

# Co-operatives (New South Wales) Regulation 2014

[2014-44]



New South Wales

## Status Information

### Currency of version

Historical version for 1 July 2016 to 30 June 2017 (accessed 26 November 2024 at 1:42)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Co-operatives \(New South Wales\) Amendment \(Fees\) Regulation 2017 \(207\)](#) (not commenced — to commence on 1.7.2017)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Regulation .....	4
2 Commencement .....	4
3 Definitions .....	4
<b>Part 2 Prescription of matters for the Act, Law and National Regulations</b> .....	4
4 Unsuitable names for co-operatives under section 220 (5) of the Law (CNR regulation 3.7) .....	4
5 Prohibited names for corporations—exemptions (CNL section 220 (7)).....	5
6 Restriction on use of word co-operative or similar words—persons other than co-operatives (CNL section 225 (2)) .....	5
7 Application for transfer (CNL section 403).....	6
8 Examination of involved person—fees and expenses (CNL section 522 (4)) .....	6
9 Inspection of register of co-operatives (CNL section 601 (2)).....	6
10 Procedures regarding giving of exemptions (CNL section 621) .....	7
<b>Part 3 Fees</b> .....	7
11 Fees .....	7
12 Fees with respect to the applied provisions of the Corporation Act.....	7
13 Waiving, reducing or refunding fees .....	7
<b>Part 4 Miscellaneous</b> .....	8
14 General savings for repealed regulation.....	8

15 Co-operatives may continue to operate under old rules.....	8
16 Inspectors.....	8
17 Delegations .....	9
18 (Repealed) .....	9
<b>Schedule 1 Fees</b> .....	<b>9</b>

# Co-operatives (New South Wales) Regulation 2014



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Co-operatives (New South Wales) Regulation 2014*.

### 2 Commencement

This Regulation commences on the day on which the *Co-operatives (Adoption of National Law) Act 2012* commences, and is required to be published on the NSW legislation website.

### 3 Definitions

(1) In this Regulation:

**CNL** or **the Law** means the *Co-operatives National Law (NSW)*.

**CNR** means the *Co-operatives National Regulations (NSW)*.

**Registrar** means the Registrar of Co-operatives (as referred to in section 24 of the Act).

**the Act** or **the new Act** means the *Co-operatives (Adoption of National Law) Act 2012*.

**the old Act** means the *Co-operatives Act 1992*.

(2) Terms used in this Regulation and also in the CNL have the same meanings in this Regulation as they have in the CNL.

## Part 2 Prescription of matters for the Act, Law and National Regulations

### 4 Unsuitable names for co-operatives under section 220 (5) of the Law (CNR regulation

### **3.7)**

For the purposes of regulation 3.7 of CNR, a name is declared an unsuitable name if the Registrar is satisfied:

- (a) that the name is likely to mislead the public or others in relation to the nature, objects or functions of a co-operative or proposed co-operative or in any other respect, or
- (b) without limiting paragraph (a), that the name is identical to, or closely resembles, the name of another co-operative already registered in this jurisdiction or in a participating jurisdiction.

## **5 Prohibited names for corporations—exemptions (CNL section 220 (7))**

- (1) For the purposes of section 220 (7) of the Law, an entity is exempt from section 220 (4) of the Law if the entity is:
  - (a) a co-operative housing society within the meaning of the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, or
  - (b) a company or society formed or incorporated under an Act before the commencement of the *Co-operation Act 1923*, or
  - (c) a corporation that is allowed under an Act of any jurisdiction or of the Commonwealth to use the word “co-operative” or the abbreviation “co-op” in its name, or
  - (d) an entity that is exempted by the Registrar by written notice from the operation of section 220 (4) of the Law and that complies with any conditions to which the exemption is made subject.
- (2) The Registrar is not to grant an exemption under subclause (1) (d) unless satisfied that the entity concerned is trading or carrying on business for the purpose of promoting the economic interests of its members in accordance with co-operative principles or for any charitable purpose.
- (3) The following provisions apply to an exemption granted by the Registrar under subclause (1) (d):
  - (a) the exemption may be limited as to time, and
  - (b) the Registrar may vary the conditions of the exemption, or revoke the exemption, by written notice to the entity or any member of the controlling body of the entity.

