



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 representing the views of an organisation.

|                          |                               |
|--------------------------|-------------------------------|
| <b>Name(s):</b>          | Jacinta Fay                   |
| <b>Organisation:</b>     | Galway City Community Network |
| <b>Email address:</b>    | coordinator@gccn.ie           |
| <b>Telephone number:</b> | 0874328489                    |

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**.

## **Preface**

Established in 2014, Galway City Community Network (GCCN) is the Public Participation Network in Galway City. It represents groups and organisations in the community, voluntary and environmental sectors in Galway City.

The role of the GCCN is to:

- Facilitate representation of the community, voluntary and environmental sectors on relevant local government, local development bodies and any local, regional, national or international structures deemed appropriate by GCCN.
- Act as a platform for the community, voluntary and environmental sectors to develop policy and positions on issues of common concern and to advocate for these policies and positions to be implemented.
- Strengthen capacity of the community, voluntary and environmental sectors, including to represent Galway City Community Network on all relevant structures.
- Provide information relevant to the environmental, social inclusion and voluntary sectors and act as a hub around which information is received and disseminated.

## **Context**

GCCN makes this submission on Reform and Modernisation of Legislation regarding Co-operative Societies after engaging with our Community Enterprise Thematic Group. Local community and social enterprises and co-operatives that are members of the network are delivering on cross-cutting areas including job creation, skills development, community education, social justice, inclusion and diversity, circular economy and sustainability. Our member groups have identified significant challenges to the further development of the sector which included current legislative models. Member groups have identified the need for an overhaul of Cooperative Legislation (Friendly Societies Acts 1896 to 2014) to create legislation which is fit for purpose and facilitates community led solutions to local needs. The current legislation is antiquated and urgently needs updating. There is currently a lack of understanding of the co-operative model, and we hope new legislation can contribute to a greater understanding and use of the model in Ireland.

A new Co-operatives Act, while providing general purpose legislation for registering any type of co-operative, should provide the basic infrastructure for 'social co-operatives' and 'community co-operatives' through a small suite of optional provisions which would place the form and function of key features of these co-operatives on a statutory footing thereby giving stakeholders legal certainty as to the operation of these provisions.

## 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, with appropriate model rules which cater to the needs of co-operatives such as not-for-profit co-operative rules and charitable co-operative rules. The current model rules are focused on agricultural co-operatives and do not fit the needs of the wider co-operative sector.

#### 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:**

It may be appropriate for other bodies to be included in membership however these bodies should not have more voting rights than natural persons. This is vital to ensure the democratic ethos of co-operatives. Provisions should be included to allow co-operatives to exclude companies or other bodies from membership within their rules.

#### 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:**

The inclusion of 'any lawful purpose' is welcome which widens the remit of co-operatives beyond solely economic in line with other jurisdictions. However, an optional provision provided for in the legislation which would support a mission lock for co-operatives to 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:**

Legislation should provide for a minimum level of reserve and minimal annual contributions to the reserve as a percentage of net surplus. The use of reserves should be outlined within the 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 it will not be relevant to many community co-operatives which use a nominal €1 share per member.

## 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:**

The proposal for single director co-operatives is of great concern and counter to co-operative principles. A minimum of 3 directors is recommended give the nature of co-operatives as democratic collectives. The reduction in minimum members from 7 to 3 is welcomed.

**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:**

**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:**

Audit exemption is too narrow, particularly membership criteria would exclude virtually all community-led co-operatives (max members 50 is what is proposed). GCCN recommends criteria is removed outright. The criteria should be solely based on turnover rather than membership.

**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, however membership numbers should not be the criteria rather turnover. The proposed method of a statutory right that 10% of members can force an audit gives sufficient 'teeth' that greater leniency should be given. The requirements and exemptions should be similar to companies.

**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:**

The membership criteria should be removed, and the requirements and exemptions should be similar to 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:**

Co-operatives should have access to similar requirements and 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:

- Remove all existing administrative restrictions in the 1978 Act in relation to raising capital from members and credit institutions.
- Exemption for co-operatives from blanket restriction on public offering of shares and other securities, to facilitate equity crowdfunding. There is onerous regulation and a lack of understanding of community fundraising for necessary social projects which greatly inhibits community investment.
- The legislation should provide explicitly for the 'Community Benefit' style of cooperatives, where an asset lock exists for the broader social purposes, as in the charitable sector. This could be most easily accomplished through adherence to EU Social Enterprise policy in relation to dividend/social purposes ratios.
- Provide for co-operatives to be able to publicly offer shares provided they are non-transferable, redeemable and a non-distributive capital surplus in place (would replicate the 'community shares' model in UK and Canada)
- On winding up conventional cooperatives' residual assets should go towards a recognised body or bodies that promotes cooperatives. In the case of mission-focused or 'community benefit' cooperatives, the residuals should go towards a body or bodies that promote that primary benefit objectives, as in the charitable sector.



## **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**