



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:

For many existing co-operative societies, the process of preparing for registration under the new framework will require considerable time.

How much time will ultimately depend on:

1. the extent to which new minimum measures under the legislation will involve change from the status quo in a given co-operative society, and
2. the extent to which a given co-operative societies members and Board of management can allot time and space to comprehensively design rules and practises that will work for:
3.
  - a) service users, and
  - b) the legislation

whilst carrying out the typically unpredictable business of governing and operating the co-operative and its services.

There is sense, therefore, in a longer transition period being made available to ensure that all co-operative societies can properly decide to register or seek an alternative structure. ICOS proposes a minimum transition period of 36 months.

**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:**

While a co-operative will, in most cases, be established by individuals for reasons of scale and securing access to the market or service, there are legitimate circumstances where either a group of co-operatives or companies (or potentially a blend of the two or even of either with individuals) may see common cause in establishing a co-operative.

For instance, there are several secondary co-operatives (co-operatives owned by and providing services to member co-operatives). Separately, there can be legitimate taxation reasons why an individual may, in the course of his/her trade, prefer to incorporate as a company. Such an individual may have a legitimate interest in collaborating with similar traders to set up or join an existing co-operative serving their trade needs.

In all circumstances, what is vital is that within the co-operative's rules there is clarity on the conditions and rights of membership among and between varying member identities (or "categories" as the Paper describes them). ICOS would welcome legislation to confirm companies being admissible as members of a co-operative subject to that important caveat and we reserve our comments in that regard.

## **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:**

ICOS has considered the new proposed list of 'Schedule II' items (those that must be addressed in a co-operatives rules). In Q.12 we have noted where we believe the new proposal requires comments.

In terms of inserting additional items to this new proposed list please note the following:

1. Object(s)

The proposal removes the requirement for a stated object or objects. We have set out our position in more detail under 'Any Lawful Purpose'. In summary, ICOS believes that co-operative members should have meaningful input into the strategic and sectoral focus of the co-operative. The object(s) requirements goes some way to realise that those key democratic control and autonomy principles underpinning the co-operative ethos.

2. Representative elections and data protection

The rules should confirm and state (in the interests of members, candidate directors and the co-operative secretarial function) that appropriate contact details will be disclosable in the context of elections.

3. The size, composition and powers of the board of directors and the conditions and procedure for conducting board (and any other member representative) elections.

4. The key statutory obligations the co-operative is subject to where a member should reasonably be aware of such obligations.

5. Any and all other matters requiring rule book expression where ICOS has throughout this response) suggested that such rule book expression be appropriate (e.g. requirement for rules to require consideration on audit exemption approval/renewal in the AGM where rules provide for audit exemption).

## Matters relating to Shares

### Legal Reserve

#### Question 4.

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

#### Response:

The proposal for a legal or indivisible reserve is one that should be carefully considered. ICOS has concerns.

To start with, the Paper is not entirely clear on the intended purpose nor does it comprehensively recognise existing legal protections deployed with some success in Irish co-operative rule books. If we take purpose first, the Paper speaks of other jurisdictions where a legal reserve is installed to "safeguard the aims", "provide financial stability" and "mitigate against asset stripping". The Paper also suggests that the status quo does "not provide security for creditors".

ICOS is of the view that the legislative reform process should be clear on what exactly is intended here. At the risk of pre-empting the answer to that question, we have some observations.

If the proposal is to designate a portion of the surplus to a reserve that would be ring fenced from not only members but also business use, this would be a concerning development. Other corporate entities such as companies, for instance, are not required to ring fence funds for creditors. What is required, of both companies and co-operative societies, under prevailing law and financial reporting standards, is an obligation to factor solvency considerations into their financial management practices.

If, as we suspect is more likely to be the case, the proposal is solely to restrict members from accessing a designated reserve then there are some key points which we submit should first be considered. Much of the international commentary on legal reserves focuses on the absence of "common property" appreciation and the risk of take-over where wealth considerations reportedly prevail.