## **6 Restriction on use of word co-operative or similar words—persons other than co-operatives (CNL section 225 (2))**

- (1) For the purposes of section 225 (2) of the Law, an entity is exempt from section 225 (1) of the Law if the entity is:

- (a) an entity referred to in clause 5 (1) (a), (b) or (c), or
  - (b) an entity that is exempted by the Registrar by written notice from the operation of section 225 (1) of the Law and that complies with any conditions to which the exemption is made subject.
- (2) The following provisions apply to an exemption granted by the Registrar under subclause (1) (b):
- (a) the exemption may be limited as to time, and
  - (b) the Registrar may vary the conditions of the exemption, or revoke the exemption, by written notice to the entity or any member of the controlling body of the entity.

### **7 Application for transfer (CNL section 403)**

For the purposes of section 403 (b) of the Law, a co-operative may apply to become registered, incorporated or otherwise established as a corporation under:

- (a) the *Associations Incorporation Act 2009*, or
- (b) the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth, or
- (c) any other legislation of any jurisdiction or of the Commonwealth that provides for the incorporation of a building society, credit union or friendly society.

### **8 Examination of involved person—fees and expenses (CNL section 522 (4))**

An involved person who attends for examination by an investigator is entitled to be paid the allowance and the expenses that would be payable for conduct money expenses and loss of time as he or she would have been entitled to on attending to give evidence, or to produce a document, at the trial of proceedings before a court.

**Note—**

Rule 24.20 of the *Uniform Civil Procedure Rules 2005* provides as follows: “A witness attending before an examiner to be examined, or to produce a document, is entitled to payment of the same amount for conduct money expenses and loss of time as he or she would have been entitled to on attending to give evidence, or to produce a document, at the trial of the proceedings before the court”. Reference is also made to the notice setting out the scale of allowances to witnesses and published by the Attorney General in Gazette No 62 of 24 June 2011, pages 4599–4600.

### **9 Inspection of register of co-operatives (CNL section 601 (2))**

For the purposes of section 601 (2) of the Law:

- (a) the prescribed manner in which any of the things referred in section 601 (1) of the Law may be done is by:
  - (i) lodging a request with the Registrar in the approved form, and

- (ii) paying the relevant prescribed fee (if any) or otherwise complying with a relevant arrangement (if any) approved under section 601 (3) of the Law, and
- (b) the prescribed place at which any of the things referred to in section 601 (1) of the Law may be done is the office of the Registrar, and
- (c) the prescribed times at which any of the things referred in section 601 (1) of the Law may be done are times during the normal business hours of the office of the Registrar.

#### **10 Procedures regarding giving of exemptions (CNL section 621)**

For the purposes of section 621 of the Law, the procedure for the giving of exemptions that are provided for under the Law is as follows:

- (a) an application for an exemption must be made in the approved form but, if there is no relevant approved form, the application must be made in writing,
- (b) where relevant, the application must be made within a reasonable time before the event or the occurrence of the matter for which the exemption is sought,
- (c) the application must be accompanied by the relevant fee prescribed by Part 3.

### **Part 3 Fees**

#### **11 Fees**

The fees to be paid in connection with the administration of the Act, the *Co-operatives National Law (NSW)* and the *Co-operatives National Regulations (NSW)*, including fees for the lodgment of any documents and fees for late lodgment of any documents under the Act, the *Co-operatives National Law (NSW)* and the *Co-operatives National Regulations (NSW)*, are set out in Schedule 1.

#### **12 Fees with respect to the applied provisions of the Corporation Act**

Fees for anything done by or in relation to the Registrar under provisions of the Corporations Act as applied under the Law that is not otherwise provided for in Schedule 1 are to be the same as the fees for chargeable matters under the [Corporations \(Fees\) Act 2001](#) of the Commonwealth and the regulations under that Act.

#### **13 Waiving, reducing or refunding fees**

The Registrar may waive, reduce or refund any fee chargeable under Schedule 1 in any case or class of case if, in the opinion of the Registrar, there are special circumstances that justify this action.

## Part 4 Miscellaneous

### 14 General savings for repealed regulation

Subject to the local application provisions of the Act and the Law, anything done under or in consequence of the *Co-operatives Regulation 2005* and existing or continuing immediately before the commencement of relevant provisions of this Regulation continues to have the same status, operation and effect as it would have had if that Act had not been enacted.

**Note—**

This clause is intended to supplement clause 3 of Schedule 1 to the Act.

