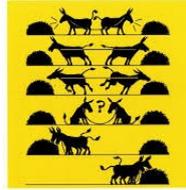


'THE TWO MULES'
A Fable for the Nations



CO-OPERATION
IS BETTER THAN CONFLICT

Co-operation Works

Co-operative Development
By any means necessary...

**Submission to the Department of Jobs, Enterprise and Innovation on
the Review of the Industrial and Provident Societies Acts 1893-2014**

Introduction

Co-operation Works welcomes the opportunity to make a submission to the Department of Jobs, Enterprise and Innovation on the review of the Industrial and Provident Societies Acts 1893-2014.

Established in 2016 Co-operation Works is a new concept in Co-operative Development which recognises that the needs of any particular group or organisation will differ from each other, and even within the same group over time. Co-operation Works will respond by providing or sourcing the most effective response, whether advice, consultancy, training, mentoring, or direct management. Co-operation Works was founded by Norman Rides who has thirty years experience of co-operative development in the UK and Ireland covering almost all sectors and at all stages of development. In his work he has become aware of many potential co-operatives that are unable to proceed due to barriers which would not be faced by capital-led businesses.

The Need for a Review

In 2016 Ireland celebrated the Centenary of the Easter rising of 1916. This has raised awareness of the Vision for Ireland held by the participants in the Rising. There has been much focus on the wording of the declaration itself, which is silent on the economic form the future republic would take, except to say that “We declare the right of the people of Ireland to the ownership of Ireland and to the unfettered control of Irish destinies, to be sovereign and indefeasible”

The centenary of the Rising generated much interest and discussion about Irish Society and the original vision of the 1916 leaders. James Connolly in “The Reconquest of Ireland” (1915) said “*The idea of **co-operatives** is capable of almost infinite expansion, and not least amongst its attractions is the hope that the minds of Irish men and women, once set thus definitely in the direction of common work, common ownership, and democratically conducted industry, their thought would not cease from traveling that path until they had once more grasped the concept of an Ireland of whose powers, potentialities and gifts each should be an equal heir, in whose joys and cultures all should be sharers.*”

*Similarly Michael Collins, writing a week before his assassination set out a vision for a New Economic system in Ireland: “The system should be on **co-operative** lines rather than on the old commercial capitalistic lines of the huge joint stock companies. At the same time I think we shall safely avoid State Socialism, which has nothing to commend it in a country like Ireland, and, in any case, is monopoly of another kind. Ireland will provide splendid opportunities for the investment of Irish capital, and it is for the Irish people to take advantage of these opportunities. If they do not, investors and exploiters from outside will come in to reap the rich profits that are to be made. And, what is worse still, they will bring with them all the evils that we want to avoid in the New Ireland. We shall hope to see in Ireland industrial conciliation and arbitration taking the place of strikes, and the workers sharing in the ownership and management of businesses. A prosperous Ireland will mean a united Ireland.”*

It is clear that in economic respects Ireland has failed to give effect to the vision of those who declared the Republic, and has failed to realise the potential of an Ireland “in whose joys and cultures all should be sharers.” As a result investors and exploiters...[have indeed] come in to reap the rich profits that are to be made...” In particular the failure to

develop the co-operative sector of the economy beyond Agricultural Marketing and Credit Unions has created an open economy where ordinary people have little control and are very vulnerable to external economic events. The current legislation on co-operatives constitutes a significant barrier to Irish citizens and residents creating the economy envisaged by the leaders of 1916.

Areas of Concern

The words “Industrial” and “Provident” are antiquated and lack meaning in a modern context. The designation is often confusing as many people looking for the law relating to Co-operatives and Mutual Societies naturally expect to find legislation containing those words in the short title. The UK, from which the Irish legislation is derived, has recently updated the legislation to use the term “Co-operative and Community Benefit Societies.” While there are no Community Benefit Societies in Ireland as this amendment was introduced in the UK after Irish Independence, there are Mutual Societies and there is merit in grouping Co-operatives and Mutual Societies under the same legislation.

Recommended: that the references throughout the legislation to “Industrial and Provident” be deleted and the terms “Co-operative and Mutual” be inserted;
 that the Acts collectively be referred to as the “Co-operative and Mutual Societies Acts 1893-2017.”
 that the Registry of Friendly Societies be renamed the “Registry of Co-operatives and Mutuals.”