In Ireland however most co-operatives, and in particular those using an ICOS rule book, have adopted (in their rules) controls mitigating the risks the commentary alludes to. These controls (which feature in the co-operative societies rules, being a contract to which members are bound) include:

- a nominal share value (which applies on redemption)
- board determination on admission of members
- limits on the number of shares that each member may hold
- share redemption ultimately a board decision (often expressing the duty to consider financial health of the co-operative) and not a member's
- Board and AGM control on decisions to distribute surplus (dividends, bonuses)

These controls act to copper fasten continued service delivery (i.e., sustaining the co-operative) as the dominant co-operative purpose. In doing so, these controls (periodically reviewed and

maintained by service-using members) render individual wealth accumulation a subordinate concern.

In summary, the idea of restricting member access to funds so as to sustain the co-operative is currently being achieved throughout the co-operative network.

Related to this point, and cognisant of some of the international commentary, it should be emphasised that democratic member control and the autonomy of the co-operative are key co-operative principles. The vesting of decision-making powers in the hands of service using members (and their elected representatives) is part and parcel of good co-operative health.

There is a very real concern that legislative prescription (albeit optional and well-intended) could precipitate situations fettering the ability of members, in a given co-operative at a given time, to democratically take decisions in line with their common interests.

In conclusion ICOS:

- calls for a material reflection on precisely what purpose would be served by this proposal;
- submits that the fundamental utility, ethos and principles of co-operatives are well served under existing rule book solutions; and
- welcomes any legislative clarification on, and support for, the controls that we contend drive those solutions and thereby sustain co-operatives and their service using members.

**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:**

The concept of member nomination of property in the event of death is helpful and worthwhile retaining. That is the feedback ICOS has received from co-operatives. The rationale being that it aids generational renewal - specifically nominating persons likely to have an interest in, and need for, participation with the co-operative. In that regard, the concept demonstrates the distinctive character of co-operative share ownership vis-a-vis other corporate structure. In a practical and administrative sense the mechanism is efficient.

ICOS has two additional observations:

1. There is arguably justification for an increase in the existing threshold of €15,000.
2. The new legislation should take account of the need to nuance the provisions with respect to administrative requirements for secondary co-operatives.



## 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:

Co-operative members' livelihoods are intrinsically linked to their co-operative's strategies and decision making. Therefore, co-operative members are best served when the board is comprised in such a way that:

1. is representative of the members;
2. ensures a healthy diversity of opinion and mandate from the stakeholder base; and
3. ensures the board has enough personnel to maintain engagement with such stakeholders.

That democratic and representative cornerstone of the co-operative business model generally justifies and requires a larger board than would be the case in an investor-owned and profit focused corporate entity.

While there is evidence of significantly large boards experiencing issues with confidentiality, communication and solidarity, Boards that are too small may not reflect the diversity and scale of the co-operative and its membership.

ICOS submits that even for small membership co-operatives, the board should consist of a minimum of 3 individuals and where a co-operative has a larger membership (in excess of 10) there should be a larger and sufficiently representative board. In our general experience, having most or all members of a small co-operative on the board is in fact beneficial for both the members and the co-operative.

## **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:**

The Paper proposes that a single special general meeting (with a 75% majority threshold) would determine proposals on:

- a) consolidation (amalgamation or transfer of engagements)
- b) change of name
- c) conversion (to company) and
- d) liquidation/dissolution

In respect of consolidations, ICOS believes that the existing legislative flexibility to consider and approve such a decision over the course of two meetings (with each requiring a majority to approve) should be retained. Consolidations can prove the difference between retaining and losing a co-operative service. It is important that the two-meeting mechanism is retained, particularly where livelihoods may be at stake.

In respect of the other special resolution actions, ICOS would like to see further elaboration on the proposals and reserves its comments in that regard.

