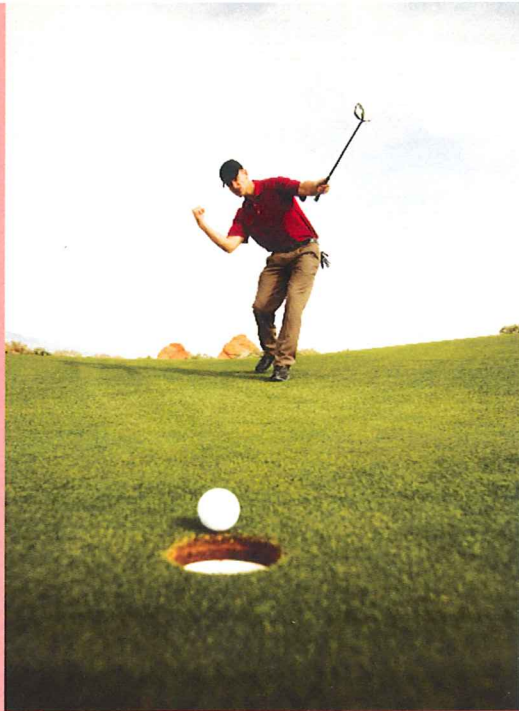




Co-opsInfo

Newsletter published by The Consumer Protection Division of Department of Commerce



Welcome to the first edition of the *Co-opsInfo* newsletter. This new initiative is designed to keep you up to date with the significant legislative changes now taking place in the co-operatives sector in WA. More editions will follow, to coincide with further changes and new issues. **We encourage all co-operatives to circulate this newsletter to their members and shareholders so that everyone benefits from the information in it.**

Start the celebration!

As I am sure you already know, the Co-operatives Bill passed through the Legislative Council on 10 September 2009. Having already passed through the Legislative Assembly, it has now been approved by both houses of Parliament. Further, Royal Assent has just recently been received, so we are not far off new and improved legislation governing co-operatives.

The new legislation will commence sometime next year, and the Department of Commerce is pushing ahead with preparations to ensure we can provide the support and direction required to make the transition as easy as possible. Co-operatives will have 21 months from the date of commencement to register under the new legislation.

Further information about the laws and the transition process will be given at a later date, but for now, let's celebrate the fact that Western Australia is close to having the most advanced and up to date co-operatives legislation in Australia!

Where to from here...?

So what steps need to be taken for the legislation to be put into action?

The Department has started working on the regulations and these will be drafted in consultation with the industry reference group - the same group that was established when the Bill itself was being drafted.

We are also planning ahead by developing a set of approved forms that will be required under the new legislation. In addition, we are developing internal policies and procedures to better equip us to administer the new legislation. The Department is fully committed to ensuring this transition to the new legislation is as easy and stress free as possible.

Your views on the above are both welcome and appreciated, and can be submitted by calling the Co-operatives Helpline on (08) 6364 3070 or sending an email to cooperatives@commerce.wa.gov.au. By working together we can ensure we are all ready and willing once that proclamation date comes around.

Help us help you...

To help us help you, it would be appreciated if you could provide the contact details of someone in your co-operative that we may direct all of our enquiries to. We can then notify them of any important updates or information that may arise.

Please complete the attached card, place it in the reply paid envelope and return it to the Department as soon as you can. Thank you!

Say hello to your new Co-operatives unit

In order to better assist you and your fellow co-operatives, the Department of Commerce has created a dedicated Co-operatives Unit within the restructured Associations, Co-operatives and Charities Branch.

This unit can be contacted via the new Co-operatives Helpline on (08) 6364 3070. The helpline will be open between 8.30am and 5.00pm, Monday to Friday. Alternatively, you may contact us through our new email address at cooperatives@commerce.wa.gov.au

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CCU is good for you

One of the major drawcards of the new legislation is the introduction of co-operative capital units, or CCUs for short.

