



independent liquor group

(suppliers) co-operative limited

A Trading Share Co-operative

**REGISTERED UNDER
THE CO-OPERATIVES ACT 1992 (N.S.W.)**

REGISTRY OF CO-OPERATIVES
154 Russell Street
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(Code: T/S (PV): 02/2001)

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DEFINITIONS

1. In these rules, unless the context otherwise requires:

- (a) **“active member”** means a member who is in active membership within the provisions of Rule 17;
- (b) **“alter”** or similar word or expression used in relation to a rule amendment includes add to, substitute, and rescind;
- (c) **“auditor”** means an auditor or auditors for the time being of the co-operative appointed in accordance with Rule 88;
- (d) **“banking account”** includes an account with a credit union or building society registered, or authorised to operate, under the Financial Institutions (NSW) Code into which the co-operative's monies may be paid;
- (e) **“business day”** means a day that is not a Saturday or Sunday or a public holiday or bank holiday in New South Wales;
- (f) **“CCU”** means Co-operative Capital Unit issued in accordance with these rules;
- (g) **“debenture”** means a document issued by the co-operative that evidences or acknowledges indebtedness of the co-operative in respect of money that is or may be deposited with or lent to the co-operative, whether constituting a charge on property of the co-operative or not, other than:
 - (i) a cheque, order for the payment of money or bill of exchange; or
 - (ii) a promissory note having a face value of not less than \$50,000; or
 - (iii) any other document of a class that is prescribed as exempt from this definition,and includes a unit of a debenture;
- (h) **“director”** includes:
 - (i) a person who occupies or acts in the position of a director or member of the board of the co-operative, whether or not the person is called a director and whether or not the person is validly appointed or duly authorised to act in the position; and
 - (ii) a person in accordance with whose directions or instructions the directors or members of the board of the co-operative are accustomed to act;
- (i) **“financial year”** means the financial year of the co-operative as specified in Rule 85;
- (j) **“may”** or a similar word or expression used in relation to a power of the board indicates that the power may be exercised or not exercised at the board's discretion;
- (k) **“member”** means a member of the co-operative;
- (l) **“month”** means a calendar month;

- (m) **“officer”** means:
- (i) a director, secretary or employee of the co-operative; or
 - (ii) a person who is concerned, or takes part, in the management of the co-operative, whether or not as a director; or
 - (iii) a receiver, or receiver and manager, of property of the co-operative, or any other authorised person who enters into possession or assumes control of property of the co-operative for the purpose of enforcing any charge; or
 - (iv) an administrator of a deed of arrangement executed by the co-operative; or
 - (v) a liquidator or provisional liquidator appointed in a voluntary winding up of the co-operative; or
 - (vi) an administrator of the co-operative appointed under Part 5.3A of the Corporations Law as applying under this Act or Division 6 of Part 12 of the Act; or
 - (vii) a trustee or other person administering a compromise or arrangement made between the co-operative and another person or other persons;
- (n) **“postal ballot”** includes a special postal ballot;
- (o) **“prescribed”** means prescribed by the Act or under the Act by Regulation;
- (p) **“provision”** in relation to the Act, means words or other matter that form or forms part of the Act, and includes:
- (i) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or schedule of or to the Act; and
 - (ii) a section, clause, subclause, item, column, table or form of or in a schedule to the Act; and
 - (iii) the long title and any preamble to the Act;
- (q) **“regulation”** means a regulation made under the Act, and any regulation that applies to a co-operative by way of a transitional regulation made under the Act;
- (r) **“relevant interest”** has the same meaning as given in Schedule 2 of the Act;
- (s) **“rules”** mean the registered rules of the co-operative as amended from time to time and reference to particular rules has a corresponding meaning;
- (t) **“shall”** or a similar word or expression used in relation to a power of the board indicates that the power must be exercised, subject to the Act or the rule granting the power;
- (u) **“share”** means share in the capital of the co-operative;
- (v) **“special resolution”** means a resolution which is passed in accordance with

Rule 62;

- (w) **“the Act”** means the *Co-operatives Act 1992* and **“CNL”** means the Appendix of the *Co-operatives (Adoption of National Law) Act 2012*;
- (x) **“the board”** means the whole or any number of the directors assembled at a meeting of the directors or transacting business in accordance with Rule 70, being not less than a quorum or a majority, as the case may be;
- (y) **“the co-operative”** means “The Independent Liquor Group (Suppliers) Co-Operative Ltd”;
- (z) **“the Law”** means the Corporations Law;
- (aa) **“the Registrar”** means the Registrar of Co-operatives or any person delegated the Registrar’s functions;
- (bb) **“the secretary”** means any person appointed by the board as secretary of the co- operative;
- (cc) **“the State”** means the State of New South Wales;
- (dd) **“writing”** includes printing, typing, lithography and other modes of representing or
- (ee) reproducing words in a visible form and “written” has a corresponding meaning;
- (ff) Words importing one gender include the other genders;
- (gg) Words importing persons include bodies corporate;
- (hh) Words in the singular include the plural, and vice versa;
- (ii) Words or expressions used have the same meanings as those given to them by the Act.

DEFINITIONS - INTERPRETATION PROVISIONS

- 2. (a) A reference in these rules to “the Act” includes a reference to:
 - (i) the Act as originally enacted, and as amended from time to time since its original enactment; and
 - (ii) if the Act has been repealed since the inclusion of the reference in these rules - the legislation enacted in substitution of the Act (whether legislation of the State or Federal Parliament) and as amended from time to time since its enactment.
- (b) A reference in these rules to a provision in “the Act” includes a reference to:
 - (i) the provision as originally enacted, and as amended from time to time since the original enactment;
 - (ii) if the provision has been omitted and re-enacted (with or without modification) since the enactment of the reference - the provision as re-enacted and as amended from time to time since its re-enactment; and

- (iii) if the provision has been omitted and replaced with a new provision dealing with the same area of law or procedure - the new provision as enacted and as amended from time to time since its enactment.
- (c) (i) In the interpretation of a rule, or paragraph of a rule, the interpretation that will best achieve the purpose of the rule is to be preferred to any other interpretation.
- (ii) This provision applies whether or not the purpose is expressly stated in the rule or paragraph of the rule.
- (d) In these rules, unless the context indicates a contrary intention, headings are for convenience and do not affect interpretation.

NAME

- 3. (a) The name of the co-operative shall be "The Independent Liquor Group (Suppliers) Co-Operative Limited".
- (b) The co-operative may, in accordance with Section 259 of the Act, change its name by way of a special resolution to a name approved by the Registrar.

TRADING CO-OPERATIVE

- 4. The co-operative is a trading co-operative within the meaning of Section 14 of the Act.

REGISTERED OFFICE

- 5. (a) The co-operative must cause a notice to be conspicuously and publicly displayed at the premises of registered office which states the name of the co-operative and identifies the premises as its registered office.
- (b) The board shall notify the Registrar of any change of address of the registered office of the co-operative within 28 days after the change, and on the form approved by the Registrar.

RULES

- 6. (a) The rules of the co-operative have the effect of a contract under seal:
 - (i) between the co-operative and each member;
 - (ii) between the co-operative and each director; and
 - (iii) between a member and each other member.

Under the contract, each of those persons agrees to observe and perform the provisions of the rules as in force for the time being so far as those provisions are applicable to that person.

- (b) (i) A person shall be entitled on demand to a copy of the rules upon payment of a sum not exceeding that specified in Rule 101, Schedule of Fees.
- (ii) A person may inspect a copy of these rules free of charge at the office where the registers are kept, during all reasonable hours.

RULE ALTERATIONS

7. (a) The rules may be altered by a special resolution, by a resolution of the board in accordance with Section 112 of the Act or as otherwise permitted by the Act. No alteration to these rules takes effect until the alteration is registered by the Registrar.
- (b) Where any rule is altered, by way of a board resolution under Section 112, the co-operative must cause the alteration to be notified, in writing, to members as soon as practicable after the alteration is registered and, in any event, not later than the date on which notice is given to the members of the next annual general meeting of the co-operative, following the registration of the alteration.