## 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:

ICOS supports the concept of an audit exemption for small co-operatives subject to certain protections.

Before elaborating on these protections (eligibility being one dimension), it is sensible to reflect on what the audit achieves. Aside from being a public interest compliance measure, the act of auditing the financial statements provides co-operative members with some assurance on the financial health and compliance status of their co-operative. That safeguard is especially important where livelihoods depend on the continued existence of the co-operative.

Nevertheless, there are cases where the cost of the audit is unduly burdensome relative to the financial means of the co-operative. In those circumstances, ICOS submits that co-operative members should be afforded the option of securing an exemption (**Our response in Q.9** expands on the process and protections around exercising that option).

ICOS has for many years monitored the scale and activity of co-operatives with audit exemption in mind. The quantum of the proposed thresholds, align with our research and accordingly, we support those thresholds as of the time of this consultation.

However, with respect to the two separate tests, ICOS has revised its analysis in the aftermath of the pandemic and considered how co-operatives can fairly qualify without undue risk to members and other stakeholders alike. It is our view that the proposed two-step test should be replaced with a singular test, whereby a co-operative would be required to satisfy three out of the four tests (balance sheet, turnover, employee numbers, shareholder numbers). This would remove the risk of co-operatives of small balance sheet and turnover size being indefinitely ineligible because their membership numbers exceed 50.

To ensure some level of consistency in qualifying conditions ICOS submits that these eligibility threshold criteria should be satisfied in two consecutive years and a co-operative society availing of the exemption would be required to stipulate the same in its rules.

## 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:

As stated in response on Q.8, we submit that the act of the audit provides a vital safeguard on member interests. There is real comfort in knowing that a professional third party has scrutinised the co-operatives accounts, not solely on adherence to reporting standards, but also on the parameters of financial risk.

A co-operative is at its most basic an organisation owned, controlled and engaged with by its members. The members long-term interest in the co-operative's financial health is therefore fundamental. The audit must be recognised and valued for the important part it plays in ensuring that ongoing member control and interest.

ICOS strongly supports the proposal to require a co-operative to provide for audit exemption in its rules as a pre-cursor to triggering the exemption in respect of a particular year. This requirement will ensure that members themselves consider and resolve whether audit exemption is something appropriate to their circumstances and those of their co-operative.

On the proposal that 10% of members would have the right to reverse audit exemption, ICOS believes that an inverted approach might be advisable. We propose that, where a co-operative decides to provide for audit exemption in its rules, that rule provision would stipulate that the decision to prepare financial statements without an audit for a given year would be taken by a 90% majority of members in AGM and that should the members wish to avail of the audit exemption the following year then a subsequent resolution would be required, in that subsequent AGM.

In summary, the ICOS proposal is for a pro-active decision by members, and one that is explicit in the rule governing the order of the business for the AGM rather than reverse (10% vote) which we submit might, in time, become a politically difficult point to raise by a concerned minority of members.

As a final layer of protection - and to underscore the utility of the default audit exercise - ICOS submits that the exemption should only be permitted for a maximum of four consecutive years. In other words, where the members decide in four consecutive AGMs to avail of audit exemption, the co-operative would be obliged, by statute, to return to audit in the subsequent (fifth) year.

**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:**

ICOS supports the proposal to allow the filing of abridged accounts by co-operatives of small scale. However, it is imperative, and the legislation should express, that if a co-operative avails of the right to file abridged accounts, the full financial statements would be prepared, approved (by the Board) and presented to members for approval. Control and engagement by members is critical for co-operative health and there should no diminution in that regard.

ICOS proposes a singular modification of the proposed eligibility test, such that a co-operative would be required to satisfy any three out of the four proposed quantitative threshold tests: balance sheet (not to exceed €1m), turnover (not to exceed €2m), employee numbers (not to exceed 50), shareholder numbers (not to exceed 50). This would remove the risk of co-operatives of small balance sheet and turnover size being indefinitely ineligible because their membership numbers exceed 50.

