

CO-OPERATIVES: TRANSFER GUIDE

A guide to transferring to the new co-operatives regime

Co-operatives Act 2009

INTRODUCTION

New co-operatives legislation commenced operation on 1 September 2010.

Co-operatives already registered in Western Australia will not automatically become registered under the *Co-operatives Act 2009* (the new Act). Instead, such co-operatives will need to take certain actions to transfer to the new regime. The purpose of this paper is to assist co-operatives with that process. A flowchart of the process appears at the end of this paper on page 15.

There are a small number of co-operatives not incorporated in WA – known as foreign co-operatives – that are authorised to carry on business in this State. These co-operatives will automatically retain their authorisation, and do not need to take any action to become registered. The new Act applied to them as of 1 September 2010.

Any references to the old Act will be to the *Companies (Co-operative) Act 1943* only. This Act will remain in force until 31 August 2012.

The Registrar of Co-operative Companies (the Registrar) continues to be the Commissioner for Consumer Protection, and the Department of Commerce (the Department) continues to administer the legislation.

TRANSITIONAL ARRANGEMENTS

The new Act has been written to allow co-operatives plenty of time to make the necessary transfer arrangements. Co-operatives can choose to apply for registration under Part 2 Division 5 of the new Act at any time which best suits their particular circumstances, so long as they apply before 1 June 2012. This timing reflects a requirement for the necessary documents to be lodged with the Registrar for approval.

Where a co-operative has not applied to transfer, the Registrar has the option to register the co-operative under the new Act and the rules that would then apply to that co-operative would be the model rules* amended as the Registrar sees fit. If the Registrar decides not to register a co-operative for some reason, then on repeal of the old Act (31 August 2012), that co-operative loses its incorporated status.

*The model rules appear as Schedules to the Co-operatives Regulations 2010. They are a guide to co-operatives in the preparation of their own rules. The model rules are discussed further below.

It is in the best interests of existing co-operatives to take decisive action to transfer to the new regime – if that is what is intended – prior to the end of the first 21 months of the transition period. The new legislation provides that the special resolutions relating to the transfer process (approving the co-operative’s registration under the new Act and approving the new rules) need to be passed by **two-thirds** of the voting membership. This contrasts to the provisions of the old Act, which required three-quarters of the members voting to pass a special resolution.

There are other options for existing co-operatives. Co-operatives can transfer to another jurisdiction (the most likely being becoming registered under the Commonwealth *Corporations Act 2001*), or commence voluntary winding up. The *Companies (Co-operative) Act 1943* regulates both of these processes and where either process has been commenced prior to 1 July 2012, the co-operative is not obliged to apply for registration under the new Act.

WHAT CAN YOU DO NOW?

At first instance, the directors will need to canvass member support for a transfer of the co-operative to the new regime. Once this has been done, the most significant task is to establish the set of draft rules that will govern management after the co-operative has transferred. The new Act introduces some matters that will be required in the rules of co-operatives that were not applicable under the old legislation. Every co-operative will, at the very least, need to modify its existing rules to comply with these new requirements before it can be registered under the *Co-operatives Act 2009*.

In order to develop rules that are compliant, a co-operative will need to consider, and determine, the following:

- the **type of co-operative** it will be under the new legislation;
- the **primary activity** (or primary activities) of the co-operative;
- the **active membership** criterion (or criteria) that will relate to these primary activities; and
- whether or not the co-operative will be a **small co-operative** under the new Act.

Each of these matters is explained in more detail below.

The initial deliberations on these matters are quite properly the responsibility of the directors; however, some level of consultation with the membership should be considered as it is the membership as a whole that must vote on special resolutions to adopt the rules and agree to the transfer to the new Act. The level of consultation will depend upon each co-operative.

Name of co-operative

The following notes assume that co-operatives will retain their present corporate name upon transferring to the new regime, and do not deal with the processes for changing that name. If a change of name is being contemplated, it is appropriate to deal with the matter at this time.

Type of co-operative

The new Act allows a co-operative to incorporate as either a distributing co-operative or a non distributing co-operative.

A **distributing co-operative** is one whose rules allow it to give returns or distributions to members on surplus or share capital. A distributing co-operative must have a share capital. Most co-operatives presently incorporated in WA fall into the distributing co-operative category and it is anticipated that most will want to continue as distributing co-operatives.

A **non-distributing co-operative** is prohibited by its rules from making returns or distributions (other than the nominal value of shares, if any, at winding up) to its members. A non-distributing co-operative can choose whether or not to have share capital.

