

Australia Legal Framework Analysis: Key Highlights

This one-pager aims to provide a brief overview of the most notable features of Australia's national cooperative legal framework, based on the work of national legal expert and ICA member input.

This analysis exclusively deals with the Co-operatives National Law. The Legal Framework established by the Co-operatives National Law is found in the following legislation:

Co-operatives (Adoption of National Law) Act 2012
Co-operatives National Law (NSW) (CNL)
Co-operatives National Regulations (NSW) (CNR)
Co-operatives (New South Wales) Regulation 2014 (Local Regulations)

Australia has no special laws for specific types of cooperatives. Most types can be accommodated within the Co-operatives National Law framework, except for banks, credit unions and certain types of insurance cooperatives, which are required to be registered as companies under the Corporations Act 2001.

The Co-operative National Law includes both General and specific reference to the cooperative principles.

Cooperative Friendliness: The Co-operatives National Law is quite significantly 'cooperative friendly' in the sense that the legislation is designed so that it is conducive to registered cooperatives operating in accordance with the first four of the cooperative principles. The legal barriers to cooperative growth and development in Australia lies in the wider regulatory and constitutional framework rather than within the Co-operatives National Law.

Key recommendations for improvement: Both legislative and regulatory power for cooperatives should be transferred to a single federal regulator. The National expert has also recommended a single registration portal for incorporated businesses including cooperatives as a specific type of corporation. Co-operatives National Law should adopt accounting standards that are tailored for cooperatives, and a mandatory cooperative governance code. These recommendations have been made in the context of Co-operatives National Law in specific, rather than the broader regulatory framework for businesses in Australia.

Conclusions: Co-operatives National Law is a relatively new law for cooperatives in Australia. However, Queensland (as of March 2020) has not adopted the law yet. Senate Report on Co-operatives, Mutuals and Member-Owned Firms (2016) by the Australian parliament has identified that there is an absence of statistics and data to gauge the contributions of the cooperative sector. Also, the cooperative model is invisible in business and law curriculum in education at secondary and tertiary levels. Even though this report focused on other enterprises apart from cooperatives, the core legal framework issues extrapolated from the report link to cooperative identity.

