

**STANDING COMMITTEE ON  
UNIFORM LEGISLATION AND STATUTES REVIEW**

**CO-OPERATIVES AMENDMENT BILL 2015**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 9 DECEMBER 2015**

**Members**

**Hon Kate Doust (Chair)  
Hon Brian Ellis (Deputy Chair)  
Hon Mark Lewis  
Hon Samantha Rowe**

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**Hearing commenced at 11.30 am****Ms ANNE DRISCOLL****Acting Director General, Department of Commerce, sworn and examined:****Ms ROBYN PETERSON****Senior Policy Officer, Department of Commerce, sworn and examined:****Ms SARAH HAZELL****Legal Policy Officer, Department of Commerce, sworn and examined:**

**The CHAIR:** Thanks for coming in today. We have just had this bill referred to us at the very end of last week. What we have got into the practice of doing with our committee in the first instance is to bring in the department to give us a briefing or an overview of the bill and talk about any issues that might have been identified, just to kickstart the process off, if you like. You would be aware that we have already advertised for submissions that will close on 18 December—we will see what comes of that. That preamble is just so that you understand why you have come in. We have a series of questions, which I know have already been provided to you, and maybe a few others will arise out of that, but we hope to have a fairly relaxed approach to this. It is all about us learning what is involved with the bill, some of the directions we will take and some of the key issues, so we appreciate your time today. I will introduce the committee: Hon Mark Lewis, Hon Brian Ellis, Hon Samantha Rowe and Alex Hickman, our research officer. We have to go through a few formalities, so bear with me for that, and I have to get each of you to take an oath or an affirmation. On behalf of the committee I would like to welcome you to the meeting. Before we start, I have to ask that you take either an oath or an affirmation.

[Witnesses took the oath or affirmation.]

**The CHAIR:** You would have each signed a document entitled “Information for Witnesses”. Have you read and understood that document?

**The Witnesses:** Yes.

**The CHAIR:** These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. It will assist both the committee and Hansard if you could please quote the full title of any document that you refer to during the course of the hearing for the record, and if you can just be aware of the microphones and try to talk into them and ensure that you do not cover them up with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceeding, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise that publication or disclosure of the uncorrected transcript of evidence may constitute contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Normally, we would ask if you would like to make an opening statement to the committee about the bill, but we have a series of questions so I am relaxed about it either way. Do you want to give a bit of background and then go into the questions?

**Ms Driscoll:** We had planned on a very brief opening statement. It gives you some of that context that is perhaps relevant to the questions. I will introduce Sarah Hazell and Robyn Peterson who are

both policy officers with extensive exposure to the development of this bill. Robyn has also previously worked in the operational area supporting the cooperatives. It is very true to say that in the development of this bill but also with the cooperatives legislation in 2006, the engagement with Co-operatives WA, the representative body, has been extensive. I wish to acknowledge the scrutiny and quality evaluation that they have provided in the process not only in terms of the formation of the original bill, but also in the scrutiny of this relative to our pre-existing arrangement. We have had extensive liaison too with national colleagues to make sure that we are getting alignment and meeting both their needs for consistency, to a degree, and our local needs. I am sure in hearing from Co-operatives WA you will learn that they have been extensively involved throughout this process.

I will make a few opening remarks if I can and provide some of the backdrop. I too have been involved with many of the meetings but it is appropriate for us to rely on the close detail that Sarah and Robyn can provide given the nature of your questions. We also think it is very important that we provide considered information back to you. The legislation is quite complex so if we need to make sure we have got to right we may take questions on notice just to ensure that we provide you with absolutely accurate information. Firstly, thank you for the opportunity to appear and provide that framework. By way of background, I would like to provide the committee with a brief outline of the WA cooperative sector and the arrangements proposed to maintain the regulation of cooperatives in WA and nationally. Cooperatives, as you know, are organisations that are owned and democratically controlled by members who have a united need to meet common economic, social and cultural needs. The capital is used to service those common needs of the active members of the enterprise rather than generating a dividend for the shareholders. Currently, 52 cooperatives are registered in WA. It often occurs to me that that sounds like a small number but, in many ways, they serve very important roles within the community. As you know, some are very large. They operate across a variety of enterprises including agriculture, fishing, retail trading, water supply, construction and transport. The majority of the registered cooperatives are small to medium-sized businesses but the sector also includes some very significant enterprises. The reported revenue of the sector was over \$3 billion last financial year and the largest cooperative in Australia as you well know is Co-operative Bulk Handling Ltd, or CBH, which is of course registered in WA.

The Co-operatives Amendment Bill 2015 seeks to amend the Co-operatives Act 2009 to achieve consistency with the Co-operatives National Law and to allow Western Australian cooperatives to participate in a national scheme for the registration and regulation of cooperative enterprises. The Western Australian act already incorporates many of the features included in the CNL—the national law. When work commenced on developing the national law in 2005, the two pieces of legislation that operated in WA were over 60 years old and were completely inadequate for the regulation of cooperatives in our modern environment. Consequently, the cooperative sector in WA was really anxious for the situation to be addressed and as the timetable for implementing the national scheme was uncertain—as you know these national things can take many years—the WA government decided to proceed with replacement of the WA legislation with a modern scheme based on the proposed national template, but of course it could not guarantee what that final position would be. As a result, most core features of the national legislation are already incorporated into the WA act. Amendments made by the bill will update the WA act to reflect changes made to the national template after the passage of the WA act.

We are going to elaborate on that history in response to question 5 because one of your questions very much goes to that backdrop. A key outcome from participating in the scheme will be that WA-registered cooperatives wishing to expand their operations to carry on business nationally will be able to do so without going through the red tape of registering in other jurisdictions; that is the key nub of the intent here. Another benefit is that the regulatory regime will be more closely aligned with that applying to other mainstream corporations. Directors and professional advisers will be more familiar with their obligations when working in the sector as a consequence of those

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alignments in some cases with corporations law, and public confidence will be improved by better understanding of the nature of cooperative enterprises. Importantly, under the proposed changes contained in the bill, the registrar of cooperatives in WA will retain the authority to manage the conduct of locally registered cooperative enterprises and participating cooperatives from other jurisdictions operating in this state. In particular, the registrar will have the authority to approve fundraising activities and distribution of property where those activities are conducted in WA. Operating within a national scheme will reduce compliance costs for cooperatives choosing to operate in more than one jurisdiction and increase the range of resources available to regulators as there will be capacity to share publications, guidance materials and forms et cetera.