The *Co-operatives Regulations 2010* (the Regulations) contain model rules for the different types of co-operatives. Schedule 1 contains model rules for **non-distributing co-operatives without share capital**, Schedule 2 contains model rules for **non-distributing co-operatives with share capital** and Schedule 3 contains model rules for **distributing co-operatives** with share capital.

A decision about the type of co-operative to register will be an important first step towards establishing the special resolutions, supporting rules and other materials that will need to be put before members at the formation meeting.

Some existing distributing co-operatives may wish to convert to being a non-distributing co-operative. This could be a more suitable form of body corporate where, for example, the emphasis of the co-operative is on providing a community service or amenity rather than on a potential financial benefit to individual members. Changing to a non-distributing co-operative should not be undertaken without appropriate consideration and advice, particularly if there is an intention to pay back any share capital.

Primary activity

Notwithstanding the type of co-operative you have settled on, you need to establish the co-operative's primary activity, or activities. This is because section 113 of the new Act states that 'a co-operative must have at least one primary activity'.

The new Act defines a primary activity as 'an activity stated in the rules of the co-operative to be a primary activity of the co-operative'. There are examples of primary activities on the next page.

Section 115(2) of the new Act sets out the relevant factors and considerations for determining primary activity.

Section 115(2)(a) explains further: '*the primary activity or, if more than one, the primary activities taken together must form the **basic purpose** for which the co-operative exists and a **significant contribution to the business** of the co-operative*' (emphasis added).

The Regulations also prescribe factors for determining primary activities. These include that the co-operative actually carries on the primary activities and the activity makes a significant contribution to the business of a co-operative. Regulation 7(2) states that an activity makes a significant contribution to the business of a co-operative if it contributes at least:

- 10% of the co-operative's turnover; or
- 10% of the co-operative's income; or
- 10% of the co-operative's expenses; or
- 10% of the co-operative's surplus; or
- If, in the Registrar's opinion, failure by co-operative to conduct the activity would reduce business conducted by the co-operative by 10%.

Not every activity of a co-operative's business is necessarily a primary activity. As a starting point to identifying the primary activities of your co-operative, it would be useful to focus on the items highlighted above. Look for those aspects of the business of the co-operative that both define its *basic purpose* and at the same time, make a *significant contribution* to that business.

Some co-operatives will have more than one primary activity. But co-operatives need not seek to identify more primary activities than are needed to satisfy the requirements of the new Act in relation to their particular business. Be aware that section 273 (in conjunction with regulation 25) potentially imposes certain restrictions relating to the acquisition and disposal of assets associated with the primary activities of a co-operative. While these provisions do not assist with the identification of a primary activity, it may be informative to review them as part of this process.

Some co-operatives may find it useful to refer to their objectives as set out in their existing Memorandum of Association. These will possibly be instructive in clarifying the basic purpose for which the co-operative was established.

It may be helpful at this stage to read ahead to the next section on 'active membership' requirements. Active membership has to be defined in relation to a co-operative's primary activity; this in turn may assist to clarify what constitutes a primary activity for your co-operative.

Examples of primary activities:

- For a consumer focused co-operative operating a retail trading store its primary activity might be:
"the operation of a retail outlet providing a wide range of goods and services to its members".
- For an orchardists' co-operative a primary activity might be:
"the acquisition of fruit from its members and the packing and marketing of fruit".
- If that orchardists' co-operative also processes fruit which is not marketable as table quality, another primary activity might be:
"the manufacture of associated fruit products".

Active membership

One of the more significant features of the new Act is the emphasis placed on active membership. Put simply, members are expected to participate in the activities of their co-operative, and the rules are required to spell out how that participation is to occur and over what period. Members who become inactive must have their membership cancelled, their shares, if any, forfeited and their capital paid out.

Although the concept of active membership may be new to some Western Australian co-operatives, it is now a firmly entrenched and core requirement of co-operatives legislation around Australia. In WA, under the old legislation, it was not uncommon for co-operatives to retain on their books members who had not used the services of the co-operative for many years, or in some cases, who had permanently left. This situation will change once a co-operative transfers to the new regime.

The draft rules a co-operative submits for the Registrar's approval prior to convening the formation or "transfer" meeting must include clear and measurable active membership provisions. Active membership is therefore a matter that needs to be dealt with as part of the transfer process.