### 15 Co-operatives may continue to operate under old rules

- (1) Subject to subclause (2), a co-operative may continue to operate under the rules (**old rules**) applying to the co-operative that were in force immediately before the commencement of the Act.
- (2) While a co-operative is operating under old rules:
  - (a) if there is any inconsistency between a provision of the old rules and a provision of the Act, the Law, CNR or this Regulation—the provision of the Act, the Law, CNR or this Regulation prevails, and
  - (b) if there is any reference in the old rules to a requirement contained in the *Co-operatives Act 1992* or the *Co-operatives Regulation 2005*—that reference is to be read as a reference to the equivalent requirement contained in the Act, the Law, CNR or this Regulation, and
  - (c) if there is any reference in the old rules to:
    - (i) the co-operative being a trading co-operative—that reference is to be read as a reference to the co-operative being a distributing co-operative, and
    - (ii) the co-operative being a non-trading co-operative—that reference is to be read as a reference to the co-operative being a non-distributing co-operative.

### 16 Inspectors

- (1) A person who was, immediately before the commencement of the new Act, an inspector for the purposes of the old Act (see section 372 of that Act) is taken, on and after that commencement, to have been duly appointed as an inspector under section 492 of the Law.
- (2) A person who was, immediately before the commencement of the new Act, an investigator for the purposes of the *Fair Trading Act 1987* (see section 18 of that Act) is, on and after that commencement, taken to have been duly appointed as an inspector under section 492 of the Law.



- (3) Subclauses (1) and (2) do not apply if the appointment of the person as an inspector for the purposes of the Law was terminated under the Law, or purported to have been so terminated, before the date of commencement of this clause.
- (4) Subclause (2) does not apply if the appointment of the person as an investigator for the purposes of the *Fair Trading Act 1987* was terminated under that Act, or was purported to have been so terminated, before the date of commencement of this clause.

## 17 Delegations

- (1) A delegation that was, immediately before the commencement of the new Act, in force under the old Act (other than section 418 of the old Act) is, on and after that commencement, taken to have been duly made under the Law.
- (2) Without limiting subclause (1), a delegation that was, immediately before the commencement of the new Act, in force under the old Act (including section 418 of the old Act) continues, on and after that commencement, to be operative in relation to the following:
  - (a) the previous operation of the old Act or anything suffered, done or begun under the old Act,
  - (b) a right, privilege, obligation or liability acquired, accrued or incurred under the old Act,
  - (c) a penalty incurred in relation to an offence arising under the old Act,
  - (d) any investigation, proceedings or remedy in relation to such a right, privilege, obligation, liability or penalty,
  - (e) the imposition or enforcement of any such penalty, or the beginning, continuation or enforcement of any such investigation, proceedings or remedy.
- (3) To avoid doubt, a delegation referred to in this clause (other than a delegation under section 418 of the old Act) may be revoked, wholly or partly, by the delegator at any time (see clause 29 of Schedule 4 to the Law).
- (4) In this clause, **delegation** includes a sub-delegation.

## 18 (Repealed)

## Schedule 1 Fees

(Clause 11)

Item	Column 1 Provision	Column 2 Type of fee	Column 3 Fee
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1	CNL s 26 (1) (b) (ii)	Application for registration of proposed co-operative—draft formation disclosure statement required under CNL s 23	\$363
2	CNL s 26 (1) (b) (ii)	Application for registration of proposed co-operative—draft formation disclosure statement not required under CNL s 23	\$104
3	CNL s 31 (b) (ii)	Application for registration of existing corporation—draft formation disclosure statement required under CNL s 23	\$363
4	CNL s 31 (b) (ii)	Application for registration of existing corporation—draft formation disclosure statement not required under CNL s 23	\$104
5	CNL s 37 (b) (ii)	Issue of duplicate certificate of registration	\$32
6	CNL s 60	Application for Registrar's prior approval of certain rule amendments	\$72
		Application for registration of rule amendment, other than where pre-approved under CNL s 60—per rule (maximum of \$158 per lodgment)	\$32
7	CNL s 63 (2)	Plus fee for late lodgment:	
		(a) within first 28 days after due date	\$104
		(b) after first 28 days after due date	\$208
8	CNL s 63 (4)	Application for issue of certificate of registration of rule amendment	\$32
9	CNL s 71 (1)	Application for exemption from any or all provisions of Division 2 of Part 2.4 of CNL	\$72
10	CNL s 82 (3) (a)	Application for registration of disclosure statement for compulsory share take up	\$259
11	CNL s 119 (5)	Application to extend period for carrying on business with too few members	\$259
12	CNL s 152 (3)	Application for determination of a member's eligibility to vote on an active membership resolution	\$259
13	CNL s 171	Application for exemption of co-operative from any or all provisions of Division 5 of Part 2.6 of CNL (former member entitlements)	\$259
14	CNL s 213 (1) (d)	Application for approval to keep register at another office	\$72
15	CNL s 220 (7)	Use of "Co-operative", "Co-op" etc—application for exemption by Registrar (cl 5 of this Regulation)	\$259