The bill was prepared as a result of Western Australia becoming a signatory to the Australian Uniform Co-operative Laws Agreement, which came into effect in February 2012. The agreement requires all participating jurisdictions to apply the Co-operatives National Law or alternatively to enact alternative but substantively consistent legislation for the registration and regulation of cooperatives; Western Australia has elected to do the latter. The bill has been developed in close consultation with the local sector and the Co-operatives National Law working group to ensure that the amended cooperatives act will meet the requirements for substantial consistency as described in the national agreement. WA has also obtained support through the ministerial council, in this case the Legislative and Governance Forum on Consumer Affairs, to maintain as allowable differences in those elements of the existing WA legislation that were identified as necessary to effectively serve the needs of local industry. Having often been at the relevant ministerial council, I can report that there has been a real sense of positive endeavour in accommodating the needs of Western Australia. Through a lot of work done prior to these meetings there has been a really positive acceptance of our need for difference. Certainly, the period of time to enable us to put this bill through has been extended on several occasions, again, I think, in the interests of ensuring that we get as much consistency across Australia and capacity for extension of cooperatives into other jurisdictions.

[11.45 am]

So, a great deal of goodwill has been evidenced through Co-operatives WA, but also nationally. In taking this approach, the ability of the WA Parliament to amend the WA act, of course, is also preserved.

I would very much like to thank the committee for this opportunity to provide some context for you, and we welcome further questions should they be necessary. As I said, as we move through to the greater detail, I am going to ask Sarah and Robyn to assist. Thank you.

**The CHAIR:** Thank you very much for that. You have already sort of started to cover a couple of the questions that first come up. The first question is about the level of consultation, or the detail of consultation, and you have already referenced the cooperatives peak body. I am just wondering whether you could perhaps give us feedback on other types of consultation or groups outside of that and their views.

**Ms Hazell:** Sure; would you like me to answer that question?

**The CHAIR:** Sure.

**Ms Hazell:** The development of the Co-operatives National Law was the subject, as Anne was saying, of national consultation during 2010 and 2011. Co-operatives WA was a party to that consultation process and did provide a submission on behalf of its members. Following the finalisation of the CNL and its adoption as the cooperatives law in New South Wales in May 2012, our department, the Department of Commerce, undertook a review to determine what amendments may be required to be made to the WA act—the Co-operatives Act 2009—to establish consistency with the CNL. In November 2012, the department released a public discussion paper titled “Proposals to Align the Co-operatives Act 2009 with the Co-operatives National Law 2012”.

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The discussion paper was published on the department's website, and members of Co-operatives WA were advised of the proposals and the intended consultation at their annual conference in September 2012, which the department always presents at. All registered cooperatives were provided with information about the consultation in a newsletter that was sent out by the department in November 2012. Four written submissions were received—one from Co-operatives WA; one from Co-operative Bulk Handling, or CBH; one from Boyup Brook Co-operative; and one from Co-operative Purchasing Services. All submissions were supportive of the participation of Western Australia in the national scheme, and also of the proposal of WA to enact alternative consistent legislation. There were several issues raised in the submissions with regard to the proposed contents of the amendments, which we detailed in our paper, and these were the subject of further discussions with an industry reference group that was convened to address the concerns of the sector during the process of development of the amendment bill.

**The CHAIR:** You talked about registered cooperatives. Does that mean registered to Co-operatives WA; so are there some cooperatives that are not members of the peak body?

**Ms Driscoll:** I think the reference here was to all registered cooperatives in Western Australia. We went to our own register and invited, through a bulletin, everyone to make contact. I think it is also useful for us to clarify the level of membership of Co-operatives WA. Certainly from my knowledge—I am sure Sarah and Robyn can elaborate—Co-operatives WA is very often the go-to organisation for any new group of people who are wanting to form a cooperative. It is often instrumental in assisting them in developing their rules and in assisting them to understand the concept and establish themselves. It has a very strong membership, and it is often then used as a source of advice, consultancy et cetera in an ongoing way. As to the actual membership level —

**Ms Peterson:** Around 80 per cent of cooperatives registered in Western Australia are members of Co-operatives WA.

**The CHAIR:** So not all 52?

**Ms Peterson:** Not all 52. But when we talk about registered cooperatives, we are talking about the ones that are registered with us.

**The CHAIR:** Which are the 52?

**Ms Peterson:** Which are the 52, yes.

**The CHAIR:** Are there any more beyond that at all?

**Ms Peterson:** Not that are subject to the requirements of this act. There is a number of other enterprises that consider themselves member-driven cooperative enterprises, and in fact some of them are members of Co-operatives WA but they do not come under this legislation.

**The CHAIR:** Where are they picked up—under clubs?

**Ms Peterson:** Some of them are clubs and associations, like the RAC, which is an active member of Co-operatives WA, and some are registered as companies limited by guarantee with the Corporations Law but they are member-based mutual organisations.

**The CHAIR:** It is good to have that clarification, I think. We might move on to the second question. I think you have already provided a fair bit of detail about the drafting background, but there are two parts to the question. The first dot point reads —

- explain how the *Corporations (Ancillary Provisions) Act 2001* and Part 1.1A of the *Corporations Act 2001* have been utilised for the amendments contained in the Bill.

**Ms Driscoll:** May I suggest, given that there is some detail in the first part, that we could perhaps even give our speaking notes to you if that is a useful reference point, if that is helpful.

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**The CHAIR:** Sure. Perhaps at the end you might just table them all, and that way we have that set there to draw back on. If there are elements of the questions that you are not able to provide answers to today, I am happy to take them on notice and have you provide them at a later stage.

**Ms Driscoll:** Thank you. It is more that we had a lot of information for the first part, and we are mindful that you may find that useful. But certainly in respecting your need for the latter part, we will just respond from part (b).

**Ms Hazell:** In the process of implementing the Australian Uniform Co-operative Laws Agreement, referred to as AUCLA, WA prepared a paper detailing how a jurisdiction's alternative consistent legislation should be assessed to determine whether it is consistent for the purposes of the AUCLA. The paper was endorsed by the Legislative and Governance Forum on Consumer Affairs ministerial council, known as CAF, on 5 July 2013. It identified a number of key matters where corresponding provisions were considered essential, and we are happy to table that paper if the committee would like.