For the purposes of the Act (section 111), a member is an active member if the member:

'uses or supports an activity of, or maintains a relationship or an arrangement with, the co-operative, for carrying on a primary activity of the co-operative, in the way and to the extent that the rules of the co-operative provide is sufficient to establish active membership; or

Maintains any other relationship or arrangement with the co-operative for carrying on a primary activity of the co-operative that the regulations provide is sufficient to establish active membership.'

Currently, the Regulations do not prescribe any other relationship or arrangement that would be sufficient to establish active membership.

In the case of the retail trading co-operative example cited earlier, which set its primary activity as '...providing a wide range of goods and services to its members', its active membership provision might be simply:

In order to establish active membership, a member shall purchase goods and/or services from the co-op store to the minimum value of \$x per annum.

At this point, it is worth noting that the new Act elsewhere requires the board of a co-operative to take steps to cancel the membership of a member who ceases to be an active member. Without discussing the detail of the cancellation process at this stage, it will be apparent that if the board is to meet its obligations, it will need to have some mechanism for reviewing the activity levels of members. In this era of computer technology, it is unlikely that generating the appropriate data (say, for the above example) will be an issue. A bigger issue may well be how regularly the board will review membership activity. This might be a factor that a board would take into account in deciding an appropriate active membership provision.

Whatever active membership provisions are finally decided upon, it is important that they are readily and easily measurable.

The Act does not require an active membership provision for each and every primary activity. In the earlier example of the orchardists' co-operative, it had two primary activities: 'the acquisition of fruit from its members and the packing and marketing of fruit' and 'the manufacture of associated fruit products'. It would be sufficient for its active membership provision to read:

A member shall provide a minimum of X tonnes of table quality fruit to the co-operative in each financial year in order to remain a member of the co-operative.

Although the associated fruit products component of its business could be quite large, that primary activity does not necessarily require its own active membership provision. Indeed, the rules could exclude from membership someone who only supports that activity.

Non-distributing co-operatives

For non-distributing co-operatives only, it is possible for the active membership provision to require simply the payment of a regular subscription that would be applied to a primary activity of the co-operative.

DEVELOPING COMPLIANT RULES

Having determined the type of co-operative your organisation is to become, as well as its primary activity (or activities) and active membership provision(s), you are now in a position to develop an appropriate set of draft rules.

Options

Co-operatives have a few options when it comes to developing a set of rules that comply with the requirements of the new legislation. They can:

- modify their existing rules (or Articles) to comply with the Act;
- modify the model rules to suit the particular needs of the co-operative;
- use some of their existing rules as well as some of the model rules – provided that all the Schedule 1 requirements are met; or
- develop a set of draft rules from scratch (This may be a difficult option unless appropriate legal resources are available).

The option which is pursued will depend to some extent on the nature of the co-operative, as well as its resources. Very large organisations that already have a detailed set of rules might wish to modify those rules; smaller organisations may find it easiest to simply modify the model rules.

Please also note the following:

- The Registrar must approve the new rules, and all subsequent amendments before they can be formally put to the members for their approval. The more complex the rules, the longer it could take to obtain approval, and directors should consider this variable in planning the transfer process.
- Whatever rules are developed for the transfer can be changed, with the Registrar's approval and members' vote at a later time.

The Department has created a guide to assist co-operatives to create their rules and it is highly recommended that co-operatives use this guide to draft their rules. *The Guide to Developing Compliant Rules for your Co-operative* can be downloaded from the Department's website at www.commerce.wa.gov.au/co-ops.

The model rules

There is a set of model rules for each of the following:

- non-distributing co-operatives without share capital (Schedule 1);
- non-distributing co-operatives with share capital (Schedule 2); and
- distributing co-operatives with share capital (Schedule 3)

The model rules have been developed to ensure, once modified, they will comply with the requirements of the new Act. They reflect some of the practical experiences of other states but have been updated and altered to meet the needs of co-operatives in Western Australia. Please note, there are a number of default provisions in the Act that will apply if the rules are silent on particular matters.

The model rules can be downloaded from the Department's website at www.commerce.wa.gov.au/co-ops. Additionally, it will be necessary to obtain a copy of the abovementioned *The Guide to Developing Compliant Rules for your Co-operative* as it contains important information for adapting the model rules. When adapting the model rules, you should also note the attached "Notice to Transferring Co-operatives" (Attachment A) which lists several minor amendments which must be made to the text of the model rules.

What must the rules include?

Schedule 1 of the new Act sets out the list of matters that must be addressed in the rules of co-operatives. The Schedule is divided into three parts – requirements for all co-operatives; additional requirements for co-operatives with share capital; and additional matters for non-distributing co-operatives – which cover the different forms of rules for the three types of co-operatives.