OBJECTS

8. The objects of the co-operative shall be:

Beer, Wine, Spirit and Tobacco Merchant Purchase & Supply.

PRIMARY OBJECT

- (a) To purchase or in any other manner acquire from the members and supply to the Liquor Industry, all alcoholic and non alcoholic beverages, cigarettes, tobacco and such other merchandise as is usually transacted by wine and spirit merchants.

ADDITIONAL OBJECTS

- (b) To distil, draw, blend, bottle, package and otherwise purchase and prepare for sale and deal in alcoholic beverages, non alcoholic beverages, tobacco and associated products.
- (c) To purchase, hire, lease or otherwise acquire all such equipment as may be required for the refining, blending manufacturing, filtering, bottling, labelling and packing and distribution of alcoholic and non-alcoholic beverages for its members or other persons.
- (d) To purchase hire, lease, manufacture or acquire on behalf of and to supply to its members such equipment as may be required for the setting up of Wine and Spirit Merchants premises hotels or other licensed premises.
- (e) To purchase, hire lease or enter into arrangements with other persons or companies for and on behalf of and to supply to its members transport and delivery, bottling and packaging of alcoholic and non-alcoholic beverages and all such other items sold and stocked by the members.
- (f) To purchase, hire, lease or otherwise acquire to use and control on behalf of its members such office equipment, including the use of a computer or computer time and to install such office systems as shall be used by the Co-operative and its members or on their behalf or for their benefit.
- (g) To provide cold storage for the products of its members or other persons.
- (h) To acquire and distribute information as to the markets of the world and as to Co-operative trading in general.
- (i) To purchase or otherwise acquire goods and sell products on behalf of its members or persons;

- (j) To arrange insurance on behalf of its members or other persons.
- (k) To do all such things calculated to promote the economic interest of the members of the Co-operative in relation to the objects mentioned in this clause as may be prescribed by Regulation under the Act.
- (l) To contract or otherwise make arrangements for any guarantee or guarantees by any person or persons of the payment of money by the co-operative or of the performance by the co-operative of any of its obligations whether present or future and for such purposes to indemnify or agree to indemnify the person or persons giving or about to give such guarantee or guarantees and to give security over the assets of the Co-operative or any of them, for such indemnity or for the performance of such agreement to indemnify.
- (m) To establish agencies in the State and elsewhere for any objects of the Co-operative.
- (n) Subject to the provisions of the *Liquor Act 1982*, to assist members in acquiring approved amusement device or approved amusement devices as defined in the *Liquor Act 1982*, and to hold or have an interest in any licence necessary therefore.
- (o) All such other objects as shall be permitted by the Co-operatives Act, 1992 and all amendments thereof, permits.

POWERS

9. (a) The co-operative shall have, both within and outside the State, the legal capacity of a natural person and have all the powers allowed by or under the Act, including but not limited to the taking of deposits pursuant to Section 263A of the Act
- (b) The powers of the co-operative to:
- (i) obtain financial accommodation; and
 - (ii) give security for the repayment of money,
 - (iii) to raise money on loan for any objects of the co-operative subject to the provisions of Section 266, 268 and 268A of the Act,
 - (iv) Receive money on deposit,
 - (v) Acquire by purchase or otherwise shares in any other co-operative or liquor industry participant.
 - (vi) Raise compulsory loans from members. Such loans may be secured or unsecured and may be raised by deductions from monies due to members by way of rebate in respect of their dealings with the co-operative. Such loans shall be subject to the provisions of Section 266, 268 and 268A of the Act and to any conditions to which the Registrar may impose.
 - (vii) Acquire by lease, purchase, donation, devise, bequest or otherwise any real or personal property for any objects of the co-operative and may sell or lease any such real or personal property.

shall be exercised subject to the Act, but otherwise unlimited by the rules.

POWER TO FORM COMPANIES, ENTER JOINT VENTURES ETC

10. Without limiting the provisions of Rule 9, and subject to the provisions of the Law, the co-operative has power:
- (a) to form or participate in the formation of a body corporate or unit trust;
 - (b) to acquire interests in and sell or otherwise dispose of interests in bodies corporate, unit trusts and joint ventures; and
 - (c) to form or enter into a partnership, joint venture or other association with other persons or bodies,
- in furtherance of the co-operative's primary activity.

LOANS BY MEMBERS TO THE CO-OPERATIVE

11. (a) The co-operative may, in accordance with Section 268 of the Act, require its members to lend money to the co-operative, with or without security, in accordance with a proposal approved by the Registrar and by the members by special resolution.
- (b) The approved proposal shall be binding on all members at the date of the passing of the special resolution other than a member who has given notice of their intention to cease active membership in accordance with Section 268(3)(c) of the Act and on all persons who become members of the co-operative after that date and before the total amount of the loan to be raised has been raised.

DEALINGS OF MEMBERS WITH CO-OPERATIVE

12. (a) The co-operative may, in accordance with Section 78 of the Act, make a contract with a member requiring the member to have specified dealings with the co-operative for a fixed period.
- (b) The provisions of the contract may require a member:
- (i) to sell products through or to the co-operative; or
 - (ii) to obtain supplies or services through or from the co-operative; or
 - (iii) to pay to the co-operative specified sums as liquidated damages for any failure to comply with a requirement authorised by this rule.
- (c) The sum, if any, specified as liquidated damages is to be considered as a debt due to the co-operative and in respect of such debt, the co-operative has, pursuant to Section 80 of the Act, a charge on each of the following:
- (i) the share or interest in the capital and the credit balance and deposits of the member or past member;
 - (ii) any dividend, interest, bonus or rebate payable to the member or past member;
 - (iii) any entry and periodic fees required to be repaid to a member when the member ceases to be a member.

The charge created pursuant to Section 80 of the Act shall be enforced in accordance with that section.

- (d) Nothing in this rule shall be interpreted as restricting the powers of the co-operative to enter into contracts with a member or members other than pursuant to the provisions of this rule.

SEAL

13. (a) The co-operative shall, as required by Section 258(1)(a) of the Act, have the name of the co-operative appear in legible characters on its Common Seal and on any Official Seal and the Australian Registered Body Number of the Co-operative, if required under the Law. The Common Seal shall be kept at the registered office in such custody as the board shall direct.
- (b) The co-operative may, pursuant to Section 49 of the Act, have for use in place of its Common Seal outside the State, one or more Official Seals. Each of the additional seals must be a facsimile of the Common Seal with the addition on its face of the name of the place where it is to be used.
- (c) The Common Seal of the co-operative shall not be affixed to any instrument except by resolution of the board. Two directors and the secretary must be present and must sign all instruments sealed while they are present. The board may appoint a person other than the secretary to perform this function.
- (d) The person affixing the Official Seal must certify in writing on the instrument to which it is affixed, the date and place at which it is affixed.

CO-OPERATIVE MAY AUTHORISE AGENT OR ATTORNEY TO EXECUTE DEEDS

14. (a) The co-operative may, by writing under its Common Seal, empower its agent or attorney (either generally or in respect of a specified matter or specified matters) to execute deeds on its behalf.
- (b) A deed signed by such an agent or attorney on behalf of the co-operative and under the agent's or attorney's seal, or under the appropriate official seal of the co-operative, binds the co-operative and has effect as if it were under the Common Seal of the co-operative.
- (c) The authority of such an agent or attorney, as between the co-operative and a person dealing with the agent or attorney, continues during the period (if any) mentioned in the instrument conferring the authority or, if no period is so mentioned, until notice of the revocation or termination of the agent's or attorney's authority has been given to the person dealing with the agent or attorney.
- (d) Where an agent or attorney affixes an Official Seal to an instrument, the person must comply with Rule 13(d).

