

CHAPTER 1

INTRODUCTION

PURPOSE OF THE LAW

We have already looked at some of the reasons that South Africa needs a law on co-operatives. Here is a more detailed list of the goals of the new law.

- (1) The Co-operatives Act will promote the development of **sustainable co-operatives which follow co-operative principles**. This will help increase the number and variety of economic enterprises in South Africa.
- (2) The Co-operatives Act will **encourage people to register co-operatives** if they want to work together in a democratic way to help themselves.
- (3) The Co-operatives Act will **make it possible for registered co-operatives to have a legal status of their own** which is separate from their members, just as companies and other kinds of business enterprises do.
- (4) The Co-operatives Act will **promote the participation of previously disadvantaged and vulnerable members of society in co-operative activities and management**. This includes:
 - black people
 - women
 - youth
 - people who live in rural areas
 - people with disabilities.
- (5) The Co-operatives Act will **allow co-operatives to engage in transactions as a legal body**, in the same way as companies and other kinds of business enterprises.
- (6) The Co-operatives Act will **make it easier for the government and others to provide support to new co-operatives**, particularly
 - co-operatives owned by black people
 - co-operatives owned by women
 - co-operatives owned by youth
 - co-operatives owned by people who live in rural areas
 - co-operatives owned by people with disabilities
 - co-operatives that promote equality amongst their members
 - co-operatives that promote greater participation by their members.

- (7) The Co-operatives Act will **make sure that all relevant government agencies set up support programmes for the development of co-operatives**, and follow the standards for co-operatives set forth in the law. Some of the government agencies which will be expected to support co-operatives are:
- Khula Enterprise Financing
 - National Empowerment Fund (NEF)
 - National Productivity Institute (NPI)
 - Small Enterprise Development Agency (SEDA)
 - Industrial Development Cooperation (IDC)
 - South African Quality Institute (SAQI)
 - South Africa Bureau of Standards (SABS)
 - Council for Scientific and Industrial Research (CSIR)
 - Public Investment Commission (PIC)
 - Development Bank of Southern Africa (DBSA)
 - South African Local Government Association (SALGA)
 - Sector Education and Training Authorities (SETAs)
 - Social Housing Foundation (SHF)
 - National Development Agency (NDA)
 - Umsobomvu Youth Fund (UYF).
- (8) The Co-operatives Act will **make sure that all spheres of government support co-operatives and follow a uniform approach to co-operatives** which promotes the following values:
- *fairness*: Fairness means that people in similar circumstances receive similar treatment.
 - *equity*: Equity is not the same as equality, but means fair treatment in light of all the circumstances.
 - *transparency*: Transparency means openness, so that all interested persons have access to important information and processes.
 - *economy*: Used in this way, “economy” means getting the most out of the available resources.
 - *efficiency*: Efficiency means getting a job done well with the least possible time, effort and resources.
 - *accountability*: Accountability means that co-operatives must be answerable to their members.
 - *lawfulness*: Lawfulness means following the Co-operatives Act and all other laws in South Africa.
- (9) The Co-operatives Act will **make sure that all spheres of government work in a co-ordinated way to assist co-operatives**, by making sure that all relevant government agencies involved with co-operatives work through the Department of Trade and Industry.

Section 2

LEVELS OF CO-OPERATIVES

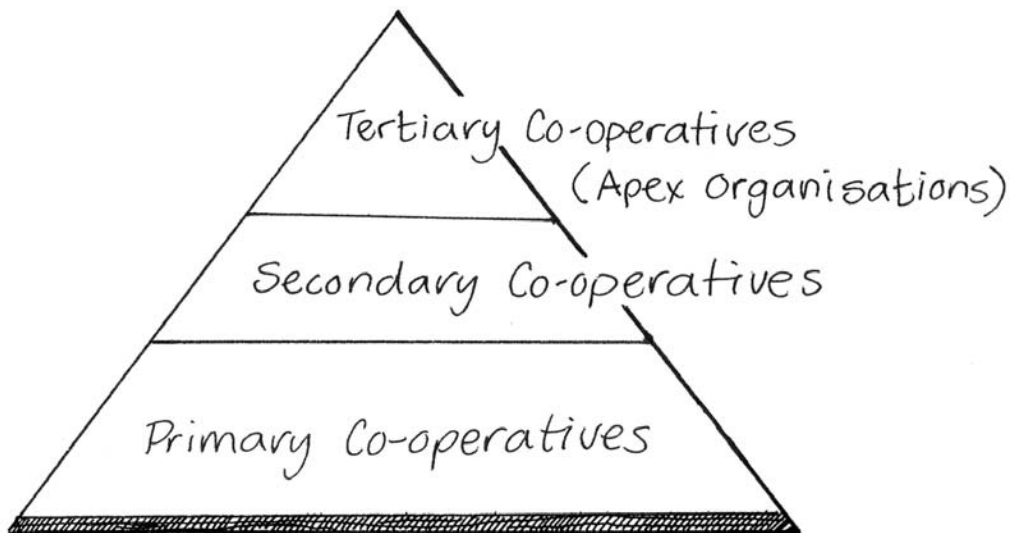
A co-operative which already exists can be a member of another co-operative. Some co-operatives find it useful to join together with other co-operatives of a similar type to form higher-level co-operatives.

A **primary co-operative** is a co-operative where all the members are individuals. The purpose of a primary co-operative is to provide employment or services to its members, and to promote community development. It takes at least five people to form a primary co-operative.

