



## Department of Justice and Regulation

Consumer Affairs Victoria

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Our ref:CD/16/98251

Department of the Senate  
By email: [Economics.Sen@aph.gov.au](mailto:Economics.Sen@aph.gov.au)

Dear

### **Senate Economics Committee – Co-operative, mutual and member-owned firms inquiry**

Thank you for your email dated 29 February 2016, requesting a response to a list of Questions on Notice raised by the Senate Economics Committee regarding an inquiry concerning co-operative, mutual and member-owned firms.

The Co-operatives National Law (CNL) is applied as a law of Victoria by the *Co-operatives National Law Application Act 2013* and, as so applied, is referred to as the Co-operatives National Law (Victoria) (CNL(Vic)). The Registrar of Co-operatives for the purposes of the CNL(Vic) is the Director of Consumer Affairs Victoria.

Data provided in response set out below relates to the administration of the CNL(Vic).

#### *Cost and complexity of forming a co-operative*

**“How many co-operatives have been formed since the commencement of the CNL?”**

Response: 52

**“What is the average time taken to approve rules?”**

Response:

The time required for rule approval is contingent on a number of factors which relate to their complexity, competency, and responsiveness of the applicant. The average time is approximately 2 weeks.

**“What is the average time taken to form a co-operative?”**

Response:

The time required to form a cooperative can vary significantly and (as above) is often contingent on the complexity, competency, and responsiveness of the applicant. The average time is approximately 2 months.

**“What is the most common fault with draft rules that tend to see them rejected or requiring amendment?”**

Response:

Non-compliance with section 56(1) of the CNL which requires that the rules of a proposed co-operative provide for all of the required matters listed in Schedule 1 to the CNL(Vic).

**“What assistance or policy guides are produced to help new co-operative start ups?”**

Response:

A range of detailed information sheets are accessible free of charge and may be downloaded or printed from the Consumer Affairs Victoria (CAV) website [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au).

Information from the website includes:

- Summary of changes to the co-operatives law
- What is a co-operative?
- Register a co-operative
- Responsibilities of a co-operative
- Make changes to a co-operative
- Merge with or take over a co-operative
- Wind-up a co-operative
- Penalties
- Fees and forms

The CAV website enables free download of a range of approved forms, including the Model Rules for both distributing and non-distributing co-operatives and examples of disclosure statements that may be required to be lodged under the CNL(Vic).

There is also the ability to search for a registered co-operative and to obtain an extract of details of a registered co-operative.

Online access is also provided to the relevant legislation:

- Co-operatives National Law Application Act 2013
- CNL(Vic)
- Co-operatives National Regulations
- Co-operatives National Law (Local) Regulations 2014

CAV also provides a telephone enquiries line to assist co-operatives and may provide a more detailed written response to co-operative queries when appropriate.

**“At what point should the Registrar’s inquiry into the draft rules cease to be interested in whether the co-operative will succeed?”**

Response:

The Registrar of Co-operatives assesses the draft rules of a proposed co-operative in accordance with the requirements of section 24 of the CNL(Vic). Registration of a proposed co-operative is conducted in accordance with the requirements of section 27 of the CNL(Vic). An assessment of whether or not a proposed co-operative will “succeed” (presumably in terms of fulfilling its primary activities) does not form part of the registration process under the CNL(Vic).

**“What is the average cost for online co-operative registration services?”**

Response:

CAV does not yet provide an online co-operative registration service. Registration under the CNL(Vic) requires submission of paper documents.

Victorian co-operative registration fees are:

- Apply for approval of proposed name and rules (non-distributing co-operatives) - \$74.80;
- Apply for approval of proposed name, rules and disclosure statement (distributing co-operatives) - \$340.00;
- Apply to register a co-operative - \$29.90;
- Apply to register an existing body (corporations, indigenous corporations and incorporated associations) as a co-operative - \$29.90.

Formation disclosure statement:

**“Why is there no guidance regarding the requirement of a disclosure statement for non-distributing co-operatives?”**

Response:

A non-distributing co-operative is not required to lodge a disclosure statement unless the Registrar requires it. The CAV website provides information about the requirements of a disclosure statement, and provides an example disclosure statement to assist co-operatives drafting a disclosure statement.

**“At what point does the Registrar make a decision about this requirement?”**

Response:

The Registrar must ensure that the disclosure statement is compliant with the CNL(Vic) and the co-operative’s rules, and that it is clear in its purpose.

**“There is a template for a disclosure statement for a distributing co-operative, but not for a non-distributing co-operative, how do proposers of a co-operative determine what it should contain?”**

Response:

As noted earlier, a non-distributing co-operative is not required to lodge a disclosure statement unless the Registrar requires it. However, if it is required a non-distributing co-operative will be advised in writing and may use and adapt the example disclosure statement for a non-distributing co-operative available from the CAV website. CAV can also offer assistance in drafting the disclosure statement.

Progress on CNL and the Inter-government agreement (AUCLA)

“Clause 9(6) requires the Ministerial Council to keep the CNL “under review to determine whether policy objectives remain valid and whether its terms are appropriate for securing those objectives” and Clause 19(1), which requires the Ministerial Council to meet once each year to consider co-operative law matters.

**“Have any meetings been held under the terms of the (AUCLA) agreement?”**

Response:

Updates from participating states and territories on the progress of the AUCLA are provided annually to the Legislative and Governance Forum on Consumer Affairs (CAF).

**“When was the last meeting held and when is it that COAG (CAF) will be convening the next meeting to consider such matters under Clause 19(1) or Clause 9(6)?”**

Response:

CAF is to be provided with an update on the AUCLA at its meeting to be held on 31 March 2016.

Should you have any queries in the matter please contact Mr Steven Scodella, Operations Manager, Regulatory Transaction Centre, CAV on telephone 03 8684 0606.

I trust this information is of assistance.

Yours sincerely

**Simon Cohen**  
**Director**  
Consumer Affairs Victoria