A copy of Schedule 1 may also be downloaded from <http://www.commerce.wa.gov.au/co-ops>.

Section 98 of the Act provides some further information on the content of rules:

- (1) The rules of a co-operative must state or otherwise make provision for the matters specified in Schedule 1.
- (2) The rules must be divided into paragraphs numbered consecutively.
- (3) The rules may state the objects of the co-operative.
- (4) The rules may incorporate any provision of the model rules.
- (5) The rules may provide for the co-operative to impose a fine, payable to the co-operative, on a member for an infringement of the rules.
- (6) If the rules provide for the imposition of a fine, the rules must specify the maximum fine that may be imposed on a member.
- (7) The maximum fine fixed by the rules must not be more than an amount prescribed by the regulations* as the maximum fine.
- (8) The rules may contain other provisions not inconsistent with this Act.

*The current amount prescribed in the Regulations is \$1000.

DRAFTING RULES FOR SMALL CO-OPERATIVES

What is a small co-operative?

Regulation 11 sets out the criteria for determining whether a co-operative will be a small co-operative in a financial year. A small co-operative is not subject to the same financial reporting requirements as other co-operatives but there are some regulations and rules that will need to be complied with.

A **distributing** co-operative will be classified as a small co-operative if:

- the distributing co-operative has no more than 30 employees at the end of the financial year; and
- the consolidated gross assets of the distributing co-operative are no more than \$4 000 000; and
- the consolidated gross revenue of the distributing co-operative is no more than \$8 000 000;

A **non-distributing** co-operative will be classified as being a small co-operative if:

- the non-distributing co-operative has consolidated gross assets that are equal to or less than \$500 000; and
- the non-distributing co-operative has consolidated gross revenues equal to or less than \$200 000;

Additional Requirements for the Rules of Small Co-operatives

Small co-operatives will not be required to provide annual audited financial reports to the Registrar so their rules need to ensure financial accountability to members.

Members with at least 5% of the votes in a small co-operative may give the co-operative a direction to:

- prepare a financial report and a directors' report for a financial year; and
- send them to all members.

The Registrar may also give a small co-operative a direction to lodge audited financial reports for a financial year.

Regulation 5(3) provides that the rules of a small co-operative must make provision for:

- the information that must be provided to members prior to the annual general meeting; and
- the appointment of an auditor either at a general meeting or if required to do so as a result of a direction by members or by the registrar to prepare audited reports.

Clause 37 of the Model Rules in Schedules 2 and 3 of the Regulations has been drafted to guide small co-operatives when they are drafting rules to comply with Regulation 5(3). In particular, the Model rules require the following information be provided to members prior to an Annual General Meeting:

- a copy of the financial report (unaudited for the last financial year); and

- a directors' solvency resolution as to whether or not, in their opinion, there are reasonable grounds to believe that the co-operative will be able to pay its debts as and when they become due and payable.

Similarly, clause 70 of the Model Rules in Schedules 2 and 3 has been drafted to guide small co-operatives when drafting rules to comply with the second part of Regulation 5(3) for appointing an auditor. The clause enables an auditor to be appointed at an annual general meeting or for the Board of the co-operative to appoint an auditor within one month of the direction by the members or the Registrar to do so.

APPROVAL OF RULES BY THE REGISTRAR

Section 17 of the new Act requires that once you have drafted the proposed rules, the Registrar must approve those rules (the approved rules) before they are put to a vote at a meeting of members. The purpose of this requirement is to ensure that when the members are formally asked to pass a special resolution to adopt the rules, they can be sure that the rules are acceptable under the new Act. There will be no possibility of having to call a further meeting to consider rules that have been amended by the Registrar. Given this requirement, it is advisable that members be informally consulted in relation to the rules prior to lodgement with the Registrar for approval. This may avoid the need for amendments arising from formal consideration by the members.

The draft rules need to be lodged with the Registrar at least 35 days ahead of the date of the meeting called (the "formation meeting") to endorse the approved rules and approve registration under the new Act.

The Registrar will generally notify a co-operative of the decision regarding the draft rules at least five days prior to the nominated formation meeting date. More details on the formation meeting are provided in the next section of this document.

Please note, the rules can be approved well in advance of the formation meeting.

The draft rules need to be accompanied by *Co-operatives Form 01 – Application for Approval of Proposed Rules for a Co-operative*. Please make sure that the form is completed in full, and take particular note of the requirement to complete Annexure A.