CUSTODY AND INSPECTION OF RECORDS AND REGISTERS

15. (a) The co-operative must have at the registered office, subject to Rule 16, and available during all reasonable hours for inspection by *any member* free of charge the following:
- (i) a copy of the Act and the Regulation;
- (ii) a copy of the rules of the co-operative;

- (iii) a copy of the minutes of each general meeting of the co-operative;
 - (iv) a copy of the last annual report of the co-operative under Section 252 of the Act;
 - (v) the register of directors, members and shares,
 - (vi) the register of names of persons who have given loans or deposits to or hold securities, debentures or CCUs given or issued by the co-operative;
 - (vii) the register of any loans made by or guaranteed by the co-operative, and of any securities taken by the co-operative;
 - (viii) the register of memberships cancelled under Part 6 of the Act;
 - (ix) the register of notifiable interests required to be kept under Section 294 of the Act;
 - (x) the register of subordinated debt required to be kept under Clause 16(3)(b) of the *Co-operatives Regulation 1997*; and
 - (xi) such other registers as the regulation provides are to be open for inspection.
- (b) A member is entitled to make a copy of entries in a register specified in subsection (a) and to do so free of charge or on the payment of a fee if required under Rule 101, Schedule of Fees.
- (c) The co-operative must have at the place where the registers are kept and available during all reasonable hours for inspection by *any person*:
- (i) a copy of the Act and the Regulation;
 - (ii) a copy of the rules of the co-operative;
 - (iii) a copy of the last annual report of the co-operative under Section 252 of the Act.

NOTIFICATION OF OFFICE ADDRESS AT WHICH REGISTERS ARE KEPT

16. If the registers required by Section 249(1) of the Act to be kept by the co-operative are not kept at the registered office, the co-operative must lodge with the Registrar a notice of the address at which the register is kept within 28 days after the register is:
- (a) established at an office which is not the co-operative's registered office; or
 - (b) moved from one office to another.

ACTIVE MEMBERSHIP PROVISION

17. In accordance with Part 2.6 of the CNL:
- (a) To purchase or in any other manner acquire from the members and supply to the Liquor Industry, all alcoholic and non alcoholic beverages, cigarettes, tobacco and such other merchandise as is usually transacted by wine and spirit merchants is a primary activity of the Co-operative; and either

- (b) a member shall:
- (i) be engaged in the sale, manufacture, distillation, blending, producing or distribution of alcoholic or non-alcoholic beverages or tobacco and associated products; and
 - (ii) have an interest in a license in a State or Territory of Australia under the provisions of the relevant Liquor or Tobacco Act of that State or Territory and under the provisions of such Act shall be entitled to purchase or sell alcoholic and non alcoholic beverages or tobacco and associated products of any description; and
 - (iii) submit to the Board a statutory declaration giving details of all parties with an interest in the license referred to in 17(b)(ii) above; and
 - (iv) be a person or company holding a liquor or tobacco license in a State or Territory of Australia and shall sell goods or services valued at not less than two hundred and fifty dollars (\$250.00) to the Co-operative during the previous twelve calendar months;
- in order to establish active membership of the Co-operative; or
- (c) A member shall be a user of a trademark owned by the Co-operative and a signatory to a user agreement within the area of Australia, who pays an annual amount as subscribed by the user agreement, in order to establish active membership of the Co- operative.

FORFEITURES AND CANCELLATIONS RELATING TO INACTIVE MEMBERS

18. (a) The board shall, after giving notice in accordance with Section 132 of the Act, declare the membership of a member cancelled if:
- (i) the whereabouts of the member are not presently known to the co-operative and have not been known to the co-operative for a continuous period of at least 12 months before the date of cancellation; or
 - (ii) the member is not presently an active member and has not been an active member at any time during the past 12 months immediately before the date of cancellation.
- (b) The board is to declare the shares of a member forfeited at the same time as the membership is cancelled and the amounts due in respect of that cancellation and forfeiture shall be dealt with and repaid in accordance with Sections 134-136 (inclusive) of the Act.
- (c) The co-operative shall, in a form approved of by the Registrar, keep a register of memberships cancelled pursuant to paragraph (a) of this Rule, which shall specify the particulars prescribed in Clause 6 of Schedule 1 of the *Co-operatives Regulation 1997*.
- (d) The board shall not be required to give notice, under this rule, if the member's whereabouts are unknown to the co-operative and the amount required to be repaid to the member in respect of the cancelled membership (whether by reason of the cancellation of share or otherwise) does not exceed \$50, or such other amount as maybe prescribed.

QUALIFICATIONS FOR MEMBERSHIP

19. A person is not qualified to be admitted to membership of the co-operative unless the board has reasonable grounds for believing that the person will be an active member under Rule 17.

APPLICANTS FOR MEMBERSHIP TO BE GIVEN NOTICE OF ENTRY AND PERIODIC FEES

20. The co-operative must supply, with each application for membership, a written notice of any intending or prescribed entry or periodic fees that a person will be liable to pay on becoming a member of the co-operative.

APPLICATION FOR MEMBERSHIP AND SHARES

21. (a) The board of a co-operative must provide each person intending to become a member of the co-operative with:
- (i) a disclosure statement containing:
 - (A) a statement which sets out the rights and liabilities attached to shares;
 - (B) a copy of the last annual report of the co-operative, prepared as required under Section 252 of the Act;
 - (C) any other relevant information concerning the financial position and prospects of the co-operative if there has been a significant change since the date of the last annual report; and
 - (D) any other information that the Registrar directs;
 - (ii) a consolidated copy of the rules of the co-operative; and
 - (iii) a copy of all special resolutions applicable to the member passed by the members of the co-operative, except special resolutions providing for an alteration of the rules of the co-operative; and
- (b) Applications for membership, shares or bonus or additional shares shall be lodged at the registered office, in or to the effect of the form approved by the board, together with a payment in full in respect of each share applied for.
- (c) Every application shall be considered by the board. If the board approves of the application, the board shall allot the shares applied for. The applicant's name together with the number of shares allotted, date of allotment and any other information required by or under the Act shall be entered in the register of members. The applicant shall be notified in writing of the allotment and of the entry in the register and shall then be entitled to the privileges attaching to membership, or to the holding of shares, or bonus or additional shares, as is appropriate to the case.
- (d) The board may, at its discretion, refuse any application for membership or shares, other than additional shares the subject of a compulsory issue under Rule 29, and need assign no reasons for such refusal though the board may choose to give reasons, if the board considers it appropriate to do so. Upon refusal the applicant's deposit shall be refunded without interest.
- (e) In considering an application for membership pursuant to this rule, the board

must ensure that a person who is not qualified for membership of the co-operative under Rule 19 is not admitted as a member.

MEMBERS OF THE CO-OPERATIVE

22. The members of the co-operative are:
- (a) those persons who signed the application for registration of the co-operative; and
 - (b) those persons admitted to membership in accordance with Rule 21; and
 - (c) those persons who become members by:
 - (i) a transfer of engagements to the co-operative; or
 - (ii) a scheme of arrangement; or
 - (iii) operation of law; or
 - (iv) a transfer of shares under Rule 40.

CAPITAL AND SHARES

23. (a) The capital of the co-operative shall be raised by the issue of shares which shall be of one class, all ranking equally, and be of nominal value of \$2.00 each.
- (b) The capital shall vary in amount according to the nominal value of shares from time to time subscribed.
- (c) No share is to be allotted (other than a bonus share) unless at least 100% of the nominal value of the share has been paid. A share is not to be issued at a discount.
- (d) No person, whether or not a member, shall hold, or have a relevant interest in, more than 20% of the nominal value of issued share capital of the co-operative, except in accordance with Section 289 of the Act.
- (e) The co-operative may issue shares at a premium in accordance with Section 151 of the Act.
- (f) Shares of the co-operative shall not be quoted for sale or purchase at any stock exchange or in any other public manner whatever, within the meaning of the *Income Tax Assessment Act 1936* (Cwlth).

MINIMUM SHAREHOLDING

24. Every member shall, on admission to membership of the co-operative, hold at least two hundred and fifty (250) shares.