A **secondary co-operative** is a co-operative where the members are primary co-operatives. The purpose of a secondary co-operative is to provide services to its members relating to the sector where they are active. It takes at least two primary co-operatives to form a secondary co-operative. Primary co-operatives which are involved in similar activities often come together in secondary co-operatives.

A **tertiary co-operative** is a co-operative where the members are secondary co-operatives. The purpose of a tertiary co-operative is to advocate the interests of the member co-operatives to government bodies, the private sector and other stakeholders. Another name for a tertiary co-operative is an apex organisation. An “apex” is the word for the top of a pyramid shape.

Sections 1, 4(1)



TYPES OF CO-OPERATIVES

The law does not place any limit on the kinds of co-operatives that can be registered. These are some of the possibilities:

- **agricultural co-operatives:** An agricultural co-operative is a co-operative that produces, processes or markets agricultural products and supplies agricultural inputs and services to its members.

- **consumer co-operative:** A consumer co-operative is a co-operative that gets and distributes goods to its members and non-members, and also provides services to its members. A co-operative which buys bulk groceries and sells them to its members and to the public, while giving its members a special discount or a refund based on the amount of their transactions, is an example of a consumer co-operative.
- **marketing and supply co-operative:** A marketing and supply co-operative means a co-operative that supplies production inputs to members and markets or processes their products. An example is a sewing co-operative that provides fabric and sewing machines to its members and then markets the items they sew. This category also includes agricultural marketing and supply co-operatives.



- **housing co-operatives:** A housing co-operative is a primary co-operative that provides housing to its members, or a secondary co-operative that provides technical service to primary housing co-operatives.
- **financial services co-operative:** A financial services co-operative is a primary co-operative with the main purpose of providing financial services to its members, or a secondary co-operative that provides financial services to a primary co-operative. An example is a savings and loan co-operative, where the members pool their savings and make loans to each other.
- **social co-operatives:** A social co-operative is a non-profit co-operative that provides social services to its members, such as care for the elderly, children and the sick.
- **co-operative burial societies:** A co-operative burial society is a co-operative that provides funeral benefits, including funeral insurance and related services, to its members and their dependants.
- **service co-operative:** A services co-operative is a co-operative that provides housing, health care, child care, transportation, communication or other services.

- **worker co-operatives:** A worker co-operative is a primary co-operative that provides employment to its members, or a secondary co-operative that provides services to primary worker co-operatives.

It is possible to combine different types of co-operatives into a multi-purpose co-operative.

Sections 1, 4(2)

WHO DOES THE ACT APPLY TO?

The Co-operatives Act applies to **all co-operatives registered under the act**, no matter what type or level they are.

The law does NOT apply to an apex organisation which is not registered as a tertiary co-operative.

There are some special rules in the law which apply only to certain types of co-operatives. These will be discussed below.

Section 5

CO-OPERATIVE PRINCIPLES

For the purposes of the Co-operatives Act, a co-operative in South Africa must do the following things in order to comply with the co-operative principles discussed above.

- (1) **Membership must be open to anyone who can use the services of the co-operative and is able to accept the responsibilities of membership.** A co-operative may restrict membership if the restriction is reasonably related to the co-operative's business and its ability to provide services. But the restriction must not be a form of unfair discrimination.



For example, it would be permissible for a vegetable-marketing co-operative to limit its membership to person who could supply it with vegetables. But it would not be permissible for such a co-operative to limit its members to persons from a particular ethnic group.

- (2) Members must have democratic control of their co-operative.** In a primary co-operative, each member must have one vote. Members in a secondary or tertiary co-operative can have more than one vote each – but no member of a secondary co-operative may hold more than 15% of all the votes.

For example, suppose that a secondary co-operative is made up of 5 different primary co-operatives. The rules of the secondary co-operative might say that each primary co-operative may have one vote for each 100 of its members, so that the opinions of the bigger primary co-operatives carries more weight than the opinions the smaller primary co-operatives. But none of the primary cooperatives could have more than 15% of the total votes in the secondary cooperative. So, if the 5 member co-operatives had a total of 60 votes altogether, none of them would be allowed to have more than 9 votes (because 9 is 15% of 60).

- (3) As far as possible, the members of the co-operative must provide the capital of the co-operative.** “Capital” is the money and equipment which the co-operative uses to carry out its goals. Co-operatives can get capital from money paid for shares issued to members, membership fees, grants, donations, loans and surplus money left over from previous years of operation. At least some of the capital should come from the contributions of the members.

Anyone who wants to be a member of co-operative will be required to give a contribution to the co-operative’s capital as a condition of membership. In co-operatives that issue shares, members will receive share certificates which reflect the amount of their contribution. But the contribution of a member will not affect that member’s vote. This is another difference between a co-operative and a company. In a company, shareholders who own more shares will have more votes. In a co-operative, even if some members hold more share value than others, each member will have one vote.

- (4) The return which can be paid out to members from the co-operative’s surplus in respect of their investment in the co-operative must be limited to a maximum percentage set by the co-operative’s constitution.**

A portion of the net surplus can be divided among the members of the co-operative in proportion to the share capital which they hold. The payment of dividends is a common practice in companies where people buy shares in order to make profits. But the members of a co-operative do not invest their money in the co-operative for personal profit, but to help the co-operative meet the members’ need for a certain service or for employment. Since the primary aim of a co-operative is to serve the needs of its members, a co-operative should use surplus money to improve the benefits to its members, not to pay large dividends on each share.

- (5) At least 5% of the co-operative's annual surplus must be set aside in a reserve fund instead of being distributed to members.**

The reserve fund is used for unexpected expenses, and to develop the co-operative.

- (6) The co-operative must provide education and training to its members and employees.**

Section 3