

FAO: Cooperative Legislation Unit

I refer to a letter, dated 22nd May 2009, from Eamonn Carey, Co-Operative Legislation Unit in relation to the Consultation Paper on the Industrial and Provident Societies Acts 1893-2005.

I am pleased to provide the following comments in respect of the Department of Community, Rural & Gaeltacht Affairs.

Comment regarding Community & Local Development

In general, the company limited by guarantee model would seem to be preferred as a company structure over the Friendly Society, as the full rigours of company law apply, and at the same time the company limited by guarantee offers perhaps better protection to the members of such companies than the provisions of friendly societies. There is also the fact that the Society only exists to benefit the members themselves and is not intended to benefit local communities per se. In this way, it is possible to exclude members of the community from membership and by extension, limit the benefit to some members of a community over others.

The co-operative or friendly society has been used to good purpose in many local communities and we would conclude that the structure would not be abolished altogether in favour of the company limited by guarantee structure.

Comment regarding Charities Regulation

A small minority of co-operative societies are currently eligible for charitable tax exemptions under the scheme administered by the Revenue Commissioners, and such organisations will automatically become charities when the Charities Act 2009 is commenced, and be subject to regulatory scrutiny by the Charities Regulatory Authority, once established.

Firstly, we would presume that any updating of the 1893 Act would not seek to impact upon the existing charitable status of such organisations, but our Charities Regulation Unit would be happy to comment on any draft legislation that emerges from the process to ensure that this is the case. Secondly, our input in that context would also help to identify and minimise any potential for dual regulation.

Kind regards

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Department of Community, Rural and Gaeltacht Affairs

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