A CCU may be issued by the co-operative to any person, regardless of whether they are a member or not. It gives that person an interest in the capital, but not the share capital, of the co-operative. However, a CCU may only be issued if the Registrar's approval has first been received.

Whilst being a CCU holder does not make you a member of the co-operative, once an individual becomes a CCU holder, they do become an important part of the co-operative and should be treated as such. CCU holders have rights: they are entitled to one vote per CCU held and should receive notice of all meetings of the co-operative and all documents, in the same way as a debenture holder.

CCUs have been used effectively in the Eastern States. Many of your Eastern States counterparts have found that CCUs allow them to use an additional form of fundraising to raise capital and help finance the day to day operations of the co-operative. This may then better allow the co-operative to compete with other commercial entities.

Allocate your CCUs carefully and treat your CCU holders right, and you could find that together they help boost the success and profitability of the co-operative. Used appropriately, CCUs may benefit your co-operative.

Let's be proactive

Attendees at the recent Co-operatives WA 2009 Annual Conference were asked to complete a short survey to help the Co-operatives Unit plan a proactive program. Thank you to all who gave their views. We note that 73 per cent felt their co-operative would benefit from a proactive visit.

As a result, we are putting together a visit program, and will be contacting all co-operatives with a view to arranging a visit in 2010.

Areas of most concern were:

- co-operative rules;
- membership requirements; and
- reporting.

These concerns appear to reflect the anticipated changes in these areas resulting from implementation of the *Co-operatives Act 2009*.

Furthermore, more than 50 per cent would like extra information about responsibilities of directors and other officers, and about fundraising options available to co-operatives. Information supplied by co-operatives in relation to general governance will form part of our program. If you did not attend the conference, but would like to provide comments on how our program could help your co-operative, please let us know.



Live by your own rules

Some people have expressed concern about how this new legislation will affect the rules (or articles) of the co-operative. The new legislation sets out specific requirements which must be included in the rules. These requirements will differ depending on whether the co-operative is distributing or non-distributing, and whether the co-operative has a share capital or not.

To assist co-operatives, the regulations to this legislation contain model rules that may be used and adapted by co-operatives for their own purposes. Alternatively, a co-operative may draft up its own rules from scratch, as long as you are careful to ensure these rules are consistent with the Act.

We have also been asked whether it is better to change the rules now (in preparation for the transition) or at a later date. It is important that your rules are consistent with the current legislation. A co-operative may make changes now so that the rules comply with the new legislation, but only if these changes do not cause the rules to breach the current legislation. In doubt, wait until closer to the commencement date.

It is not a requirement for your rules to comply with this new legislation until you submit an application for registration under the new legislation, which can be lodged within 21 months after commencement of the legislation. Until then, you may live by your own (current) rules!

2009 annual return program

Whilst we are pleased to announce that there has been an increase in the number of complete annual returns lodged, there is still plenty of room for further improvement. More than 70 per cent of co-operatives required to submit an annual return in 2009 have adequately done so. However, many of these were outside the necessary time requirements.

If you have not already submitted a complete 2009 annual return, it's still important to do so as it enables prospective members, clients and business partners to access information on the current status of the co-operative. The investments and business these members and clients bring may end up assisting in the prolonged success of the co-operative.

If you have found it difficult submitting your annual return under the current Act on time, now is the opportune time to streamline your processes so that we are all operating in an efficient and effective manner. As of today plan ahead and don't delay – make the most of this new and modern legislation.

Better Trading: Consumer Protection online newsletter

Better Trading is a bimonthly newsletter published by Consumer Protection to provide a simple and effective way to inform those with an interest in consumer protection and fair trading matters about current issues, important events and future trends affecting Western Australia.

Subscribe now for free. Simply subscribe by providing your name and email address to Better Trading at www.commerce.wa.gov.au/bettertrading and updates will be sent directly to your inbox.

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This publication is available on request in other formats to assist people with special needs.

Disclaimer: The information contained in this newsletter is not intended to be legal advice and should not be relied upon as giving legal advice.