SHARES TO BE FORFEITED TO REMEDY CONTRAVENTION OF MAXIMUM LEVEL OF SHARE INTEREST

25. (a) Where a person (whether or not a member of the co-operative) contravenes Rule 23(d), the board shall declare to be forfeited sufficient number of the shares in which the person has a relevant interest to remedy the contravention.
- (b) The shares to be forfeited pursuant to this rule are:

- (i) the shares nominated by the person for the purpose; or
 - (ii) in the absence of such nomination - the shares in which the person has had a relevant interest for the shortest time.
- (c) A declaration of the board that shares are forfeited operates to forfeit the shares concerned.
- (d) The provisions of Sections 134 - 136 (inclusive) of the Act shall apply to and in respect of shares forfeited under this rule as if the shares had been forfeited under Rule 18.

NOTICE TO BE GIVEN OF SUBSTANTIAL SHARE INTEREST AND SUBSTANTIAL CHANGE IN SHARE INTEREST

26. (a) A person must give notice in writing to the co-operative within 5 business days after becoming aware that the person has a substantial share interest in the co-operative.
- (b) A person who has a substantial share interest in the co-operative must give notice in writing to the co-operative within 5 business days after becoming aware that a substantial change has occurred in that interest.
- (c) A person who has ceased to have a substantial share interest in the co-operative must give notice in writing to the co-operative within 5 business days after becoming aware that the person has ceased to have that interest.
- (d) For the purposes of this rule:
- (i) A person has a substantial share interest in the co-operative if the nominal value of the shares in which the person has a relevant interest represents 5% or more of the nominal value of the issued share capital of the co-operative.
 - (ii) A substantial change takes place in a person's share interest in the co-operative if there is an increase or decrease in the number of shares in which the person has a relevant interest and the increase or decrease represents at least 1% of the nominal value of the issued share capital of the co-operative.
 - (iii) "Notice" means a notice in the form approved by the Registrar, specifying the particulars prescribed by the *Co-operatives Regulation 1997*.

REGISTER OF NOTIFIABLE INTERESTS

27. (a) The co-operative is to keep a register of notifiable interests, which is to be entered in alphabetical order, of the names of persons from whom the co-operative has received a notification under Rules 26 and 34 together with the information contained in the notification.
- (b) The register kept for the purpose of this rule shall be open for inspection:
- (i) by any member, free of charge; and
 - (ii) by any other person free of charge or on the payment of a fee if required under Rule 101, Schedule of Fees.

BONUS SHARES

28. (a) Bonus shares may be issued by the co-operative in accordance with the Act and these rules.
- (b) The co-operative may issue bonus shares to members of the co-operative if the assets of the co-operative (other than those acquired for resale at a profit):
- (i) have been sold at a profit; or
 - (ii) have been revalued at a greater value than that disclosed prior to therevaluation in the books of the co-operative.
- (c) Bonus shares may be issued subject to the following restrictions:
- (i) each issue must have been approved by a special resolution of the co-operative;
 - (ii) they are to be issued as fully paid up shares with no payment required to be made by a member of the co-operative to whom they are issued;
 - (iii) they are to be issued only in respect of shares that are fully paid up as at the date of issue of the bonus shares; and
 - (iv) the total nominal value of bonus shares issued by a co-operative under this rule during any 12 month period must not exceed 20% or such other percentage as may be prescribed of the nominal value of the issued share capital of the co-operative immediately before the date of issue of the bonus shares.
- (d) Notice of the meeting or postal ballot at which a resolution is to be proposed as a special resolution for the purpose of approving a bonus share issue must be accompanied by the documents specified in Section 156(3) of the Act.

COMPULSORY SHARE ACQUISITION

29. (a) The board may require a member to take up, or subscribe for, additional shares in accordance with a proposal approved by a special resolution of the co-operative in accordance with Section 155 of the Act.
- (b) Any proposal to require a member to take up or subscribe for additional shares must:
- (i) be accompanied by a disclosure statement, approved by the Registrar, that explains the purpose for which the funds raised by the issue of the additional shares are to be used; and
 - (ii) clearly show the total number of additional shares to be issued and the basis on which the shares are to be apportioned amongst members; and
 - (iii) be accompanied by a statement informing the member that the member may inform the board by notice on or before the date specified in the statement (being a date before the passing of the special resolution) that the member resigns on the passing of the special resolution.

- (c) A proposal approved by the members shall be binding:
 - (i) on all members at the date of the passing of the special resolution other than a member who has given a notice of their intention to cease active membership in accordance with Rule 30(b)(iii);
 - (ii) on all persons who become members after the passing of the special resolution, and before the total number of shares to be issued (as per the proposal) has been issued.

PURCHASE OF MEMBERS' SHARES

30. (a) Subject to Section 172 of the Act the co-operative may:
- (i) purchase any share of a member at the request of the member; and
 - (ii) repay to a member, with the member's consent, the whole or any part of the amount paid up on any share held by the member when the sum repaid is not required for the activities of the co-operative.
- (b) The co-operative shall cancel any share purchased or repaid in full by the co-operative.
- (c) The co-operative shall not, in any financial year, repurchase shares or repay the amount paid up on shares, or both, if the amount to be paid by the co-operative exceeds the sum of:
- (i) 5% of the nominal value of the issued share capital of the co-operative immediately before the commencement of that financial year; and
 - (ii) the amount of any additional share capital of the co-operative subscribed for during that year,
- unless exempted by written order of the Co-operatives Council, either unconditionally or subject to conditions.
- (d) The amount paid for a share when it is repurchased may be an amount determined by the board which is less than the nominal value of the share if the books of the co-operative disclose that the amount paid is the net shareholder's equity per share in the undertaking of the co-operative.
- (e) Section 172 of the Act does not apply to any member who has been expelled or had his/her membership cancelled under Rule 18.
- (f) The board must not agree to repurchase shares or repay amounts paid up on shares if:
- (i) the repurchase or repayment is likely to cause the co-operative to become insolvent; or
 - (ii) the co-operative is insolvent.
- (g) If the board is of the opinion that to pay the repurchase price would adversely affect the financial position of the co-operative it can:
- (i) if it is a deposit-taking co-operative, apply the amount as an interest bearing deposit by the member with the co-operative; or

- (ii) allot or issue debentures or CCUs of the co-operative to the member insatisfaction of the amount.
- (h) A deposit, debenture, or CCU issued pursuant to (g) shall:
 - (i) bear interest during any period in accordance with Section 173 of the Act;and
 - (ii) be repaid to the member as soon as, in the board's opinion, such repayment would not adversely affect the financial position of the co-operative, and in any case within 10 years.

LIABILITY OF MEMBERS TO THE CO-OPERATIVE

31. (a) A member shall, in accordance with Section 76 of the Act, be liable to the co-operative for the amount, if any, unpaid on the shares held by that member, together with any charges, including entry and periodic fees, payable by the member to the co-operative as required by these rules.
- (b) On the death of a member, the member's estate is subject to the same liability as the member would have been until the member's personal representative or some other person is registered in the member's place.
- (c) The joint holders of a share shall be jointly and severally liable in respect of any such amount unpaid on shares and to any such charges referred to in paragraph (a).

VOTING RIGHTS

32. (a) Except as otherwise provided in these rules, an active member of the co-operative shall have one vote only in respect of any question or motion arising at a general meeting of the co-operative.
- (b) A member's right to vote is a personal right and is not attached to, or conferred by, any share held by the member in the co-operative.
- (c) In the case of joint membership, the joint members shall have one (1) vote only between them and that vote may only be exercised (subject to power of attorney) by the joint member whose name appears first in the register of members.
- (d) If shares are held jointly, each member (other than a joint member) holding the share is entitled to vote at a general meeting.
- (e) A person is not entitled to exercise, under a power of attorney, the power of a member of the co-operative to vote if the person has that power of attorney in respect of another member of the co-operative under another power of attorney.
- (f) A person is not entitled to exercise, as the representative of a body corporate, the power of a body corporate member of the co-operative to vote if the person has the power as the representative of another body corporate member of the co-operative.
- (g) (i) A person must not directly or indirectly control the right to vote of a member.
- (ii) If a person controls the exercise of the right to vote of a member at a

meeting of the co-operative;

(A) the vote of that member; and

(B) the vote of that person, if that person is a member,

are invalid.