**The CHAIR:** That would be very good. Do you want to do that now?

**Ms Hazell:** Yes.

In drafting the bill, the intention of the department was to replicate the CNL in relation to the identified key matters. In other respects, the amended WA legislation would be consistent with the CNL, except when the specific conditions prevailing in the sector in WA required a different legislative approach to that included in CNL, or legislative provisions or drafting conventions applying in Western Australia required a provision to be drafted differently in order to obtain a substantively consistent result in our jurisdiction. The Co-operatives Act 2009 was developed in consultation with the jurisdictions, and incorporated provisions from early versions of the CNL. As a result, when the WA act was finalised it was largely consistent with the CNL, as Anne has mentioned. This means that a number of the proposed changes will impact only on administrative and procedural matters, but there are four areas in which the proposed amendments will alter in some respect the rights and obligations of cooperatives and their members. If the committee would like, I could detail in summary form those four matters.

**The CHAIR:** I think that would be very helpful, and I think that would pick up that second dot point of that question as well.

**Ms Hazell:** Thank you.

The four areas are, one, alignment with the Corporations Law with regard to directors' duties. Provisions in the WA act in relation to directors' duties and liabilities, which are somewhat different to those under the CNL and the Corporations Act 2001, will be replaced with provisions equivalent to those included in the CNL. The CNL provisions contain some modifications to those applying to proprietary companies to cater for the more unique features of a cooperative enterprise; for example, a director or officer of a cooperative may take into account the cooperative principles in exercising a business judgement. These amendments will ensure public confidence in the sector by applying consistent standards across different corporate forms and jurisdictions. They will also improve the quality and availability of professional advice to cooperative boards, as many service providers, such as accountants and lawyers, are familiar with the requirements of the Corporations Act but have little experience with current cooperatives legislation.

The second matter is a matter of mutual recognition. Part 14 of the WA act currently provides that foreign cooperatives may apply to the registrar for authorisation to carry on business in Western Australia. These provisions have been amended to incorporate more simplified processes that apply to participating cooperatives.

**The CHAIR:** Can I stop you there for a second? I am just curious. Are you able to give us an example of where a foreign cooperative may have wanted to operate in Western Australia?

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**Ms Peterson:** We have a couple of foreign cooperatives—I think there are five or six—registered to operate in Western Australia. At the moment they are required to go through a process of applying to the registrar for permission to operate here. One of them that you may be familiar with is The Co-op Bookshop that operates out of New South Wales and has services on just about every university campus in the country.

**The CHAIR:** So when you are talking foreign, you are sort of talking over the border?

**Ms Hazell:** Yes.

**Ms Peterson:** That is right; yes. Under our current legislation, everything registered in other states is regarded as foreign.

**The CHAIR:** We really are a parochial place, are we not?

**Ms Peterson:** We do have one fully foreign one, and that is a New Zealand registered cooperative, Ravensdown, that operates in farm supplies and fertiliser support. That is the only one from outside Australia that is currently registered as a foreign.

**Hon MARK LEWIS:** Is Rabobank, which is a cooperative in Holland, not registered in Australia as a cooperative?

**Ms Peterson:** Not in Western Australia.

**Hon MARK LEWIS:** In Western Australia?

**Ms Peterson:** No.

**Hon MARK LEWIS:** There you go!

**The CHAIR:** Thanks for that; I just thought it was interesting.

**Ms Hazell:** Some of the terminology does not follow commonsense.

The bill therefore removes the requirement for participating cooperatives to apply for that authorisation in multiple jurisdictions.

The third matter is disclosure of financial information to members. A disclosure statement contains information about the nature and extent of the person's financial liabilities as a member of the cooperative. The WA act currently provides that a statement must be filed by a distributing cooperative on formation, and when members are considering the financial implications of proposals such as share issues or mergers that will impact significantly on the financial obligations of members. The bill will require a distributing cooperative to have a current disclosure statement registered at all times. A new disclosure statement must be filed whenever there is a significant change in the financial position of the cooperative.

The fourth major issue is intergenerational equity. Members of a cooperative make a significant contribution to the growth and development of these enterprises. For this reason the issue of intergenerational equity is of concern to the sector. The bill will promote intergenerational equity by preserving some rights and liabilities of members, such as the right to participate in the profits of a significant disposal of assets, and limited liability for some debts of the cooperative for a period of two years after membership ceases.

**Hon MARK LEWIS:** Have you finished those four points?

**Ms Hazell:** Yes.

**Hon MARK LEWIS:** I have one question going back to directors' duties. Obviously, farm cooperatives and their directors are usually owned by a farmer, and the issue of conflict comes up. I was wondering about the difference between conflict in the Corporations Act and this bill. Do you understand the logic of that question?

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**Ms Hazell:** Sure. We are trying to align the Corporations Act duties with cooperatives, so there will not be a different standard, in general terms, to the activities of a cooperative. But I do note your point that the potential for a conflict —

**Hon MARK LEWIS:** It is always there.

**Ms Hazell:** — does arise in a family farming business or the like.

**Hon MARK LEWIS:** If you are a farmer and part of a cooperative, that conflict is always there. It is not necessarily under the Corporations Act or for a normal director. So it is that clarity that I am seeking.

**Ms Hazell:** Sure. In any assessment of whether someone has acted in accordance with their duties, the actual particular circumstances of the case are always taken into account. There would not be any sort of assessment of whether that person has potentially breached their duties; it would always take into account the circumstances of the case.

[12 noon]

**Ms Driscoll:** There are two things that come to mind for me, and perhaps Robyn, too, will comment further. One is the point that is made in terms of the differences between corps law and co-ops, is, for example, that a director of a cooperative may take into account the cooperative principles in exercising a business judgement. I think there is some recognition that a director who also has an interest in terms of their agricultural business—there is recognition that it is a little different from the norm. The other thing that is important for me is that the democratic principle of cooperatives is a bit different from corporations law in the sense that every member has one vote; so, although you might be a major player, the democratic process means that routinely you actually get a say that provides equity, if you like, across all memberships. I often find this whole area actually quite taxing in terms of how it works on the ground; but, clearly, it has worked very, very effectively in a number of domains and continues to do so.

I was interested, too, in the point that you made about Rabobank. There are many insurers that come to mind that are essentially cooperatives. It is the case, of course, whether you are in financial services or in the insurance industry, that there are other laws that require that you are regulated through the corporations environment, be it as a company limited by guarantee or more broadly; so there are other reasons why people have chosen to get out of this form where there are other regulation requirements. Certainly some of the very biggest cooperatives, such as Capricorn, the supplier of motor vehicle parts and supplies, again, are in the corporations domain, I think, as a company limited by guarantee. I want to give you that context because there are very valid questions: what about the hospital benefit providers et cetera? So there are other reasons why they have often had to make the move, and laws have been passed to facilitate that process on occasion as well.