DISCLOSURE STATEMENT

Co-operatives that will be distributing co-operatives under the new regime are required by section 22(2)(b) to present an approved disclosure statement at the formation meeting. Section 16 of the Act outlines the process for approval of the disclosure statement and section 16(3) outlines the information required to be included in a disclosure statement.

The disclosure statement must contain the information necessary to ensure that eligible members are adequately informed of the nature and extent of a person's financial involvement or liability as a member of the co-operative including so far as applicable —

- (a) the estimated costs of formation; and*
- (b) the active membership provisions of the proposed co-operative; and*

- (c) the rights and liabilities attaching to shares in the proposed co-operative; and*
- (d) the capital required for the co-operative at the time of formation; and*
- (e) the projected income and expenditure of the co-operative for its first year of operation; and*
- (f) information about any pre-registration contractual obligations of the co-operative under Part 3 Division 5; and*
- (g) any other information that the Registrar directs.*

It is important to note that like the approval of rules, the Act requires the draft disclosure statement to be submitted to the Registrar at least 35 days before the formation meeting is due to be held. It is therefore suggested that the rules and disclosure statement are submitted to the Registrar together.

ORGANISING THE TRANSFER

Before your co-operative can apply to be registered under the new regime, members need to pass special resolutions to both approve of the transfer and to approve the new or modified rules. As previously mentioned, the meeting at which these resolutions will be put to the members is called the formation meeting.

Calling the formation meeting

The meeting will need to be called in accordance with the existing memorandum and articles of association (M&A's) of the co-operative. Pay particular attention to the length of notice required and the form of that notice (such as personal communication or newspaper advertising, etc).

Be aware that the M&A's of some co-operatives requires a longer period of notice when a special resolution is to be considered at the meeting. The formation meeting will be asking members to approve matters by special resolution and the longer notice period must be used where it is applicable.

Generally speaking, the existing M&A's will also require that members be provided with a copy of the special resolutions to be put to the meeting at the same time as notice of meeting is given.

The meeting should be scheduled no earlier than 35 days after the draft rules and disclosure statement (where required) have been lodged with the Registrar.

The special resolutions

The new Act requires two special resolutions to be passed at the formation meeting as part of the registration and transfer process.

The first is that members approve of the proposed registration transfer and of any alterations to the co-operative's existing rules to enable it to comply with the new Act. Details of proposed changes to the rules should be provided to the members prior to the formation meeting for their consideration, and should be attached to the resolution filed with the Department.

The second is to formally agree to the rules of the co-operative (as approved by the Registrar).

In addition, distributing co-operatives must present members with a disclosure statement approved by the Registrar under section 16 of the new Act.

Co-operatives are free to make use of the example wording for both of these resolutions set out below. For convenience, a template may be downloaded from the Department's website at <http://www.commerce.wa.gov.au/co-ops>.

1. The members of XYZ Co-operative Ltd hereby resolve that the company be registered as a co-operative under the *Co-operatives Act 2009* and that its existing memorandum and articles of association be altered in accordance with the attachment to this resolution to enable the company to comply with that Act.
2. The members of XYZ Co-operative Ltd hereby resolve that the document titled consisting of pages and dated/...../..... as approved by the Registrar of Co-operatives on/...../..... shall become the rules of the company from the time of its registration under the *Co-operatives Act 2009*.

Conduct of the Meeting

The formation meeting of an existing co-operative must be convened in accordance with the existing rules and the additional disclosure statement requirements for distributing co-operatives as set out in section 23(2)(b). It will therefore be important to pay particular attention to matters such as the giving of correct notice, the recording of proxies, if any, voting procedures and the majority required.

One very significant exception to the application of the existing rules and the old Act relates to the two special resolutions discussed above. As mentioned earlier, the new Act includes a transitional provision which means that unless there is a proposed conversion from a distributing co-operative to a non-distributing co-operative or vice versa, these two special resolutions need approval by only two-thirds of the members voting at the meeting provided you comply with section 177(3) with regard to notice to members. This applies regardless of any special resolution provisions in the existing rules. However, if a conversion is being proposed then a special resolution ballot must be held and the required majority is three-quarters of those members who cast a valid vote.

If for some reason special resolutions other than those above are put to the meeting, they will require approval by three-quarters of members voting at the meeting in accordance with the existing rules of the co-operative.

Documents to be lodged with the Registrar

Once the members have passed the two special resolutions required, the co-operative is in a position to apply to the Registrar for registration under the new Act. So long as the processes described above have been completed correctly, registration should be a simple formality.