(iii) Nothing in Rule 32(g) prevents the exercise of a vote by means of a power of attorney.

(h) Any vote cast by or on behalf of a member of a co-operative when not entitled to vote is to be disregarded.

EFFECT OF RELEVANT SHARE AND VOTING INTEREST ON VOTING RIGHTS

33. (a) A member is not entitled to vote if another person (whether or not a member of the co-operative) has a relevant interest in any share held by the member or in the right to vote of the member.
- (b) A member who is not entitled to vote because of this rule may apply to the Co-operatives Council for a review of the matter.
- (c) Where the Co-operatives Council orders that the member is entitled to vote, the member's right to vote shall be restored.

NOTICE TO BE GIVEN OF VOTING INTEREST

34. (a) A person (whether or not a member of the co-operative) must give notice in writing to the co-operative within 5 business days of becoming aware that the person has, or has ceased to have, a relevant interest in the right to vote of a member in the co-operative.
- (b) For the purposes of this rule, "notice" means a notice which contains the prescribed particulars as set out in Clause 24 of the *Co-operatives Regulation 1997*.

CERTIFICATE OF SHARES

35. (a) Every person whose name is entered as a member in the register of members shall be given, after application and without payment, a certificate under the seal of the co-operative specifying the shares held by the person and the amount paid up on those shares.
- (b) Where shares are held jointly by several persons the co-operative shall not be bound to issue more than one certificate, and delivery of a certificate to one of the joint holders shall be sufficient delivery to all.
- (c) If a share certificate is defaced, lost or destroyed a duplicate may be issued by the co-operative on payment of a fee, if required under the Schedule of Fees, and on such terms as to evidence and indemnity as the board thinks fit.

CALLS ON SHARES

36. (a) (i) The board may from time to time make calls upon the members in respect of any monies unpaid on the shares of members (whether on account of the nominal value of the shares or by way of premiums) which are not required by the terms of issue to be paid at fixed times. A call is not valid unless the board

gives at least 14 days notice to the members, specifying the time or times of payment. No call shall exceed one-quarter (1/4) of the nominal value of the shares or be payable at less than one month from the last call.

- (ii) Each member, on receiving notice under this rule, shall pay to the co-operative at the time or times so specified the amount called on the member's shares.
 - (iii) The joint holders of a share shall be jointly and severally liable to pay all calls in respect of that share.
 - (iv) If a sum called in respect of a share is not paid before or on the day appointed for payment, the person from whom the sum is due shall pay interest upon the sum at the rate of 8% per annum from the day appointed for the payment to the time of actual payment. The board may waive payment of that interest wholly or in part.
 - (v) The board may, on the issue of shares, differentiate between the shareholders in the amount of calls to be made and in the times of payment.
 - (vi) The directors may revoke or postpone a call.
 - (vii) The board may accept from any member willing to advance, all or any part of the money uncalled and unpaid upon any shares held by that member. Upon all or any of the money advanced, the board may pay interest to cover the time between the advancement and the time that the money would otherwise have been payable on the shares. The rate of interest can be agreed between the member and the board.
- (b)
- (i) Any sum that, by the terms of issue of a share, becomes payable on allotment or at a fixed date, whether on account of the nominal value of the share or by way of premium, shall for the purposes of these rules be deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable.
 - (ii) In the case of non-payment, the provisions of Rules 36(a) and 37 as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

DEFAULT IN PAYMENT OF CALLS

- 37.
- (a) If a member fails to pay any call or instalment of a call by the day appointed for payment, the board may, while any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of the unpaid amount together with any interest which may have accrued.
 - (b) The notice shall name a further day (not earlier than 14 days from the date of the notice) by which the payment required by the notice is to be made. The notice shall also state that if there is no payment by that time the shares for which the call was made may be forfeited.
 - (c) If the requirements of the notice are not complied with by the member, then any share for which the notice has been given may, at any time afterwards, be forfeited by a resolution of the board.

FORFEITED SHARES

38. (a) A person whose shares have been forfeited pursuant to these rules shall cease to be a member in respect of the forfeited shares. However, that person shall remain liable to pay to the co-operative all moneys which (as at the date of forfeiture) were payable by the person to the co-operative in respect of the shares, in addition to the calls in default.
- (b) A statutory declaration in writing by a director of the co-operative stating that a share in the co-operative has been forfeited on a date stated in the declaration, shall be conclusive evidence of that fact as against all persons claiming to be entitled to the share.
- (c) The co-operative shall, pursuant to Section 80 of the Act, have a charge upon the paid up amounts of the forfeited shares and may appropriate those amounts pursuant to that section.

SALE OF SHARES BY BOARD

39. (a) The co-operative may sell in such manner as the directors think fit all or any shares on which the co-operative has a charge, pursuant to Section 80 of the Act. However, no sale shall be made unless a sum in respect of which the charge exists is payable at the date of the sale. Also no sale shall be made until the expiration of 14 days after a notice in writing (stating, and demanding payment of, such part of the amount in respect of which the charge exists as is payable at the date when the notice is given) has been given to the registered holder of the share or the person entitled to it by reason of death or bankruptcy. The notice shall indicate that upon failure to make payment of the sum demanded within the time stipulated the shares will be sold by the board.
- (b) Where the highest offer received by the board is less than the amount paid up on shares to be sold, the board shall, before accepting the offer, notify the member of the receipt of such offer and the amount of the offer, and of the board's intention to accept the offer at the expiration of 14 days, if no payment is made before then to the co-operative of all moneys in respect of which the charge exists.
- (c) From the proceeds of any such sale the co-operative may deduct the expenses, if any, associated with the sale and may apply the balance to reduce the liability of the member. However, if a surplus remains after such deduction the surplus shall be payable to the member whose shares were sold.
- (d) For giving effect to any such sale the board may authorise a person to transfer the shares sold to the purchaser.

TRANSFER AND TRANSMISSION OF SHARES

40. (a) The instrument of transfer of any share shall be executed by or on behalf of the transferor and the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the register of members.
- (b) Shares shall be transferred in the following form or in a usual or common form which the board shall approve:

SHARE TRANSFER FORM

I, A.B. of _____

in consideration of the sum of \$ _____

paid to me by C.D., of _____

("the transferee") do transfer to the transferee the share (or shares) numbered

in the _____

to hold on behalf of the transferee, the transferee's heirs, executors, administrators and assigns, subject to the conditions on which I hold the same at the time of the execution of this transfer.

I, the transferee, agree to take the said share (or shares) subject to the conditions on which the transferor holds the share (or shares) and subject to the rules of: _____

_____ as amended from time to time.

As witness our hands, the _____ day of _____ 20_____

Signed by

_____, transferor.

In the presence of _____, witness.

Signed by

_____, transferee.

In the presence of _____, witness.

(c) A share may not be sold or transferred except:

(i) with the consent of the board, and to a person who is qualified to be admitted to membership of the co-operative under Rules 17 and 19;
or

(ii) as otherwise provided by these rules or the Act.

(d) The board may decline to register any transfer of shares to a person not qualified to be a member under Rule 19 or of whom they do not approve. The board may also decline to register any transfer of shares on which the co-operative has a lien or charge. If the board refuses to register a transfer of shares it shall send notice of the refusal to the transferee within 2 weeks after the date on which the board declined to register the transfer.

(e) The board of the co-operative shall not consent to the sale or transfer of shares to a person in contravention of Rule 23(d).

(f) The board may decline to recognise any instrument of transfer unless:

- (i) a fee, if required under Rule 101, Schedule of Fees, is paid to the co-operative for the transfer; and
 - (ii) the instrument of transfer is accompanied by the certificate (if any) of the shares to which it relates, and such other evidence as the board may reasonably require to show the right of the transferor to make the transfer.
- (g) The board shall have a record of all transfers made in the proper books of the co-operative.
- (h) The board may suspend the registration of transfers during the 14 days immediately preceding the annual general meeting in each year.

EFFECT OF SALE, TRANSFER OR DISPOSAL OF SHARES

41. A member who has sold or transferred, or disposed of the beneficial interest in, that member's shares, or has agreed to do any of those things, is not entitled to vote at any meeting of the co-operative.