**Ms Peterson:** The only thing I would add in respect to the specific question about directors' liabilities is that when we talk about alignment with the corporations law, we are talking about those general duties of good faith, care and diligence. In terms of a director's personal interest, there are specific provisions in the act for disclosure and management of those situations that are specific to cooperatives and are a separate part of the act.

**Hon MARK LEWIS:** I am not too sure. I can give you an example of, say, Sweeter Banana Cooperative. They are banana growers; they are shareholders in a cooperative, and they are making decisions on the cooperative, and aligning that with the Corporations Act has, to me, some—I think we have some difficulty there, because unless there is some special provision about the conflict issue, because they will always be out of the room.

**Ms Peterson:** There are specific provisions in relation to management of conflicts of interest in the act. In relation to an interest, the act is very clear. In relation to an interest that is shared only as

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a member of the cooperative and shared with other members of the cooperative, there is no need for them to be disqualified on that basis

**Hon MARK LEWIS:** So the notion of community of interest rather than conflict of interest would apply?

**Ms Peterson:** Yes.

**Ms Driscoll:** Perhaps, is it worthwhile mentioning the sections of the act?

**Ms Peterson:** The sections of the act that are relevant are in division 3. They are the sections beginning at section 207. As I say, the provisions upfront are the provisions in relation to—so the provisions in division 3 are the ones that are equivalent to the Corporations Law effectively: sections 207 to 214. Then there are separate provisions at 220 to 223 with regard to what interests have to be declared and that situation of management of potential personal interests.

**The CHAIR:** Moving to the next question, question 3: are you able to provide a summary of the regulations of the plan to be made following the enactment of the bill to ensure that WA has alternate consistent legislation within the meaning of the Australian Uniform Cooperative Laws Agreement?

**Ms Hazell:** In terms of the regulations that that process is not well advanced yet, we are still in the development stage; but we can say that most of the required amendments will be of an administrative nature, and we are happy to list for you now the most significant amendment that we expect to be made. The first one is that the WA regulations—so this is WA regulations as amended—relating to the determination of primary activities will be amended to allow new cooperatives to include as primary activities those activities that are likely to be carried out within two years. That allows for some greater flexibility in the start-up phase of the business.

The other one is that the WA regulations will prescribe the list of provisions, which, if contravened by the cooperative, will also result in a contravention by the secretary. Also, the criteria for determining whether a cooperative is a small or large cooperative will be amended to align with those contained in the CNL. The requirements for annual reporting to the registrar by small cooperatives will be amended to be consistent with those in the CNL. Requirements in relation to the conduct of postal ballots will be added to the WA regulations, again consistent with the approach in the CNL. Requirements for accounting and financial reporting to members by small cooperatives will be added to the WA regulations, again consistent with the approach in the CNL. The contents of the register of cooperatives will be prescribed by the WA regulations rather than determined by the registrar to ensure consistency of this information across jurisdictions. The range of documents held by the registrar and available for public inspection as prescribed by the WA regulations will also be amended to make sure that they are consistent across jurisdictions

**The CHAIR:** These regulations have not been formally drafted yet, have they?

**Ms Driscoll:** Normally we are not able to draft regulations until the bill is passed.

**The CHAIR:** Given we will not be reporting to the house until, I think, 25 or 26 February, is there any chance that we can see a marked up copy of the regs with these changes prior to that date?

**Ms Hazell:** No; not at the moment.

**The CHAIR:** That is okay. I just wanted to put that on the record.

The next question, question 5, which I know you have mentioned in your opening statement, is basically about why WA has chosen the alternate consistent legislation model as opposed to repealing the current existing Co-operatives Act 2009 and adopting the template Co-operatives National Law, as did New South Wales, Victoria and South Australia? Why are we going down a different pathway, if you like?

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**Ms Hazell:** A point worth noting is that South Australia has enacted alternative consistent legislation and it has not adopted the template legislation.

**Ms Driscoll:** One thing we could offer you in relation to your former question, Chair, is that we have a table describing the proposed amendments to the regs that we could also table.

**The CHAIR:** That would be very useful. I think that might help resolve that. Thank you for that.

**Ms Hazell:** If I can provide some background information as to how we arrived at this point. In September 2005, the then Ministerial Council on Consumer Affairs—or MCCA I think it is commonly referred to—established an inter-jurisdictional working party to progress the development of a national cooperatives code that would be based on template legislation. It was further agreed that the legislation would be based on the Queensland act, which was the Cooperatives Act 1997, and be underpinned by the AUCLA. The MCCA also agreed that jurisdiction should be able to be party to the agreement by passing alternative consistent legislation, not necessarily adopting the template; this was in September 2005. But by 2005 Western Australia was well advanced in developing its own bill to modernise its cooperative legislation. As Anne mentioned earlier, the two acts that governed cooperatives at the time—the Companies (Co-operatives) Act 1943 and the Co-operative and Provident Societies Act 1903—were over 60 years old and based on outdated nineteenth century companies law that did not adequately regulate cooperatives in a contemporary market.

The WA cooperatives sector was highly desirous of change and, in particular, for the introduction of new modern legislation to make it easier for WA cooperatives to trade in other jurisdictions, and also improve their fundraising ability. As with the national template legislation, the WA bill was based on the Queensland legislation, which was considered the most up-to-date at the time. When the WA bill—this is for the later to be Co-operative Act 2009—was introduced into Parliament in 2007, the national template legislation was still being drafted, and its timeline for completion was uncertain. Drafting instructions for the template legislation had only just been provided to Parliamentary Counsel in New South Wales, with a view to having the proposed legislation introduced into the New South Wales Parliament in the second half of 2009. WA cooperatives did not want the WA government to delay or abandon progress with enacting its own legislation by waiting for the national template legislation to be finalised. As a result, Co-operatives WA and the sector generally supported the WA bill proceeding.

As the final form of requirements under the new template legislation and its transitional provisions remained uncertain, there were also some concerns about any national provisions being unduly onerous on the WA sector, especially if these did not accommodate local requirements. In particular, the WA cooperatives sector advocated that the uniquely agricultural–farming nature of the cooperatives industry in WA justified a divergence of approach on a number of issues. For example, it was argued that the age that a person could be a member of a cooperative should be lower in WA, given that in farming families, young adults were often involved in the running of the cooperative. It was also argued that some of the proxy provisions should cater for the more remote nature of some WA cooperatives. On both these issues the department has been able to secure agreement to Western Australia, including these different provisions in its legislation, while still maintaining substantial consistency with the CNL.

