



An Roinn Fiontar,  
Trádála agus Fostaíochta  
Department of Enterprise,  
Trade and Employment

# Public Consultation on Reform and Modernisation of Legislation regarding Co-operative Societies Response Template

As set out in the Public Consultation paper, the Department of Enterprise, Trade and Employment is seeking views on a number of specific issues prior to finalising legislative proposals for the reform and modernisation of legislation regarding co-operative societies.

Please include your response in the space underneath each question and set out/ explain your views. Completing the template will assist with achieving a consistent approach in responses returned and facilitate collation of responses.

Respondents have the opportunity to comment more generally in Question 12 should they wish.

When responding please indicate whether you are providing views as an individual or

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representing the views of an organisation.

Respondents are requested to return their completed templates by email to [coopconsultation@enterprise.gov.ie](mailto:coopconsultation@enterprise.gov.ie) by **5pm on Friday, 25 February 2022**.

## Responses

### Matters relating to Registration

#### Transition period

**Question 1.**

Do you consider that the proposed transition period of 18 months is sufficient to enable existing industrial and provident societies to either register as co-operatives or pursue an alternative option? If not, please suggest an alternative timeframe and provide a supporting rationale.

**Response:**

Yes, if relevant model rules are provided. Current model rules are not suitable for community co-operatives like ours.

#### Expanding the categories of members who can set up co-operative societies

**Question 2.**

Please set out your views on the proposal to expand the categories of members who can form a co-operative society to include companies? If not in agreement, please set out your reasoning.

**Response:**

This provision could be harmful for community co-operatives as it could create power imbalances within membership which would be counter to the democratic ethos of cooperatives. If this is included we would want provision to allow us to exclude companies from membership within our rules. Companies should not have great voting rights than natural persons.

#### Content of rules

**Question 3.**

Are there any other matters that should be included in the list of matters set out in legislation that must be dealt with by the rules of a co-operative society? Please provide supporting rationale for any such additions.

**Response:**

An optional provision provided for in the legislation for a Mission Lock is needed so community co-operatives can have their social and environmental objects included in their constitution and that these cannot be altered at a later date by a General Meeting of members.

## Matters relating to Shares

### Legal Reserve

**Question 4.**

Please set out your views on the proposed approach to the legal reserve.

**Response:**

There should be a minimum annual contribution based on net surplus of the co-operative. The reserves should be used in line with the main objects of the Co-operatives. The use of reserves should be set out in a co-operatives rules.

### Nomination regarding transfer of property in the event of death of a member

**Question 5.**

Are the provisions on nomination regarding the transfer of property in the event of the death of a member considered useful and worth retaining in the proposed legislation? Please provide rationale in support of your response.

**Response:**

Yes, however we are a common ownership co-operative so our members have a nominal €1 share and all assets are kept in trust.

## Matters relating to Corporate Governance

### Minimum number of directors

**Question 6.**

Do you support the proposal in relation to the minimum number of directors (at least one director for co-operatives with less than 10 members and at least three directors for larger co-operatives)? Please provide a rationale in support of your response.

**Response:**

This proposal is of great concern. A co-operative is a collective so a minimum of 1 director is counter to the co-operative ethos and quite an alarming proposal. We would recommend a minimum of three directors.

**Approval of Special Resolutions**

**Question 7.**

Do you support the proposal to provide for a single general meeting for the consideration of special resolutions, subject to the approval of at least 75% of members entitled to vote at the meeting? Please provide a rationale in support of your response.

**Response:**

Our decision making is based on consensus models so this would not be relevant to our co-operative but in more general terms a large percentage such as 75-90% is recommended.

**Matters relating to Financial Statements, Annual Returns and Audit**

**Audit exemption criteria**

**Question 8.**

Do you agree with the approach set out in relation to eligibility for audit exemption and the proposed thresholds? If not, please set out your proposal, together with a rationale for same.

**Response:**

It is too restrictive and should not be based on membership numbers. The suggested 50 members would exclude many community co-operatives. It should be solely based on turnover.

**Decisions regarding Audit Exemption**

**Question 9.**

Do you support the proposal to require eligible co-operatives to provide for audit exemption in their rules? Do you support the proposal that a decision to avail of audit exemption can be reversed if supported by at least 10% of the members, entitled to vote at a general meeting? Please provide a rationale in support of your responses.

**Response:**

Yes

### **Abridged financial statement criteria**

#### **Question 10.**

Do you agree with the proposal to provide for the filing of abridged financial statements with the Registrar in relation to small co-operatives and, if so, the eligibility thresholds set out? If not, please set out your proposal, together with a rationale for same.

#### **Response:**

Membership should not be used as criteria as explained above. Co-operatives should be able to access the same exemptions as companies.

### **Certain exemptions in relation to financial statements**

#### **Question 11.**

Do you agree with the proposal to provide for certain exemptions in relation to financial statements for small co-operatives and, if so, the eligibility thresholds set out? If not, please set out your proposal, together with a rationale for same.

#### **Response:**

Membership should not be used as criteria as explained above. Co-operatives should be able to access the same exemptions as companies.

## **Opportunity to provide additional observations**

#### **Question 12.**

Please provide any additional comments you may wish to make to inform the completion of the legislation regarding Co-operative Societies.

#### **Response:**

- The need to adhere to co-operative principles is welcomed
- The reduction in minimum members from 7 to 3 is welcomed.
- Removal of outdated and discriminatory language such as 'lunacy' welcomed.
- The blanket provision on public offerings is of great concern to small community co-operatives like ours. This would prevent us in raising the start up capital we need via loan stock. Provision should be made to support co-operatives to utilise community shares models like those in the UK and Canada.
- Remove all existing administrative restrictions in the 1978 Act in relation to raising capital from members and credit institutions. Co-operatives should not face more

restrictions than companies and the legislation has to address this.

- Allow for 'Community Benefit' cooperatives with asset locks for the broader social purposes, as in the charitable sector. Look to EU Social Enterprise policy in relation to dividend/social purposes ratios.
- Provisions should be included to ensure on winding up assets go to other co-operatives with a similar mission or if none exists to an NGO or community organisation with similar primary objects.



## **Freedom of Information Act 2014 and Publication of Submissions**

The Department will make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

## **General Data Protection Regulation**

Respondents should note that the General Data Protection Regulation ('GDPR') entered into force in Ireland on 25<sup>th</sup> May 2018 and it is intended to give individuals more control over their personal data. The key principles under the Regulation are as follows:

- Lawfulness, fairness and transparency;
- Purpose limitation;
- Data minimisation;
- Accuracy;
- Storage limitation;
- Integrity and confidentiality;
- Accountability.

The Department of Enterprise, Trade and Employment is subject to the provisions of the Regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 to 2018.

**January 2022**