16	CNL s 221 (1)	Application to approve omission of “Limited” or “Ltd” in name	\$156
17	CNL s 222 (e)	Application to approve abbreviation or elaboration of name	\$32
18	CNL s 224	Application to approve change of name	\$259
19	CNL s 225 (2)	Restriction on use of “Co-operative”, “Co-op” etc—application for exemption by Registrar (cl 6 of this Regulation)	\$259
		Lodgment of notice of change of address	nil
		Fee for late lodgment:	
20	CNL s 226 (4)	(a) within first 28 days after due date	\$104
		(b) after first 28 days after due date	\$208
21	CNL s 226 (6)	Application for exemption for a small co-operative or class of small co-operatives from CNL s 226 (3) requirement for a notice about the name of a co-operative and its registered office	\$72
22	CNL s 233 (2)	Application by member for review of voting entitlement	\$259
		Filing fee for registration of special resolution—per resolution (maximum of \$158 per lodgment)	\$32
23	CNL s 243 (2) (c) (ii)	Plus fee for late lodgment: (a) within first 28 days after due date	\$104
		(b) after first 28 days after due date	\$208
24	CNL s 244 (3)	Application for certificate of registration of special resolution	\$32
25	CNL s 248 (3)	Application for approval of disclosure statement for special postal ballot	\$259
		Lodgment of annual financial reports by large co-operative	\$259
		Plus fee for late lodgment:	
26	CNL s 289	(a) within first 28 days after due date	\$104
		(b) after first 28 days after due date	\$208
27	CNL s 290	Lodgment of half-year reports by co-operative that is a disclosing entity	nil

		Fee for late lodgment:	
		(a) within first 28 days after due date	\$104
		(b) after first 28 days after due date	\$208
		Lodgment of annual return by small co-operative	\$71
		Plus fee for late lodgment:	
28	CNL s 293	(a) within first 28 days after due date	\$104
		(b) after first 28 days after due date	\$208
29	CNL s 316 (1)	Application for exemption of certain persons (in relation to a co-operative) from all or specified requirements of "target provisions"	\$259
30	CNL s 317 (1)	Application for exemption of certain persons (in respect of a class of co-operatives) from all or specified requirements of "target provisions"	\$259
31	CNL s 319 (1)	Application for exemption of certain persons from all or specified requirements of "target provisions"	\$259
32	CNL s 320 (1)	Application for exemption of certain persons (in respect of classes of audit firms or audit companies) from all or specified requirements of "target provisions"	\$259
33	CNL s 322	Application for exemption from a provision of CNR made under Part 3.3 (Financial reports and audit) of CNL	\$259
34	CNL s 337	Lodgment of disclosure documents for issue of securities other than an issue of securities under CNL s 338	\$2,282
35	CNL s 337	Application for exemption or modification of disclosure provisions under Chapter 6D of Corporations Act (as applied)	\$1,120
36	CNL s 338 (3)	Application for approval of disclosure statement for issue of non-share securities to members or employees of co-operative	\$259
37	CNL s 343 (3) (a)	Application for approval of disclosure statement for compulsory loan from members to co-operative	\$259
38	CNL s 343 (10)	Application for exemption from all or specified provisions of CNL s 343 (requirements for compulsory loans from members to co-operative)	\$259
39	CNL s 350 (1) (b) and (c)	Application for approval of the statement and terms of issue of CCUs	\$259