It is also worth noting that at the time the CNL and WA's act was being developed it was considered convention, if you like, in the WA Parliament that Western Australia would not support national template legislation which proposed to forgo or impinge upon any state rights' sovereignty issues.

**The CHAIR:** We still have those concerns about these types of bills.

**Ms Hazell:** There was other legislation at the time, as members would be aware, whereby WA adopted an alternate consistent approach; an example was the consumer credit code, which was

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developed but which is now repealed. More recently, WA adopted the Australian Consumer Law as a schedule to the Fair Trading Act 2010 rather than wholly applying it as template legislation.

**The CHAIR:** Thank you.

**Hon BRIAN ELLIS:** Going back to your first answer, when you got consultation, you said all the cooperatives wanted the alternate legislation, the main reason being that they thought the process would be held up going to template—that was the dominant reason.

**Ms Hazell:** There was no definite timeline for when the national template legislation would be introduced into the New South Wales Parliament and how long the approval and consultation process would be, and the WA cooperatives sector were very keen to keep going with our bill because there was certainty there; there was certainty in the provisions and they knew it would be considered by the WA Parliament quickly.

**Ms Driscoll:** I think that second issue, that it was in part also tailored to the WA circumstances, so there were some elements —

**Ms Hazell:** Especially those two issues that I outlined; there was uncertainty. Because the template legislation was not yet in a final form, there was some uncertainty about exactly what that final form might look like, and while it has been very good for us to secure those results for the cooperative sector, at that particular time that was not known.

[12.15 pm]

**The CHAIR:** We are going to move on to question 6, but I am not going to read out the lengthy quote that is there, because I think you have it in front of you. The committee refers to the following passage appearing on page 3 of attachment A of the letter from the Minister for Commerce to this committee on 11 November 2015. The letter makes reference to some legal advice that the department has obtained around two specific sections of the Co-operatives Act 2009 and the amendments proposed. The question we have is: can you outline the basis for this opinion that the department has received?

**Ms Hazell:** Sure. The terms of the Corporations Agreement 2002 require any state or territory seeking to enact legislation that displaces provisions of the Corporations Act to seek the approval of the—if you do not mind, Madam Chair—LGFC, in some circumstances; that is, where the proposed provision will significantly alter or affect the operation of the national law and otherwise to provide notification of the proposed amendment. I am not sure that, as you would understand, as legal professional privilege attaches to the advice provided to the department by the State Solicitor's Office, I am not able to disclose the details of that advice. However, I can advise the committee that in the department's view, the bill does not include any new displacement provisions and does not make any substantial amendment to the displacement provisions of the Corporations Act, those being sections 9 and 368. The only change made to those provisions reflects a minor change in terminology to reflect the different terminology used in the CNL—namely, CCU in place of co-operative capital unit. Therefore, the department is of the view that no consent or notification is required in relation to those proposed amendments.

**The CHAIR:** Thanks for that. Question 7 is multi-part, so I will work through each of the dot points. With respect to the Australian Uniform Co-operative Laws Agreement, regarding part 4, clause 9(6): Are there any processes governing the way in which the Legislative and Governance Forum on Consumer Affairs reviews the initial legislation? For example, how often does such a review take place and are they tabled in the Parliaments of all parties?

**Ms Peterson:** In responding to this question, the first point we would like to make in relation to a number of these questions that form part of question 7 is that we are relying on our interpretation of the AUCLA. These are not necessarily situations that have arisen or where we have discussed with the other members, how it is interpreted.

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**The CHAIR:** I appreciate that.

**Ms Peterson:** In terms of the processes governing review, there is a national working group established, comprising representatives from each participating jurisdiction, and its primary responsibility to date has been to monitor the implementation of the AUCLA and to advise CAF on progress. It is intended, though, that the group will continue and will be responsible for monitoring and reviewing the operation of the legislation going forward and for reporting any requirements for amendment to CAF. The department is not aware of any determination having been made as to the frequency of any formal reviews or what reports will be made or how they will be dealt with, with the exception of the requirement for that working group to provide regular reports to CAF.

**The CHAIR:** The next part is regarding part 5, clauses 10 and 11. Can you please confirm that WA comes within the scope of clause 11 and is not subject to clauses 10(2) and (3) requiring the approval of at least two-thirds of the members of the Legislative and Governance Forum on Consumer Affairs approving amendments to the cooperative legislation?

**Ms Peterson:** In relation to these clauses, it is our understanding that clauses 10(2) and 10(3) do not apply to Western Australia's legislation, which comes squarely within the scope of clause 11. In order for Western Australia to be recognised as a participating jurisdiction, the cooperative's legislation needs to be considered and approved as consistent by CAF at an implementation stage, and that has been done. The proposed amendments have been considered by CAF in July 2013 and approved in accordance with the provisions set out in the AUCLA and the procedure that we have tabled, which provides a bit more detail. An undertaking was given at that point that should amendments proceed in relation with the proposals, CAF would recognise the resulting legislation as substantially consistent for the purposes of the AUCLA. But amendments going forward will not come within the requirements of clause 10.

**The CHAIR:** The next part of the question is: is clause 11 subject to clause 14, or is clause 14 distinguishable on the basis that it applies to measures for the implementation of legislation rather than its amendment?

**Ms Peterson:** It is our view that clause 14 applies only to the initial legislation and that is actually defined in the AUCLA as the CNL enacted in New South Wales, and subsequent amendments to the CNL under clause 10. So the clause does not apply to Western Australia's consistent legislation.

**The CHAIR:** Regarding part 7, clause 13(1)(a): What is the department's understanding of "unless there is an important reason"? Is this according to the relevant state or territory or the Legislative and Governance Forum on Consumer Affairs?

**Ms Peterson:** Clause 13(b) refers to the MCCA, which is now CAF, as being notified as soon as possible of the submission of legislation. There is no suggestion in there that there is a requirement of consultation with CAF. It is our understanding that the department of the relevant state or territory would be responsible for making a determination as to whether there is an important reason for departure.

**The CHAIR:** Regarding part 8, clause 17(2), to whom may a member of the Legislative and Governance Forum on Consumer Affairs delegate their role as a member?