### **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:**

This proposal would permit the co-operative society to prepare financial statements under FRS105, which would allow the smaller co-operatives an opportunity to prepare a smaller set of accounts.

ICOS would emphasise the need for member control and engagement as key tenets of co-operative health. Information aids engaged decision making and thereby control on direction of the co-operative's activities. Accordingly, ICOS proposes two adjustments to this proposal.

First, we propose that the eligibility test be modified such that a co-operative would be required to satisfy three out of four threshold tests as follows:

- a) Balance sheet (not exceeding €350,000)
- b) Turnover (not exceeding €700,000)
- c) Number of employees (not exceeding 10)
- d) Shareholding members (not exceeding 25). The reasoning for the low shareholder number is to ensure that co-operatives availing of this exemption are ones with a relatively small membership.

Second, the legislation should prescribe that availing of the exemption requires:

- i) provision in the rules of the co-operative, and
- ii) approval in the AGM.

## 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:

#### Co-operative shares, and the rights and regulations that surround them

There is opportunity for the legislation to recognise the fundamental utility of a co-operative share in the sense that it (the share) is often the means through which a member secures the right to trade with his/her co-operative. In an era of substantial funding projects, the shareholder is often called upon to increase his or her shareholding in the co-op. It is the ICOS view that the legislation should explicitly reference that fundamental utility to keep open the door to future policy decisions (including recognition in the tax code) that might support the co-operative model and the producers/service users it serves.

#### Fundraising – removal of Registrar permission, prohibition on public fundraising

We welcome the proposed removal of the €30,000 limit on fundraising imposed by Section 6 of the current legislation. This limit is unduly restrictive on co-operatives membership development and fundraising efforts.

On a related note, the proposed prohibition on seeking funds from the public should be carefully considered. It is critical that this measure does not become a more onerous restraint on legitimate member development and fundraising. Open and voluntary membership - allowing people who can avail of the services of the co-operative - is a key principle of co-operation.

It is essential that the proposed prohibition does not restrict a co-operatives ability to generate capital for provision of services, or create uncertainty regarding what type of membership drives are compliant. Similarly, if the proposed non-user shares were to be introduced it would be important that co-operatives are given clarity on how to issue these shares in a compliant manner. See our cautionary comments on "*Raising capital from non-users - express provision for non-user (investor) shares*" under "*List of matters that must be dealt with in the rules*" (below).

#### Any Lawful Purpose

The Paper proposes that a co-operative would be acceptable for registration, where it seeks to engage in "any lawful purpose". This is welcome as the existing legislation reach (for the purposes of carrying on "any industries, businesses or trades") fails to adequately capture service orientated co-operative solutions. ICOS caveats our support by saying that we strongly suggest that a co-operative would be required to explicitly address its object(s) in its rules (see Q.3 Response) and our rationale for this is that members should have meaningful influence on the actual activities of the co-operative venture i.e. it should operate within the parameters of their democratically determined (and registered) mandate.

#### Statements and declarations upon submission of registration application

The existing registry framework requires co-operative societies to declare certain matters at the time of registering the entity. ICOS notes that the Paper appears to propose broadly similar requirements under the new legislation. The proposed additional requirement that directors not be disqualified elsewhere appears sensible. Overall, on this proposal it should be stressed

that in many co-operatives individual members seek seats on the board (or agree to act as secretary) with volunteerism and community spirit in mind. It is important that, as with director duties and administrative compliance, the legislation reflects these important co-operative nuances.

#### **List of matters that must be dealt with in the rules**

Rules shall address the following. At page 6 of the Paper it is proposed that a co-operative's rules must address certain matters. On these, ICOS has the following specific observations:

#### **(d) The co-operative to carry on any activity on the basis of the co-operative principles.**

ICOS supports this subject to two caveats:

1. The legislation should devolve to co-operatives and their members the right to reasonably interpret and balance the co-operative principles in the context of their own particular co-operative.
2. The reference to "any activity is welcome, as mentioned elsewhere in this response, but there should be included in the rules of the co-operative a statement as to the object(s) for which it is established and to which end it will operate.