In 2014 there were 237,753 SMEs in Ireland employing 919,985 workers at an average of 3.87 employees per business. The requirement for a minimum of seven member-employees in order to register a worker co-operative makes any such new-start business automatically have almost twice the number of employees than the average Irish SME. This is an onerous requirement not justified by any objective of public policy. This requirement also has detrimental effects on prospective housing co-ops. By way of comparison, the European Co-operative Statute only requires five members for a co-operative straddling more than one EU country.

Recommended: that in Section 5 (1) of the 1893 Act the word “seven” be deleted and the word “two” inserted;
 that in Section 5 (2) of the 1893 Act the word “seven” be deleted and the word “two” inserted;
 that in Section 9 (1) (a) of the 1893 Act the word “seven” be deleted and the word “two” inserted;

The Co-operative Value of Self-Responsibility requires *inter alia* that Board Members make every effort to attend meetings in person. Any new Act should make provision for electronic attendance and voting at Board and Sub-Committee meetings. In the same spirit proxy voting should be discouraged, perhaps by limiting proxy votes to one vote for each member attending in person.

The Co-operative Principle of Democracy requires the minimum of barriers to participation therefore any new Act should enable Co-operatives to facilitate voting in elections and on policy resolutions by electronic means.

Good policy requires accurate and timely data therefore any new Act should require the Registrar of Co-operatives and Mutuals (formerly Registrar of Friendly Societies) to report annually to the Dáil on the state of the co-operative economy, and in particular on the numbers and sector of co-operatives, and the turnover, profit/surplus, capitalisation, membership and *fte* employees of each co-operative. This will assist Irish representatives attending EU and other international meetings on co-operative policy.

The cost of audit for a small co-operative organisation can be a significant charge to profitability, particularly as many co-operatives may have alternative processes to ensure probity. Any new Act should provide that a co-operative be exempted from audit provided that all members are able to inspect the books of account and that the Registrar is satisfied that it is not unreasonable and disproportionate for them to do so. Alternatively a co-operative may make provision for internal audit provided that the Registrar is satisfied that the arrangements are adequate to the size and nature of the co-operative. An annual audit may otherwise be conducted by policy decision of the members. The Registrar should retain powers under S18 of the 1893 Act to order exceptional audit.

The requirement for co-operatives to seek permission for borrowing from the Registrar is an onerous requirement not justified by any objective of Public Policy. This is a matter which should be determined on a “willing lender, willing borrower” basis subject to proportionate restrictions on the costs of capital.

Co-operatives are different in that they are governed by Values and Principles. Many countries include the Values and Principles in their Co-operative Acts and give them the force of legal guidance. Any new Act should include the Co-operative Identity, the Values and the Principles for the guidance of judges interpreting the Act. (See Appendix.)

Generally any new Act should provide that in initial registration and annual reporting a co-operative is not disadvantaged by an inequitable fee structure, nor by antiquated reporting requirements e.g. not being able to file applications and returns electronically.

APPENDIX

According to the "Statement on the Co-operative Identity," a co-operative is defined as:

"an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise."

The Co-operative Values are: Equality; Equity (fairness); Democracy; Solidarity; Self-Help, and Self-Responsibility. There are also four Ethical Values of: Openness; Honesty; Social Responsibility, and Caring for Others.

Co-operative Principles

The co-operative principles are guidelines by which co-operatives put their values into practice.

1. Voluntary and Open Membership

Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.*

2. Democratic Member Control

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote) and co-operatives at other levels are also organised in a democratic manner.*

3. Member Economic Participation

Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership.*

4. Autonomy and Independence

Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

* International Co-operative Alliance Definition

* International Co-operative Alliance Definition

5. Education, Training and Information

Co-operatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their co-operatives. They inform the general public - particularly young people and opinion leaders - about the nature and benefits of co-operation.

6. Co-operation among Co-operatives

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional and international structures. Co-operatives also trade with other co-operatives to ensure growth of the sector.

7. Concern for Community

Co-operatives work for the sustainable development of their communities through policies approved by their members.