**Ms Peterson:** There is no detail about that, as you are aware, in the agreement. The AUCLA does, though, reflect the contents of the CAF charter with regard to appointment of delegates. Item 8.7 of the CAF charter provides that in the event that a member is unable to attend a meeting, they will appoint a person to attend the meeting in his or her place and the person appointed may act as a member of CAF and exercise the voting rights of the member that they are representing. There is also a provision in the charter where members are unable to attend personally, to attend by teleconferencing or videoconferencing. That is the only answer we can give, really.

**Ms Driscoll:** I can certainly add that the practice is if for some reason the minister is not able to attend, then there is, essentially, consultation prior to the meeting and any decisions of any

substance at all are discussed and, essentially, instructions are provided and then exercised at the meeting.

**The CHAIR:** Thank you.

**Ms Peterson:** That is probably the answer to the next part of that question.

**The CHAIR:** Part 8—right. Do you have anything separate prepared for that question on part 8, clause 17(5)(a)?

**Ms Peterson:** Only to the extent of saying that what is in the charter provides for where a CAF member is unable to attend, appointing a person to attend the meeting in his or her place and that that person may act as a member of CAF for the purposes of exercising voting rights.

**Ms Driscoll:** Perhaps I could also add that in the event that there are contentious issues and they unfold at the meeting, it has not been uncommon to take a break and phone the minister to seek his or her further instructions.

**The CHAIR:** That is a very practical and commonsense approach to doing business, is it not? Thank you for adding those words.

Question 8: with respect to specific provisions of the bill, clause 62, proposed new section 207A, why is it being left to the regulations, rather than the bill to prescribe the provisions of the bill which the secretary of a cooperative must take steps to ensure a cooperative does not contravene?

**Ms Peterson:** The provision is based on section 188 of the Corporations Act, which provides that in relation to certain prescribed corporate responsibility offences, the secretary of a company will commit an offence if he or she does not take reasonable steps to ensure compliance by the company. The provision in our bill reproduces the national law provision that provides a capacity for provisions to be prescribed by the regulations, and amended if required. It is noted that the provisions concerned relate to obligations. There will be a bit more detail in the next part, but in relation to record keeping and registration and that those are obligations that are subject to other pre-existing requirements under the regulations. As the corporate governance rules and duties have been identified in that document that we tabled as a key matter for the assessment of the consistency of the legislation, there is a requirement for us to align with the CNL in that regard.

**The CHAIR:** What provisions will be prescribed?

**Ms Peterson:** The ones that are prescribed currently in the national regulations are those that relate to keeping of registers, the provision of notices to the registrar, obligations to maintain financial records and lodge annual reports and, at this time, it is intended that the Western Australian regulations will prescribe the same offences as the national regulations.

**The CHAIR:** Thank you. Clause 63, proposed new sections 208 and 211: please outline the differences between these provisions and how would a contravention of clause 208 not necessarily contravene clause 211?

**Ms Peterson:** These provisions, again, are consistent with those in the Corporations Act and the national law. Clause 208 is a civil penalty provision that requires a finding that conduct is not in good faith and for a proper purpose to be established to the civil standard of “balance of probabilities”, while a conviction of an offence under clause 211 would require, in addition to that, proof of dishonest or reckless intent and a proof of all the elements to a criminal standard. The creation of two separate offence provisions in the Corporations Act was, I understand, a result of court decisions to the effect that the conduct of a director, while subjectively honest, could be sufficiently improper to constitute an action that was not in good faith. The two offence provisions were incorporated into the Corporations Law and that approach has been replicated in the CNL for consistency.

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**The CHAIR:** Clause 80, proposed new section 238(9): can you provide examples of which entities may be exempted by the regulations from the requirement in section 238(7) that corporations must not register by a name that includes “co-operative” or “cooperative” or “co-op”?

**Ms Peterson:** There is an example of a situation where this has arisen and that is in relation to the registration of bodies that support or promote cooperative enterprises—Co-operatives WA that we have talked about and also the Australian Business Council of Co-operatives and Mutuals, which is the national body. So, the use of the terms in those circumstances, obviously, is not calculated to mislead and would be acceptable. That is the only one we have actually had occur in practice.

**The CHAIR:** Clause 85, proposed new section 244ZB: why is it being left to the regulations to prescribe the contents of the annual return, given proposed new sections 244Q and 244R prescribe the general and specific information required to be contained in annual directors’ reports?

**Ms Peterson:** In order to maintain accurate records for our purposes, section 244ZB will provide for lodgement of an annual return by all cooperatives. The other two sections that are listed in there, sections 244Q and 244R, actually deal with the contents of reports that form part of the annual financial reports that are provided to members, so they are different provisions. In the case of those two provisions, 244Q and 244R, they are aligned with the requirements for reporting in the Corporations Act. The Western Australian regulations made pursuant to proposed section 244ZB are likely to provide very basic information such as confirmation of current address, details of current directors and the fact that you have held your AGM. Large cooperatives will also be lodging their financial reports along with that return, so there is no intention of duplicating the kind of information that will be in 244Q or 244R.

**The CHAIR:** Clause 85, proposed new section 244ZZB: where and how can the “accounting and auditing standards made for the purposes of the Corporations Act” be accessed?

**Ms Peterson:** The accounting standards are produced by the Australian Accounting Standards Board and they are available on the website of that organisation. Do you want me to read that out? It is in the written copy that we will provide you with of answers. Do you want the website address on record?

**The CHAIR:** I think so.

**Ms Peterson:** It is <http://www.aasb.gov.au>. The auditing standards are produced by a similar organisation, the Auditing and Assurance Standards Board, and they can be accessed on their website at <http://www.auasb.gov.au>.

**The CHAIR:** Can they be accessed free of charge?

**Ms Peterson:** Yes.

**The CHAIR:** Please explain the rationale for providing, in proposed new section 244ZZB(1)(b), for the regulations to modify accounting or auditing standards referred to in proposed new clause 244ZZB(1)(a)?

[12.30 pm]

**Ms Peterson:** In relation to each of those parts of that question, the rationale is the same. The standards are developed by the AASB and the AUASB and they are subject to regular review and amendment by those bodies. As they are made to address the needs of a wide variety of entities, it is possible that changes will be made to the standards that will make them unsuitable for application to cooperatives. The department is aware, for example, that there are some of these standards that cannot be satisfactorily applied to the accounts of not-for-profit entities.