#### **(h) Minimum number and value of shares**

Clarity in the rules here is sensible. ICOS notes the reference to 'nominal value' and supports (for reasons outlined in response to Q.4) legislative clarity on the utility and consequential value of the co-operative share.

#### **(m) Legal reserve**

Our position on, and concerns around, the proposal are outlined in response to Q.4. As explained, there are very useful tools underpinning co-operative sustainability (in the context of surplus/reserve allocations and retentions). These include the practices of redemption solely at board's discretion and dividends determined subject to Board and AGM scrutiny. On that basis, legislation requiring a co-operative to set out these provisions (where they apply) in its rules would appear to be sensible.

#### **(n) Rights and obligations regulating shares**

ICOS requests further clarity on what is envisaged by this reference.

#### **(o) Raising capital from non-users - express provision for non-user (investor) shares**

In very basic terms, a co-operatives membership consists of active (service using) shareholding members. Where a co-operative intends to set up with non-users contributing capital at the outset a very obvious departure takes place. ICOS urges caution in that regard. If a co-operative and its service using founder members are willing to accommodate that departure it is imperative that there be clarity (for both sets of shareholders) on respective entitlements, rights and obligations (representative, decision making and other).

#### **(q) Supplemental rules**

This is a noteworthy inclusion. ICOS requests clarity on what type of situations and what types of instruments or document is intended to be captured by this reference.

#### **Minimum member reduction**

ICOS has reservations about the proposal to reduce the minimum number of members required to form a co-operative for a number of reasons. We are of the view that it does nothing to materially promote the co-operative model in line with the 7 principles of co-



operation in the manner that the current figure does. For example, the existing requirement of member numbers encourages the principles of:

- i. voluntary and open membership,
- ii. democratic member control,
- iii. member economic participation, and
- iv. concern for community,

by simply requiring more people to be involved from the start.

Co-operative societies are sustained best where market failure drives collectivism and loyalty. To mitigate this market failure and drive this collectivism, there needs to be some level of scale. In ICOS' experience, the 7 member requirement though not a guarantee of that necessary scale is at least a strong indication of it. ICOS has a degree of concern that the reduction could lead to "cosmetic co-operatives" where a business is operating as a limited company while holding themselves out as a co-operative, in order to artificially gain good public relations and goodwill.

If there are to be benefits (whether in statute or via government policy) for co-operatives for the very reason of promoting the original market failure (i.e. "achieve together what you cannot on your own") logic of co-operatives then surely to reduce the minimum membership opens up greater risk of abuse by individuals who would otherwise pursue a company vehicle.

If as a result of the Industrial and Provident Societies Act review, it transpires that the existing 7 is reduced to a lower number, we would strongly advocate that access to establishing co-operatives at that reduced number must come with strict criteria to mitigate the risks we have just now outlined. In ICOS' experience of establishing over 100 co-operatives over the last decade, the 7 member limit is rarely a barrier to successful co-operative establishment.

#### **Financial Year and Annual Return Date**

The Paper envisages reform of the law and processes around filing annual returns. This is welcome. The existing legislation is not only antiquated and piecemeal it is also, in cases, open to interpretation. ICOS submits that a modern filing period (or window) of 9 months rather than the existing 4 months is appropriate.

However, there are some points that need to be made.