DEATH OF MEMBER

42. (a) The board may register as the holder of a share, a trustee, executor or administrator of the estate of a dead person who was the registered holder of the share in the co-operative, or where the deceased member is entitled in equity to a share, with the consent of the holder of the share.
- (b) (i) On the death of a member, the member's share in the co-operative cannot be transferred to a person other than an administrator or executor except with the consent of the board of the co-operative;
- (ii) The board may only give its consent under Rule 42(b)(i) if there are reasonable grounds for believing that the person will be an active member of the co-operative, and
- (A) the person is the personal representative of the deceased member; or
 - (B) the person is a person who is specified by the deceased person's representative in an application made to the co-operative within 3 months after the death of the member.

REGISTRATION OF OFFICIAL TRUSTEE IN BANKRUPTCY

43. (a) Where a member is declared bankrupt, the Official Trustee in Bankruptcy may be registered as the holder of the share held by the bankrupt member.
- (b) The board may register the Official Trustee in Bankruptcy as the holder of a share in which a bankrupt member has an entitlement in equity, with the consent of the holder of the share.

REGISTRATION AS ADMINISTRATOR OF ESTATE ON INCAPACITY OF MEMBER

44. (a) A person appointed under a law of a State or Territory to administer the estate of another person who, through mental or physical infirmity, is incapable of managing their affairs, may be registered as the holder of a share held by the incapable person whose estate the appointed person is administering.

- (b) The board may register the Administrator of the estate of an incapacitated member as the holder of a share in which the incapacitated member has an entitlement in equity, with the consent of the holder of the share.

ENTITLEMENTS AND LIABILITIES OF PERSON REGISTERED AS TRUSTEE, ADMINISTRATOR ETC

45. (a) A person who is entitled to a share by reason of the death, bankruptcy or the incapacity of the holder shall be entitled to the dividends and other advantages to which that person would be entitled if the person were the registered holder of the share. However, before being registered as a member in respect of the share, the person shall not be entitled to exercise any right conferred by membership in relation to meetings of the co-operative.
- (b) A person registered pursuant to Rules 42, 43 and 44 is, while so registered, subject to the same liabilities in respect of the share as those to which that person would have been subject if the share had remained, or had been registered in the name of the deceased person, the incapable person or the bankrupt person.

EXPULSION OF MEMBERS

46. (a) A member may be expelled from the co-operative by special resolution to the effect:
- (i) that the member has failed to discharge the member's obligations to the co-operative, whether prescribed by these rules or arising out of any contract; or
- (ii) that the member has been guilty of conduct detrimental to the co-operative.
- (iii) that the member has been guilty of conduct or behaviour which in the opinion of the Board is either detrimental to the good order and management of the co-operative or creates dissension and ill feeling amongst the members.
- (b) In either case written notice of the proposed resolution shall be forwarded to the member not less than 14 days before the date of the meeting at which the special resolution is to be moved, and the member shall be given a reasonable opportunity of being heard at the meeting.
- (c) The shares of any member expelled shall be cancelled as at the date of expulsion and the cancellation shall be noted in the register of shares.
- (d) Expulsion of a member shall not be effective, until the special resolution expelling the member is registered.

REPAYMENT OF EXPELLED MEMBERS' SHARE CAPITAL

47. (a) Subject to paragraph (b) of this rule, the co-operative shall pay to the expelled member, the amount of capital paid up on the member's shares at the time of expulsion (less any amount owing by the member to the co-operative).
- (b) For the purposes of this rule "deficiency" shall mean the amount of accumulated loss or deficiency disclosed in the last preceding balance sheet of the co-operative. Where such a deficiency exists an appropriate proportion of the loss or deficiency must be deducted from the amount of capital paid up on the shares of the expelled member. This shall be done having regard to

the number of such shares in relation to the number of shares in the co-operative.

- (c) Payment to the expelled member shall be made at such time as shall be determined by the board in its discretion but not later than twelve (12) months from the date of expulsion.
- (d) An expelled member shall not be re-admitted as a member unless such re-admission is approved by special resolution. A member so re-admitted shall not have the shares restored which were cancelled on the member's expulsion.

APPROVAL OF BOARD FOR TRANSFER OF DEBENTURES

48. (a) A debenture of a co-operative cannot be sold or transferred except with the consent of the board.
- (b) The instrument of transfer of any debenture shall be executed by or on behalf of the transferor and the transferee. The transferor shall be deemed to remain the holder of the debenture until the name of the transferee is entered in the register of debentures held by the co-operative.
- (c) Debentures shall be transferred in the following form or in a usual or common form which the board shall approve:

DEBENTURE TRANSFER FORM

I, A.B. of _____

in consideration of the sum of \$ _____

paid to me by C.D., of _____

("the transferee") do transfer to the transferee the debenture (or debentures) numbered _____

in the _____

to hold on behalf of the transferee, the transferee's heirs, executors, administrators and assigns, subject to the conditions on which I hold the same at the time of the execution of this transfer.

I, the transferee, agree to take the said debenture (or debentures) subject to the conditions on which the transferor holds the debenture (or debentures) and subject to the rules of: _____ as amended from time to time.

As witness our hands, the _____ day of _____ 20____

Signed by

_____, transferor.

In the presence of _____, witness.

Signed by

_____, transferee.

In the presence of _____, witness.

- (d) The board may decline to register any transfer of debentures. If the board refuses to register a transfer of debentures it shall send notice of the refusal to the transferee within 2 weeks after the date on which the board declined to register the transfer.
- (e) The board may decline to recognise any instrument of transfer unless:
 - (i) a fee, if required under Rule 101 Schedule of Fees, is paid to the co-operative for the transfer; and
 - (ii) the instrument of transfer is accompanied by the certificate (if any) of the debentures to which it relates, and such other evidence as the board may reasonably require to show the right of the transferor to make the transfer.
- (f) The board shall have a record of all transfers made in the proper books of the co-operative.

CEASING MEMBERSHIP

49. A person shall cease to be a member in any of the following circumstances:

- (a) if the member's membership is cancelled under Rule 18;
- (b) if the member is expelled in accordance with Rule 46;
- (c) if the member becomes bankrupt or becomes subject to control under the law relating to bankruptcy;
- (d) on death of the member;
- (e) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (f) on the expiration of one months notice in writing of the member's intention to resign from membership given by the member, to the Board.
- (g) if the member's share is transferred to another person and the transferee is registered as the holder of the share in accordance with these Rules;
- (h) if the member's share is forfeited in accordance with the provisions of the Act or the provisions of these rules, other than a forfeiture to remedy a contravention of Rule 23(d);
- (i) if the member's share is purchased by the co-operative in accordance with Rule 30; and
- (j) if the amount paid up on the member's share is repaid to the member in accordance with the provisions of these rules;
- (k) in the case of a member that is a body corporate, if the body is dissolved.

ANNUAL GENERAL MEETINGS

50. (a) The first annual general meeting of a co-operative must be held at any time within 19 months or such other period as is permitted under the Act after the incorporation of the co-operative.
- (b) A general meeting of the co-operative to be known as the "annual general meeting" shall, as provided in Section 198 of the Act, be held each year on a date and a time determined by the board as long as it is within five (5) months after the close of the financial year of the co-operative, or within such further time as may be allowed by the Registrar.
- (c) All general meetings of the co-operative other than the annual general meeting shall be special general meetings, and shall be held at such place as the board nominates.
- (d) If an annual general meeting is not held in accordance with paragraphs (a) and (b) of this rule, the members may, in accordance with Section 202 of the Act and Rule 52, requisition such a meeting.

CONVENING SPECIAL GENERAL MEETINGS

51. The board may, whenever it thinks fit, convene a special general meeting of the co-operative.

REQUISITION OF GENERAL MEETINGS

52. (a) The board must convene a general meeting of the Co-operative on the requisition in writing by active members who together are able to cast at least 20% of the total number of votes to be cast at a meeting of the Co-operative.
- (b) The requisition must:
- (i) state the objects of the meeting; and
 - (ii) be signed by the requisitioning members and may consist of several documents in like form each signed by one or more of the requisitioning members; and
 - (iii) be served on the Co-operative by being lodged at the registered office of the Co-operative.