The following documents need to be lodged with the Registrar:

- *Co-operatives Form 00 – Application for Registration by an Existing Co-operative*

- A copy of each of the two special resolutions
- Two copies of the approved rules certified in writing by the directors to have been adopted by special resolution;

Appropriate wording for this certificate would be:

'The Directors of XYZ Co-operative Ltd hereby certify that the rules contained in this document of pages were approved by special resolution of the members of the company on/...../.....

Signed
..... etc'

Note that the certificate should appear on either the front/cover page or back page of the rules document.

- Any other document setting out particulars required by the Registrar under section 23(1)(c)(viii) of the Act.

For example;

- Co-operatives who have not completed an annual return for 2010 will be required to submit their return with the application documents.

Registration

Once these documents have been processed, the Registrar will register the co-operative under the *Co-operatives Act 2009* and ensure that the co-operative ceases to be registered under the old Act. On registration the approved rules become the "registered rules" of the co-operative as of that date.

The Registrar will then issue a new certificate of registration and will advertise the registration in the *Government Gazette*. The corporate name of the co-operative will be that specified in the certificate of registration.

Note that registration of the co-operative under the *Co-operatives Act 2009* does not alter its incorporation, and in accordance with section 27, the co-operative is taken to be the same body after registration as it was before. There are normally no stamp duty implications for the co-operative.

REGISTRATION OF CHARGES

If a co-operative is seeking to borrow funds, a security charge over the property of the co-operative may be required. A charge is a form of security that has priority over unsecured debts.

Under the new Act, details of charges must be lodged with the Registrar, who will record them in the Register of Co-operative Charges.

Immediately following the transfer of registration from the 1943 Act to the *Co-operatives Act 2009*, a transferred co-operative, that owns property over which a registrable charge exists, must immediately lodge details of every registrable charge with the Registrar.

A charge may be registered using *Co-operatives Form 21 – Notification of Details of a Charge* and lodging with the Registrar within 45 days of the creation of the charge.

If the charge's details change, for example, the creditor passes the charge on to another entity, *Co-operatives Form 22 – Notice of Assignment or Change to Details of a Charge* must be completed by the creditor and lodged with the Registrar within 45 days of the change.

On repayment of the debt the co-operative should insist on the creditor completing *Co-operatives Form 23 – Notification of Discharge or Release of Property from a Charge* so it can be lodged with the Registrar.

For more information, see Schedule 3 of the Act and, if necessary, seek independent professional legal advice.

Attachment A

CO-OPERATIVES REGULATIONS 2010 – NOTICE TO TRANSFERRING CO-OPERATIVES

In addition to modifying the model rules to address the needs of the co-operative, several changes to the text may be needed to address drafting issues in the Regulations. The following table shows the items which have been found to contain potential drafting errors. If your co-operative is using these clauses in the model rules, you need to ensure that the final form of the clause meets the needs of your co-operative and corrects the drafting error where necessary. If you have any questions – please contact the Co-operatives Unit for assistance.

Schedule and Clause Number	Issue in Model Rules	Changes to rules
Schedule 2, Clause 1	Inaccurate cross-reference to the whole of clause 47	When drafting clause 1 of your rules please note that you will need to refer specifically to clauses 47(1), (2) and (3).
Schedule 2, Clause 31	Inconsistent use of terminology	When drafting clause 31 of your rules please note that you will need to ensure that the clause consistently refers to “the giver” and “the receiver” as defined in clause 31(1).
Schedule 2, Clause 75	Reference to incorrect provision	When drafting clause 75, amend clause 75(3)(d) to reference “Division 50” instead of “Section 50” of the <i>Income Tax Assessment Act 1997</i> (Cth).
Schedule 3, Clause 1	Inaccurate cross-reference to the whole of clause 47	When drafting clause 1 of your rules you will need to refer specifically to clauses 47(1), (2) and (3).
Schedule 3, Clause 31	Inconsistent use of terminology	When drafting clause 31 of your rules you will need to ensure that the clause consistently refers to “the giver” and “the receiver” as defined in clause 31(1)
Schedule 3, Clause 61	Typographical error	When drafting clause 61(6) change the reference from 15 minutes to five minutes for consistency with equivalent clauses in the rules of non-distributing co-operatives.
Schedule 3, clauses 74(7) and (8)(b)	Typographical error	When drafting clauses 74(7) and 74(8)(b) change the reference to “an interest” to “a share” for consistency with the equivalent clause for non-distributing co-operatives with share capital.

APPENDIX: Flowchart of the transfer process