1. The proposal suggests that a given co-operative would have a fixed financial year and a fixed annual return date. The proposal says that, at least in the case of the annual return date, there would be flexibility for a co-operative to alter their annual return date. In principle, this development should be in order. However, the Paper does not sufficiently elaborate on how the mechanisms (year and return date and flexibility to alter either) would work in practise. Subject to receipt of that elaboration ICOS submits that co-operative should have similar flexibility to companies in respect of being able to adjust the annual return date every few years.
2. Access to (and adoption of) financial statements by service using members is a key safeguard for financial, and thus service, sustainability. The existing legislation requires that the accounts be placed before the members on an annual basis. ICOS submits that for co-operatives to properly run through financial statement preparation, audit, adoption (board), approval (members) and filing (with the state) there must be ample time afforded to allow those steps take place in a sequential manner. The timeframe for filing the annual return should allow for that necessary exercise in financial probity

and member control to play out. In addition, a co-operative society should, ICOS submits, be required to provide for the adoption of the financial statements in the Annual General Meeting and for that approval to precede filing of the annual return.

3. Finally, co-operatives affiliated to ICOS have on occasion experienced frustration in applying the existing legislation to modern financial reporting systems. It is important that the new legislation factors in those important considerations.

### **Representative elections - member contact details and data protection**

Conducting transparent, accessible and fair co-operative society board elections is essential to realising and maintaining member control and participation. Giving candidates access to their fellow members' names and contact details is an important part of a co-operative society complying with its duty to uphold members rights to transparent, accessible and fair elections. Co-operative societies take these duties and their members' data protection and privacy rights seriously. Therefore, the new co-operative societies legislation should recognise and endorse a co-operative societies legal basis for providing candidates with the member details necessary for election canvassing and avoid any misconceived and unnecessary dilemma between conflicting governance and data protection duties.

### **Receivership**

We welcome the adoption of the CA 2014 Receivers powers in so far as it will bring clarity to both process and to creditor protection. However, we would suggest consideration of the extent to which it may be possible for legislation to preserve some level of service delivery for dependent members where a receivership comes into operation.

### **Charges and debentures**

In principle, we welcome the proposal to expand and modernise the registration of charges and debentures and hope that this process places co-operatives on an equal footing with companies and streamlines what is currently an archaic process. We look forward to seeing the specific proposals in due course.

### **Register of directors interests**

Transparency and prudent, responsible risk management are a cornerstone of the resilience and reliability of co-operatives. With this in mind, we welcome a statutory basis for recording directors' interests in their co-operatives. That said, any proposal involving transparency disclosures begs the question: who should have access to these disclosures? Pending clarification on that point, we would submit that there should be a proper assessment of what details should be made available to stakeholders outside the member base. In that regard, ICOS requests proportionality and regard for co-operative volunteerism.

### **Register of Directors and Secretaries**

We note this is an expansion on what is currently required. In line with our comments on 'Register of director interests', we would emphasise the need for legislation to adequately reflect the distinction between being a director of a co-operative and a director of another corporate entity. We have informed concerns regarding this expanded level of information, particularly if such information is readily available to the public, as this could have a deterrent effect on individuals volunteering to co-operative boards, particularly in the community/small co-operative space.

### **Registration authority and processes**

Co-operatives currently engage with the Registry of Friendly Societies on matters requiring registration under the legislation. The Paper acknowledges that there are several areas where the existing legislation is an impediment to clarity on process. ICOS concurs with that observation and supports modern solutions that adequately address co-operative nuance. There are many examples where change is needed in this regard. To take one - annual returns. There is a need for a change in the documentation to enable recognition of directors who may not (e.g. in the case of a secondary co-operative) be direct shareholder members in the co-operative society filing the return. Equally, while the online registration portal has proved beneficial in the main there are specific filing processes where the existing approach is frustrating to use. ICOS recommends that the needs of the co-operatives governance and the Registrars systems be properly assessed and integrated before legislation is drafted.

**Final note**

ICOS has endeavoured to address as much of the Paper's contents - and stated intentions - as is feasible. Understandably, there are many points which require further elaboration and, in turn, consideration. ICOS continues to support that approach and reserves its comments (particularly on points not explicitly responded on) in that regard.

## **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**