

Submission to the Co-operative Legislation Unit, Department of Enterprise,
Trade & Employment
regarding the initial
Consultation Paper on the Industrial and Provident Societies Acts, 1893-
2005 by the
Centre for Co-operative Studies, University College Cork

The Centre for Co-operative Studies is a university research centre that promotes education and training along with independent research and consultancy in all aspects of co-operative organisation and development. The Centre welcomes this review of the Industrial and Provident Societies Acts. The need for review is generally acknowledged by those involved in co-operative sectors as well as by the Department itself, as outlined in the consultation document.

One of the stated purposes of the review is to ensure that co-operatives in Ireland have a regulatory environment “*which supports their continuing growth and development and enhances their capacity to contribute to economic and social well being*”. It is argued in the consultation document that co-operatives have developed thus far without any definition of co-operatives in the legislation. It is our view that the continued growth and development of the co-operative model may require explicit recognition in any new legislation. This may be achieved by defining co-operatives within the act, as has been done in the European Co-operative Statute, notwithstanding the difficulties that this may entail. At the very least, a change to the title of the acts making use of terminology that is relevant, clear and recognisable to the public, namely use of the term *co-operative*, would be a positive step. Distinct regulation for the credit union sector which recognises the distinct nature and needs of that co-operative sector seems to be working well.

Given that the current acts are subject to the interpretation of the Registrar of Friendly Societies, the development of co-operatives is dependent on this person and his/her staff having sufficient knowledge, understanding and recognition of the distinct nature and relevance of mutual forms of organisation. Research by the Centre for Co-operative Studies indicates that staffs, across a range of publicly funded bodies, are ignorant of co-operatives. Legislation and terminology that distinguish the co-operative model may be a factor in helping to legitimize the model thus supporting its continued development.

Any changes to the existing legislation should aim to reflect the needs of existing societies but also to protect those of smaller/emerging co-operative sectors which may not currently have the critical mass to lobby for change. It would also be regrettable if the volume of responses to calls for consultation or responses from just some co-operative sectors were to dictate changes to the legislation.

In answer to specific questions raised in Section 3 of the consultation document:

A. Societies which may be registered

Q 2. Should societies which pursue other activities be permitted to register under the Acts? Give reasons for your views.

Q2. Yes. It may be overly restrictive to confine societies to “industries, business or trade” specified at their formation. This definition may also be a disincentive to groups who wish to work together co-operatively but feel that they do not fit the stated categories.

F. Corporate Governance

Q 12. How are the provisions of the IPS Acts in relation to governance operating in practice?

Q 13. Are any changes to those provisions necessary or desirable? If so, give reasons for your views.

Q 14. Outline the type of changes which you would like to see giving reasons for each suggestion.

The point is made in the consultation paper that self-regulation through use of model rules provided by representative bodies appears to be working reasonably well. We would concur with this.

In our experience, however, new and emerging groups which do not fit under the target groups of the representative bodies do not have access to the supports and advice made available by such bodies and as a result may adopt other legal structures. This contrasts poorly with the many supports available to those incorporating as a company and is a disincentive to the formation of co-operatives.

H. Other Matters

Q 17. Do you wish to offer views or observations on:

- (a) any other provisions of the IPS Acts
- (b) whether any of the mechanisms of the Companies Acts not currently available to industrial and provident societies should be made available to them
- (c) any other matters relevant to this review of the IPS Acts

The consultation document refers to the merit in extending current linkages between the Companies Act and the IPS Acts. While this may be advantageous from several perspectives (e.g. cost and administrative efficiency) it is important that co-operatives are not disadvantaged by such moves.

There should be provision for restriction of the term *co-operative*.

I. Public Enforcement

The current role of the Registrar of Friendly Societies includes the registration of societies and the maintenance of a public office for inspection of documents by the public. An issue of concern to us is the availability and standard of data on co-operatives for the purpose of research and analysis. Currently inadequate breakdown is provided by the Registrar’s office for different types of co-operatives, for example, workers’ co-ops,

which seem to fall under several headings resulting in staff of the Registry being unable to clearly identify workers' co-operatives from their records. Furthermore, our understanding is that co-operatives that register as companies are not identifiable among Company Office records.

In summary, we feel that it is important that any changes to legislation:

- Acknowledge the distinct nature of co-operatives and uses the term *co-operative*
- Ensure a level playing pitch between co-operatives and other incorporated entities both in terms of the regulation of their activities and in the incentives for choice of and support in adopting legal form
- Are accompanied by a comprehensive and efficient service of data retention
- Are supported by a commitment to fostering and maintaining knowledge and understanding of the nature of co-operatives amongst relevant officials.

We look forward to responding to any proposals for change resulting from this initial consultation and to engaging in debates on same.