



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.

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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:**

#### 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:**

#### 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:**

## Matters relating to Shares

### Legal Reserve

#### Question 4.

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

**Response:**

### 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:**

## 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:**

### **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:**

The proposal to permit cooperative societies to avail of an audit exemption, subject to appropriate criteria, is consistent with the provisions of the Companies Act 2014 for companies.

### **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:**

It is unclear what, if any, are the consequences under the law for a co-operative that avails of the audit exemption but has not provided for this in its rules.

### **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 proposed approach is consistent with that in the Companies Act i.e. co-operatives not availing of the audit exemption will be permitted to file abridged accounts.

### **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:**

The proposed approach is consistent with that in the Companies Act i.e. micro co-operatives may avail of a number of additional exemptions relating to the provision of certain information in their financial statements.

## **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:**

We note the intention to cross apply certain parts of the Companies Act 2014 to cooperatives, including financial statements (Part 6).

The proposals to provide for audit exemptions, abridged financial statements and exemptions are tailored to reflect the nature of cooperatives. Given that Part 6 of the Companies Act contains these provisions for companies, care should be taken to minimise the risk of confusion as to which provisions of Part 6 are directly applicable to cooperatives and which have been adapted.

In addition, while Part 6 covers preparation of the financial statements and content of the audit report, provisions relating to the conduct of an audit are largely set out in Part 27 of the Act.

Part 27 transposes the EU Statutory Audit Directive (EU/2006/43) and applies to statutory audits i.e. audits required by EU law or those of small companies incorporated under the Companies Act. The audit of a cooperative does not come within the definition of “statutory audit”.

Part 27 contains provisions relating to the conduct of audits that should also apply to cooperatives. For example, to ensure that audits of co-operatives are performed by qualified individuals in accordance with appropriate standards, the new legislation should require that audits are performed:

- by a statutory auditor approved in accordance with Part 27; and
- in accordance with the standards issued by IAASA (Section 1526 refers).

## **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**