of the proposed loan;

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- (c) the total amount of the proposed loan;
  - (d) the period of the proposed loan;
  - (e) the nature of the advance to be made under the proposed loan; and
  - (f) the name of the bank that would make the proposed loan.
- (2) The application for the guarantee shall be accompanied by:
- (a) a copy of the bank's offer to make the proposed loan, stating:
    - (i) the amount of the proposed loan;
    - (ii) the period of the proposed loan;
    - (iii) the interest rate; and
    - (iv) particulars of the proposed repayment instalments;
  - (b) a copy of the Rules of the society;
  - (c) details of any insurance held by the society;
  - (d) a statement of the estimated revenue of and expenditure by the society during each month of the guarantee;
  - (e) a copy of a bank statement as at the date of the application in relation to each bank account of the society;
  - (f) a statement detailing:
    - (i) all assets and liabilities of the society;
    - (ii) the assets of the society offered as security for the proposed loan; and
    - (iii) all title deeds, leases, agreements and other documents pertaining to those assets and liabilities; and
  - (g) such other information as the society may think necessary for the purpose of the application.

## **11 Functions of administrator**

- (1) Upon receiving an application and accompanying documents under section 10, the Administrator shall consider them and may request the applicant society to furnish such additional information or advice as he thinks necessary.

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- (2) If the Administrator is disposed to recommend that a guarantee under this Act be given, he shall so recommend.
  - (3) If the Administrator is not disposed to recommend that a guarantee under this Act be given, he shall notify the society in writing accordingly.

## **12        Directions to society**

The Administrator or the Treasurer may give directions to a society in relation to a guarantee under this Act for the giving of which the society has applied in respect of a loan proposed to be raised by the society.

## **13        Amalgamation or transfer of liability**

- (1) Notwithstanding the provisions of any Act or other law in force in the Territory, a society that has raised a loan in respect of which a guarantee under this Act has been given shall not transfer its liability under the loan to, nor amalgamate with, any other society without the written consent of the Treasurer.
- (2) Such a transfer or amalgamation with the consent of the Treasurer shall not render the guarantee void or voidable, but the guarantee shall, on and from the date of the transfer or amalgamation, as the case may be, have full force and effect as if the loan had been raised by the society to which the liability is transferred or which is constituted by the amalgamation, as the case may be.

## **14        Subrogation and recovery power**

Where money is paid by the Territory to a bank in pursuance of a guarantee under this Act, the Territory:

- (a) shall, to the extent of any money so paid, be entitled to, and to the benefit of, any securities held by the bank as security for the loan in respect of which the guarantee was given; or
- (b) may recover from the society that raised the loan that money with interest at the rate of 6% per annum by action in a court of competent jurisdiction.

## **15        Appropriation**

All money payable by the Territory in pursuance of a guarantee under this Act shall be paid out of moneys appropriated from time to time by Parliament for the purpose.

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**16      Offence by society**

A society that contravenes or fails to comply with a provision of this Act applicable to it shall be guilty of an offence and shall be liable upon a finding of guilt to a penalty not exceeding \$100.

**18      Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Co-operative Trading Societies (Loans Guarantee) Ordinance 1969 (Act No. 24, 1969)***

Assent date	30 September 1969
Commenced	15 October 1969 ( <i>Gaz</i> 42, 15 October 1969, p 323)

***Co-operative Trading Societies (Loans Guarantee) Ordinance 1970 (Act No. 26, 1970)***

Assent date	30 June 1970
Commenced	30 June 1970

***Co-operative Trading Societies (Loans Guarantee) Ordinance 1971 (Act No. 18, 1971)***

Assent date	31 March 1971
Commenced	31 March 1971

***Co-operative Trading Societies (Loans Guarantee) Ordinance 1972 (Act No. 19 1972)***

Assent date	19 June 1972
Commenced	19 June 1972

***Ordinances Revision Ordinances 1973 (Act No. 87, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973

***Statute Law Revision Act 1978 (Act No. 95 1978)***

Assent date	5 September 1978
Commenced	5 September 1978

***Statute Law Revision Act (No. 2) 1979 (Act No. 128, 1979)***

Assent date	15 October 1979
Commenced	15 October 1979

***Statute Law Revision Act 1986 (Act No. 64 1986)***

Assent date	19 December 1986
Commenced	19 December 1986



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**Statute Law (Miscellaneous Amendments) Act 1991 (Act No. 77, 1991)**

Assent date                      16 December 1991  
Commenced                      16 December 1991

**Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)**

Assent date                      19 April 1996  
Commenced                      1 July 1996 (s 2, s 2 *Sentencing Act 1995* and *Gaz S15*,  
13 June 1996)

**3                                      LIST OF AMENDMENTS**

It	amd No. 128, 1979, s 8
s 1	amd No. 58, 1978, s 4
s 3	amd No. 64, 1986, s 2
s 4	amd No. 128, 1979, s 8
s 6	amd No. 18, 1971, s 2
s 7	amd No. 19, 1972, s 2
s 8	amd No. 19, 1972, s 3
s 11	amd No. 87, 1973, s 3
s 14	amd No. 128, 1979, s 8; No. 77, 1991, s 13
s 15	amd No. 128, 1979, s 8
s 16	amd No. 87, 1978, s 2; No. 17, 1996, s 6
s 17	rep No. 26, 1970, s 2
s 18	amd No. 95, 1978, s 14