REQUISITIONED MEETING MUST BE CONVENED AS SOON AS PRACTICAL

53. (a) A meeting requisitioned by members in accordance with Rule 52 must be convened and held as soon as practicable and, in any case, must be held within 2 months after the requisition is served.
- (b) Where the board does not convene a meeting twenty-one (21) days after the requisition is served, the following provisions apply:
- (i) the requisitioning members (or any of them representing at least half their aggregate voting rights) may convene the meeting in the same manner as nearly as possible as meetings are convened by the board;
 - (ii) for that purpose they may request the co-operative to supply a written statement setting out the names and addresses of the persons

entitled when the requisition was served to receive notice of general meetings of the co-operative;

- (iii) the board must send the requested statement to the requisitioning members within 7 days after the request for the statement is made;
- (iv) the meeting convened by the requisitioning members must be held not later than 3 months after the requisition is served;
- (v) any reasonable expenses incurred by the requisitioning members because of the board's failure to convene the meeting must be paid by the co-operative;
- (vi) any such amount required to be paid by the co-operative is to be retained by the co-operative out of any money due from the co-operative by way of fees or other remuneration in respect of their services to such of the directors as were in default.

NOTICE OF GENERAL MEETINGS

54. (a) Subject to Rule 55, at least 14 days notice (not including the day on which the notice is served or deemed to be served, but including the day for which notice is given) shall be given of any general meeting in the manner stipulated in Rule 98.
- (b) Notice must be given to those persons who are, under these rules entitled to receive such notices from the co-operative, but the non-receipt of the notice by any member shall not invalidate the proceedings at such general meeting. The notice must specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business.
- (c) Any member who has a resolution to submit to a general meeting must give written notice of the terms of the resolution to the co-operative not less than 28 days prior to the date of the meeting.
- (d) The board shall have inserted in any notice convening a general meeting any business which a member has notified of intention to move and for which notification has been given in accordance with this rule.
- (e) Notice of every general meeting shall be given in the same manner as authorised in Rule 98 to:
- (i) every member of the co-operative, except those members who have not supplied to the co-operative an address or facsimile number for the giving of notices to them; and
 - (ii) every person entitled to a share in consequence of the death, incapacity or bankruptcy of a member, who, but for that member's death, incapacity or bankruptcy, would not be entitled to receive notice of the meeting; and
 - (iii) the auditor or auditors of the co-operative.
- (f) Except as provided in this rule, no other persons shall be entitled to receive notices of general meetings.

NOTICE OF SPECIAL RESOLUTIONS

55. Notice of a special resolution shall be given to those persons, entitled to receive notice

under Rule 54, at least 21 days before the general meeting. The notice shall specify:

- (a) the intention to propose the resolution as a special resolution at that meeting;
- (b) the reason for the making of the special resolution; and
- (c) the effect of the special resolution if passed.

BUSINESS OF GENERAL MEETINGS

56. (a) The ordinary business of the annual general meeting shall be:
- (i) to confirm minutes of the last preceding general meeting (whether annual or special); and
 - (ii) for the board, auditors, or any officers of the co-operative to present reports upon the transactions of the co-operative during the financial year, including balance sheet, trading account, profit and loss account, statement of source and application of funds, and the state of affairs at the end of that year; and
 - (iii) to declare the rates of dividends and rebates in accordance with Rule 92; and
 - (iv) to elect and determine the remuneration of directors; and
 - (v) to elect (if necessary) an auditor, or to determine the auditor's remuneration, or both; and
 - (vi) to allow members a reasonable opportunity to ask questions about or comment on the management of the co-operative and to ask the auditor or their representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.
- (b) The annual general meeting may also transact special business of which notice has been given to members in accordance with these rules.
- (c) All business of a general meeting, other than business of the annual general meeting that is by this rule termed ordinary business, should be deemed special business.

QUORUM AT GENERAL MEETINGS

57. (a) No item of business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting is considering that item.
- (b) Except where the rules state otherwise, **10%** of active members, present in person and entitled to vote constitute a quorum.
- (c) If within half an hour after the appointed time for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall be adjourned to the date, time and place the directors specify. If the directors do not specify one (1) or more of those things, the meeting is adjourned to:
- (i) If the date is not specified—the same day in the next week
 - (ii) If the time is not specified – the same time; and

- (iii) If the place is not specified—the same place
- (d) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting the members present shall constitute a quorum, provided there is no less than double the number of directors plus “one (1)”.

CHAIRPERSON AT GENERAL MEETINGS

- 58.
- (a) The chairperson, if any, of the board shall preside as chairperson at every general meeting of the co-operative.
 - (b) If there is no such chairperson, or if at any meeting the chairperson is either not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, then the members present shall choose someone from their number to be chairperson until such time as the chairperson attends or is willing to act.
 - (c) The chairperson may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place. The only business that can be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place. Where a meeting is adjourned for 14 days or more notice of the adjourned meeting shall be given just as in the case of the original meeting. Apart from this requirement it shall not be necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting.

STANDING ORDERS AT GENERAL MEETINGS

- 59.
- (a) The following standing orders shall be observed at the co-operative's meetings, subject to any suspension of, or amendment of, or addition to, these orders adopted for the purposes of that meeting by the members present at a meeting:
 - (i) the mover of a motion shall not speak for more than 10 minutes. Subsequent speakers shall be allowed 5 minutes, and the mover of the proposition 5 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this rule;
 - (ii) whenever an amendment to an original motion is proposed, no second amendment shall be considered until the first amendment is disposed of;
 - (iii) if an amendment is carried, the motion as so amended shall displace the original motion and may itself be amended;
 - (iv) if an amendment is defeated, then a further amendment may be moved to the original motion. However, only one amendment shall be submitted to the meeting for discussion at one time;
 - (v) the mover of every original motion, but not of an amendment, shall have the right to reply. Immediately after this the question shall be put from the chair. No other member shall speak more than once on the same question, unless permission is given for an explanation, or where the attention of the chairperson is called to a point of order;
 - (vi) any discussion on a motion or amendment may be closed by a

resolution "that the question be now put" being moved, seconded and carried. Such resolution shall be put to the meeting without debate.

- (b) Motions and amendments shall be submitted in writing, if requested by the chairperson.
- (c) Any member, or visitor invited to attend the meeting by the board, may speak on any issue at a meeting with the permission of the chairman provided that the permission may be conditional.
- (d) Standing orders may be suspended for any period by ordinary resolution.

ATTENDANCE AND VOTING AT GENERAL MEETINGS

- 60.
- (a) At any meeting of the co-operative a member, whose membership is required to be forfeited under Rule 18, is not entitled to attend.
 - (b) A member of the co-operative is not entitled to vote at a meeting of the co-operative:
 - (i) if the person is not an active member of the co-operative;
 - (ii) the person is excluded from voting under the Act or these rules.
 - (c) At any general meeting a resolution put to the vote of the meeting shall (as provided in Section 201 of the Act) be decided on a show of hands. This is unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least 5 members. If no poll is demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the co-operative shall be evidence of the fact. No proof is needed of the number or proportion of the votes recorded in favour of, or against, that resolution.
 - (d) If a poll is demanded, in accordance with Rule 60(c), it shall be taken in a manner which the chairperson directs. Unless the meeting is adjourned the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a chairperson, or on a question of adjournment, shall be taken immediately.

A poll demanded in accordance with Rule 60(c) may be withdrawn.
 - (e) On a show of hands, or on a poll, every representative of a body corporate appointed in accordance with Section 68 of the Act, or every member (not under the age of 18) who is present at a meeting in person, shall have one vote. However, no member shall have a vote, or be entitled to vote, contrary to the Act.
 - (f) In the case of joint membership, the joint members have one (1) vote only between them and that vote may be exercised only by whichever of the joint members is the member whose name appears first in the register of members.
 - (g) In the case of jointly held shares, each member (other than a joint member) holding the share is entitled to vote at a general meeting.