We are not aware of any issues in relation to the application of current standards to cooperatives, but it was considered necessary to build into the Western Australian legislation a capacity to deal with that situation if it arises. In fact, there is one potential issue that is being dealt with in relation

to cooperatives. There is a Senate inquiry going on at the moment in relation to cooperative regulation. A couple of the submissions to that inquiry have raised issues about the accounting standards, specifically in relation to the treatment of share capital and the accounting standards and that there is a problem because of the different way it is treated with cooperatives. But if recommendations come out of that, that would be addressed at a national level through the working group and not specifically by us.

**Hon MARK LEWIS:** Herein lies the problem: if accounting standards, I guess, are more onerous than what we might require in the state as full cooperatives, they are automatically adopted.

**Ms Driscoll:** It gives us the opportunity then to modify that in the event that —

**Hon MARK LEWIS:** Through regulation.

**Ms Driscoll:** Yes. At the moment we are not getting feedback that it is a problem. There is an inquiry into one particular issue that is being monitored and in the event that it is identified as a genuine issue, there is capacity here for us to excise that requirement or modify the requirement.

**Hon MARK LEWIS:** It is a positive Henry VIII clause, if there is such a thing.

**The CHAIR:** It is the same answer for the whole of that question (b) and (c) really, is it not? We move on to clause 85, proposed new section 244ZZK. Please explain the rationale for providing for a power of the registrar to modify the operation of section 324DA of the Corporations Act 2001, given that a declaration to this effect by the registrar is not a disallowable instrument under the Interpretation Act 1984.

**Ms Peterson:** Section 324DA of the Corporations Act requires rotation of an auditor after a set period of time for specific companies. It applies to cooperatives in very limited circumstances and that is where they have quoted securities. There are no cooperatives in Western Australia at the moment that it would apply to, but, obviously, there may be at some point. The rationale for allowing the auditor to apply for modification of the provisions recognises that, in many cases, cooperatives operate in isolated areas where they may not have ready access to qualified auditors. It may in some circumstances be necessary for additional time to be allowed for a rotation in order to avoid unnecessary burden on the cooperative. Any declaration made in relation to that section will be of an administrative rather than a legislative nature. It will be about dealing with the needs of a particular cooperative at a particular time. A decision is unlikely to be contentious and it would be subject to challenge by any affected party in the Supreme Court.

**Hon MARK LEWIS:** By way of interest, Chair, what is the rotation time now?

**Ms Peterson:** The rotation time is, I believe—it is not quite as simple as that—five years up-front. There is also a limit on the number of years within a certain period as well. It cannot be more than five of any seven years or five consecutive years or something along those lines. That is the Corporations Act provisions. Our provision allows the registrar to extend that if the circumstances require it.

**The CHAIR:** Turning to clause 99, proposed new section 290(2), please explain the rationale for the regulations setting out circumstances and requirements for the making of an offer referred to in proposed new section 289(1)(e) despite the requirements of proposed new section 290(1).

**Ms Peterson:** Section 290 of the Western Australian act is amended by this bill to provide that where an offer to purchase shares in a cooperative will have significant effect on the operations of the cooperative or the interests of existing shareholders, the offer, in addition to securing member approval by special resolution, passed by a special ballot, also needs to be approved by the registrar. The requirement was added to allow independent assessment by the registrar of the consultation process where there is a decision and potentially a need to protect the rights of members. In imposing that additional obligation, though, it was recognised that some cooperatives with a small number of members might find that share transactions in the ordinary course of the

enterprise would result in a temporary increase of a member's shareholding that would trigger a requirement for registrar approval as a result of new section 289(1)(e). It was also recognised that in the context of cooperative enterprise, a small increase in shareholding does not necessarily result in an equivalent increase of control. There might be other instances in which an exemption could be provided by the regulations in relation to the operation of that section. Making these exemptions by regulation allows flexibility to respond to issues that might arise in relation to the operation of the section and also, importantly, maintains consistency with the CNL, which, again, is essential in this instance because inclusion of members in decisions regarding financial wellbeing of the cooperative was one of those identified key features for the sake of consistency. The national regulations exempt share transferring these circumstances where it is part of a scheme of arrangement approved by the Supreme Court. They also allow an offer to be made where it is in the normal course of the cooperative's activities. The increase in substantial shareholding will not exist for more than six months and the registrar has approved an exemption for that cooperative. There will still be a requirement for the registrar's approval but it will be given up-front because this may be a regular issue for that cooperative rather than them having to come to the registrar on each occasion.

**Hon MARK LEWIS:** Do you know of any existing constitutions of co-ops that will be affected by this? Because in the constitutions of each individual co-ops there is a range of different thresholds, if you like. Will this determine or pre-set and will there be a need then for those constitutions to be changed?

**Ms Peterson:** I am not aware of any situation in relation to this particular provision but I am aware that a number of cooperatives will need to amend their rules as a result of the changes that are being made to the bill. Because of that, we have put a provision in to allow for those amendments to be made by the board without going to a special resolution of members where the changes simply reflect a new requirement of the act.

**Hon MARK LEWIS:** Some of those changes to the constitution require 75 per cent of the members to agree to it.

**Ms Peterson:** That is why that simplified provision has been put in where it has to be done to comply with the act. The board will be able to do it without going through that process of having a special resolution.

**The CHAIR:** On clause 134, proposed new section 379(2), please explain the rationale for providing for the regulations to modify provisions of the bill. Why are these provisions not set out in the bill?

**Ms Peterson:** The regulations made in relation to proposed new section 379 will not actually modify the provisions in the WA act in respect of the regulation of participating cooperatives. The proposed section replaces current section 379 that contains a similar arrangement in relation to the regulation of what we now call foreign cooperatives. It is intended to allow additional provisions of the Western Australian act currently applying to only local registered cooperatives to be extended to apply to participating cooperatives should that be required. In drafting the CNL and in drafting the amendments to the Western Australian act to enable it to be approved, attempts have been made to identify all the provisions in the Western Australian act that should be applied to participating cooperatives to allow effective regulation. It is not intended at this stage that any additional provisions will be incorporated by way of regulation. But should it become necessary for additional provisions of the Western Australian act to be applied to participating cooperatives in the future, then the capacity will be there to do that. It also may be necessary if we apply those additional provisions, for them to be amended to ensure correct application. The best example of that is that provisions in the Western Australian legislation that deal with things like capital raising or distribution of assets, we might want to limit the operation of a provision on a participating cooperative to those assets or those raisings as they occur within Western Australia rather than more generally.

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**Ms Driscoll:** When we say “participating”, we mean foreign—so, basically, it is making sure that our cooperatives have an even playing field with those that enter our space.