40	CNL s 359 (3)	Application for exemption from a provision of CNL s 248 and s 359 (requirements in respect of disposal or acquisition of significant assets)	\$259
41	CNL s 363 (2)	Application to permit a higher maximum level of share interest than 20% in particular co-operative	\$259
42	CNL s 372 (1)	Application by an individual for exemption from the restrictions on share interests, relevant interests etc	\$259
43	CNL s 374 (1) (b)	Application for approval of share offers provided for in CNL s 373 that may result in substantial change in share interest in co-operative	\$2,282
44	CNL s 376 (5)	Application to extend time permitted for board to consider a share offer of the kind specified in CNL s 373 (1)	\$72
45	CNL s 380 (1)	Application for exemption from a provision of Division 2 of Part 3.5 and s 248 of CNL (requirements for share offers under Division 2 of Part 3.5 of CNL)	\$1,120
46	CNL s 396 (2)	Application for consent to merger or transfer of engagements by way of board approval	\$72
47	CNL s 397 (2)	Application for approval of disclosure statement for purposes of a merger or transfer of engagements	\$259
48	CNL s 397 (4)	Application for exemption of co-operative from complying with CNL s 397 in relation to disclosure statement about a merger or transfer of engagements	\$259
49	CNL s 398 (1)	Application for approval of merger or transfer of engagements	\$72
50	CNL s 404 (4)	Application for exemption from a provision of CNL s 248 and s 404 (requirements for transfer of incorporation)	\$259
51	CNL s 416 (1) (a)	Application for Registrar's permission to shorten notice	\$32
52	CNL s 418 (1) (f)	Application for direction exempting from disqualification from administering compromise or arrangement	\$259
53	CNL s 424 (1) (b)	Application for Registrar's statement of no objection to compromise or arrangement	\$259
		Lodgment of Supreme Court order with Registrar relating to compromise or arrangement	\$32
54	CNL s 425 (4)	Plus fee for late lodgment:	
		(a) within first 28 days after due date	\$104

		(b) after first 28 days after due date	\$208
55	CNL s 428 (1)	Application for Registrar's approval of explanatory statement for compromise or arrangement	\$1,120
56	CNL s 445 (3)	Application for exemption from a provision of CNL s 248 or s 445 (requirements for voluntary winding up)	\$259
57	CNL s 453	Application to Registrar to exercise powers in respect of property of a deregistered co-operative	\$259
58	CNL s 476 (2) (a)	Application to local Registrar to consent to merger or transfer of engagements occurring as a result of approval by special resolution or decision by the board—merger between local and participating co-operatives	\$72
59	CNL s 477 (2)	Application for approval by appropriate Registrar of disclosure statement for merger or transfer of engagements—local and participating co-operatives	\$259
60	CNL s 477 (4)	Application to appropriate Registrar for exemption from requirements of CNL s 477 applying to a merger or transfer of engagements—local and participating co-operatives	\$259
61	CNL s 478 (1)	Application for approval of merger or transfer of engagements—local and participating co-operatives	\$259
62	CNL s 531 (1) (a)	Application to Registrar for special meeting	\$259
63	CNL s 531 (1) (b)	Application to Registrar for inquiry	\$498
64	CNL s 588 (1)	Application to Registrar for a certificate stating that a thing had or had not been done within a specified period or by a specified date	\$72
65	CNL s 588 (2)	Application to Registrar for a certificate stating that requirements of the Law had or had not been complied with or had been complied with at a specified date or within a specified period	\$72
66	CNL s 588 (3)	Application to Registrar for a certificate stating that on a specified date a body was not or had ceased to be registered as a co-operative under the Law	\$41
67	CNL s 601 (1) (a)	Inspection of register of co-operatives	\$20
68	CNL s 601 (1) (b)	Inspection of documents kept by Registrar relating to a co-operative and prescribed by the National Regulations	\$20
69	CNL s 601 (1) (c)	Extract from register of co-operatives inspected under CNL s 601 (1) (a): first page	\$20

		each additional page	\$1
		Certified copy of document that may be inspected under CNL s 601 (1) (b):	
70	CNL s 601 (1) (d)	first page	\$22
		each additional page	\$2
		Copy of document that may be inspected under CNL s 601 (1) (b):	
71	CNL s 601 (1) (e)	first page	\$20
		each additional page	\$1
72	CNL s 609 (1)	Application for extension or shortening of time	\$72
73	CNL s 611 (2) (c) (iii)	Application for permission to give notice to members by newspaper	\$72
74	CNR reg 1.4 (5)	Application by co-operative for declaration that it is a small co-operative for a particular financial year	\$259
	<i>Co-operatives (Adoption of National Law) Act 2012, Sch 1, cl 5 (1) (a)</i>		
75		Application for approval for rules of certain co-operatives to restrict voting rights	\$259
	<i>Co-operatives (Adoption of National Law) Act 2012, Sch 1, cl 5 (2)</i>		
76		Application for prior approval of proposed amendment of co-operative's rules relating to cl 5 (1)	\$72