**The CHAIR:** Question 9: if the commonwealth Parliament amends any provision/s of the Corporations Act 2001 relevant to the bill, how is this proposed this be dealt with?

**Ms Peterson:** The working group is responsible for the identification of amendments to the Corporations Act that might be relevant to cooperatives and for making recommendations to CAF as to what action might be appropriate. For example, the commonwealth is currently undertaking consultation with regard to a proposal to amend the Corporations Act to facilitate use of crowd-source-equity funding by corporations. That is something, if the provisions of the Corporations Act are changed, may impact on cooperatives, so that is something that the working group is monitoring at the moment. If such amendments are made, it might also be on the basis of recommendation to CAF. We would then need to consider whether amendments are also required to the Western Australian act.

**The CHAIR:** Question 10: are there any plans to undertake a review of the operation of the amendments introduced by the bill; if so, will this be undertaken by the department or another body; and, if not, why not?

**Ms Peterson:** The bill does not include any formal requirement to undertake a review of the arrangements introduced, but the department’s intention would be to review the operation of the amendments once a reasonable period of time has passed in order to allow the Western Australian cooperatives to experience working within the new framework. That will enable the cooperatives and their represented body to comment on effectiveness and identify any new or emerging issues that may be relevant in Western Australia. It will also enable the department, through the working group, to monitor the experience of other jurisdictions and whether there are any other issues that need to be addressed. The national working group will continue to act as a conduit between Western Australia and CAF, and the department has the capacity through that process to raise issues of particular interest or concern in Western Australia.

**The CHAIR:** Good, thank you.

**Ms Driscoll:** It is important to note, if I may, that Co-operatives WA is a very, very active stakeholder and has shown considerable ingenuity and capacity to effect and influence change, so I think it is closely monitoring both the development of this bill and the proposed regs, and I think will serve as a useful litmus monitor so we can be assured that we will be getting feedback if there are any unintended consequences.

**The CHAIR:** Thank you for that. A couple of things arose out of those questions. Are you able to provide us with some information about the compliance costs for cooperatives at both the Western Australian level and perhaps a comparison of what other states pay?

**Ms Peterson:** I can certainly provide you with information about the compliance costs in Western Australia at present. In terms of going forward, that is something we need to determine—if the regulations are done, we need to work out fees. I know there has not been any discussion yet in terms of our fees. There was significant discussion in South Australia because they did the alternative consistent legislation about whether their fees should be equivalent to those in other states or whether they should determine their fees separately. That is not something that we have determined yet.

**The CHAIR:** Coming back to that first dot point in question 2 about the Corporations (Ancillary Provisions) Act 2001 and part 1.1A of the Corporations Act 2001. I am not sure whether you answered that fully. You were unable to provide an answer today. I understand. Perhaps that might be one that you might want to take away and think about and provide a written response.

[12.45 pm]

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**Ms Hazell:** I could provide some information now, and then if the committee would like further information, we could provide that to you. In terms of how that Corporations (Ancillary Provisions) Act 2001 and part 1.1A of the Corporations Act have been utilised for the amendments contained in this bill. These provisions govern the relationship between the Corporations Act and state laws, which deal with the creation and regulation of corporate bodies. Section 9 of the WA act declares a cooperative to be an excluded matter for the purposes of section 5F of the Corporations Act in relation to the whole of the Corporations Act other than in those limited circumstances described in subsection (2). Section 5F of the Corporations Act provides that if the state act makes such a declaration, the provisions of the corporations legislation, other than to the extent specified do not apply. Section 14 of the Corporations (Ancillary Provisions Act) 2001 WA provides that where the Corporations Act is otherwise excluded, a WA act may include a declaratory provision which provides for the application of that part of the Corporations Act described in the declaratory provision. Although section 9 of the WA act generally excludes the operation of the commonwealth corporations legislation, proposed sections 10 and 11 provide that the WA act or the regulations may include declaratory provisions and there are a number of declaratory provisions in the WA act. There has not been any substantive change to the way in which these provisions are used as a result of the amendments in the bill except that in some instances, where declaratory provisions are currently used, the amendments will reproduce the Corporations Act provision in full rather than applying it through the use of a declaratory provision. This has been done to make provisions easier to read and to provide certainty when the amendments that would have been required to the Corporations Act provision were so substantial that it would have been difficult to clearly interpret and administer the applied provisions.

**Hon MARK LEWIS:** Constitutionally, the Corporations Act generally overrides state legislative arrangements. This is more of a general question: how does that exclusion work? The commonwealth obviously has to agree with that from a constitutional perspective.

**Ms Driscoll:** My understanding is that these are corporate entities that are registered in Western Australia. It is not competing and under the umbrella of the federal law at all; it is a state registered entity.

**Ms Peterson:** When the commonwealth took over responsibility for the Corporations Law, there was separate cooperatives legislation in every state and it was specifically agreed that that would stay outside the umbrella. We do have to go through the approval process, or the national law did, and our 2009 legislation, just because it is new legislation, but because it covers the same subject matter and there is no attempt to change that, that was okay.

**Hon MARK LEWIS:** There you go; you learn something every day.

**Ms Driscoll:** It is also the same with incorporated associations registered in WA. It, too, references Corporations Law but it can operate outside if it was so made.

**The CHAIR:** I have one other question I wanted to ask. This Senate inquiry that you referenced, has the Western Australian department put a submission into that inquiry?

**Ms Peterson:** No, we have not. The only submission from Western Australia was one from Co-operative Bulk Handling Ltd, and it does not address any regulatory issues; it addresses some issues around taxation and port access and that sort of thing. No specific regulatory issues were raised.

**The CHAIR:** We might have a couple of other matters to raise with you, so we will put them in writing. I think if you are able to respond in writing at this point, that will be great. Once we have had a look at the submissions that we receive, we will determine whether or not we conduct any hearings. We may need to talk to you again as we work through our report or at least talk to you prior to tabling just to clarify a couple of matters. That probably will not happen until February maybe. I am sure Mr Hickman will be in contact with you if we need clarification on any aspect of this bill. I certainly thank you for your time today. I think you have provided us with quite detailed

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responses to the questions to assist us as we start thinking about this legislation. We have these two documents that you have given us. Was there a third one that you mentioned?

**Ms Peterson:** I have just handed over our speaking notes from today just to help the committee.

**The CHAIR:** Thank you very much for that. We appreciate your time and your contribution today. We will be in touch.

**Hearing concluded at 12.50 pm**

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