- (h) In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- (i) All resolutions, except special resolutions, shall be determined by a simple majority.

POSTAL BALLOT

61. The co-operative may hold a postal ballot to determine any issue or proposal by the members in the manner prescribed in Schedule 2 of the Co-operatives Regulation 1997.

SPECIAL RESOLUTION

62. (a) A special resolution means a resolution of which notice has been given of the intention to propose the resolution as a special resolution and which is passed either by two-thirds of the members who vote at a general meeting in person in accordance with Rule 34; by two-thirds in a postal ballot; or by three quarters of the members who cast votes in a special postal ballot of members.
- (b) A special postal ballot for the purposes of passing a special resolution must be conducted in relation to the following matters:
- (i) a conversion of a trading co-operative to a non-trading co-operative and vice versa;
 - (ii) transfer of incorporation;
 - (iii) an acquisition or disposal of assets referred to in Section 285 of the Act;
 - (iv) the maximum permissible level of share interest in the co-operative;
 - (v) takeover;
 - (vi) merger;
 - (vii) transfer of engagements;
 - (viii) members' voluntary winding up.
- (c) A special resolution has effect from the date it is passed except in the following circumstances:
- (i) the removal of an auditor;
 - (ii) the expulsion of a member;
 - (iii) the alteration of a rule;
 - (iv) any matter for which a special resolution is required to be passed by special postal ballot (other than a special postal ballot in favour of a voluntary winding up),

in which case it has effect from the time it is registered by the Registrar.

BOARD OF DIRECTORS

63. (a) There shall be a board of no less than six and no more than eight **directors** each of whom shall be a natural person and at least 18 years old.
- (b) The business of the co-operative is to be managed by the board of directors, and for that purpose the board may exercise all the powers of the co-operative that are not, by the Act or these rules, required to be exercised by the co-operative in general meeting.
- (c) The acts of a director are valid despite any defect that may afterwards be discovered in the appointment or qualification of the director.

QUALIFICATIONS OF DIRECTORS

64. (a) The qualification of a Director shall be a person who:
- (i) is engaged in the sale, manufacture, distillation, blending, producing or distributing alcoholic or non-alcoholic beverages or tobacco and associated products and shall have a substantial financial interest in a licence in a State or Territory of Australia under the provisions of the relevant Liquor or Tobacco Act of that State or Territory of Australia and under the provisions of that Liquor or Tobacco Act shall be entitled to sell alcoholic or non-alcoholic beverages or tobacco and associated products of any description; and
 - (ii) holds, or the member that the person represents as director, holds two hundred and fifty (250) shares in the Co-operative; and
 - (iii) submits to the Board a Statutory Declaration giving details of all parties with an interest in the Licences referred to in sub clause (a) above; and
 - (iv) has, or the member that the person represents as director, has paid to the co-operative all levies and charges imposed in accordance with Rule 31 (a) as at the date of nomination; and
 - (v) not be appointed to the Board of Directors nor continue to hold office as a Director, if that person or the member that the person represents as director, is a member of a buying or promotion group (known as a Banner group) where that group is not a group, managed or controlled by the Co-operative nor shall the person or the member that the person represents as director be a member of a buying or promotion or Banner group that is externally controlled or privately owned; and
 - (vi) has not held the office of director of the co-operative for a consecutive term of ten (10) years or more; and
 - (vii) is an active member of the Co-operative, or a representative of a body corporate which is an active member of the Co-operative (**active member director**); or
 - (viii) is nominated by the Board of Directors for election as a non active member director if that person holds appropriate managerial or bank experience or qualifications acceptable to the Board of Directors.
- (b) For the purpose of this rule, in order to hold a substantial financial interest in a liquor licence a person must demonstrate that they hold a real or actual

financial interest in a liquor licence within the meaning of Section 41(2)(a) of the *Liquor Act (NSW) 2007* or similar provisions of the relevant liquor legislation in the State or Territory where the person carries on his or her principal business).

- (c) Notwithstanding any other rule:
- (i) an employee of the Co-operative may be elected as a director of the Co-operative even if he or she is not a member of the Co-operative; and
 - (ii) only one employee of the Co-operative can hold the position of director of the Co-operative at any one time.
- (d) Notwithstanding any other rule:
- (i) an authorised representative of a registered club (being an authority provided in writing from the board of the registered club) which is an active member of the Co-operative ("**member club representative**") may be elected as a director of the Co-operative;
 - (ii) a member club representative may be nominated by any member of the Co-operative in accordance with the rules;
 - (iii) only one member club representative can hold the position of director of the Co-operative at any one time; and
 - (iv) accordingly, in the event that a member club representative is appointed to the board of the co-operative the nomination of any other member club representative to the board will immediately lapse.

FIRST AND SUBSEQUENT DIRECTORS

65. The first directors are to be elected at the formation meeting of the co-operative.
66. The term of office of directors elected thereafter, is three years, commencing on the annual general meeting at which they are elected.

ELECTION AND TERM OF DIRECTORS

- 67.
- (a) A retiring director shall be eligible for re-election without nomination, subject to the person holding the qualifications specified in Rule 64.
 - (b)
 - (i) At an annual general meeting at which a director retires the vacated office may be filled by electing a person to it.
 - (ii) Nominations for candidates to fill the vacant positions shall be sought in such manner as the board determines.
 - (iii) Nominations for directors will be sent to members at least 42 days prior to the general meeting and applications must be received at the registered office of the Co-operative no later than 21 days prior to the date of a general meeting called at which directors are to be appointed.
 - (iv) The nomination must include a profile of acceptable length to the

Board, showing the nominee's qualifications, education and/or experience in dealing with the issues that an enterprise of the size, focus and dynamics of the Co-operative would encounter, with particular regard to management issues including capital asset control, governance, strategic planning, personnel management, cashflow, Work Health & Safety and contract dealings.

- (v) Voting for directors will take place at a general meeting where directors will be appointed by a majority of members present at such meeting.
- (vi) If any vacancies remain at the end of the meeting, the vacancies are to be casual vacancies and must be filled in accordance with rule 78.

DIRECTORS' REMUNERATION

68. (a) The directors shall receive such remuneration for their services as shall be determined at a general meeting, and all necessary expenses incurred by them in the business of the co-operative shall be refunded to them.
- (b) For the purposes of this rule "remuneration" means any money, consideration or benefit but does not include:
- (i) amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the co-operative or any subsidiary of the co-operative;
 - (ii) in relation to an employee director - remuneration received or due and receivable as an employee.

REQUISITION AND NOTICE OF BOARD MEETING

69. (a) A meeting of the board of directors may be called by a director giving notice individually to every other director.
- (b) Except in special circumstances determined by the chairperson, at least 48 hours notice shall be given to the directors of all meetings of the board.
- (c) Meetings of the board (including those conducted in accordance with Rule 70 must be held at least once every 3 months and may be held as often as may be necessary for properly conducting the business and operations of the co-operative.

PROCEEDINGS OF THE BOARD

70. (a) Questions arising at any board meeting shall be decided by a majority of votes.
- (b) In the case of an equality of votes, the chairperson may have a casting vote.
- (c) A director shall not vote in respect of any contract or proposed contract with the co-operative in which he is in any way, whether directly or indirectly, interested or in respect of any matter arising out of such a contract or proposed contract and, if he votes in contravention of this Rule, his vote shall not be counted.

TRANSACTION OF BUSINESS OUTSIDE BOARD MEETINGS

71. The board may in accordance with Section 210 of the Act transact any of its business:
- (a) (i) by the circulation of papers among all the members of the board, and a resolution in writing by a majority of those members is to be taken to be a decision of the board;
 - (ii) at a meeting at which board members (or some board members) participate by telephone, closed-circuit television or other means, but only if any board member who communicates on a matter before the meeting can be understood by the other members of the board.
 - (b) For the purposes of this rule the chairperson of the board and each member of the board have the same voting rights as they have at an ordinary meeting of the board.
 - (c) A resolution approved under paragraph (a)(i) is to be recorded in the minutes of the meetings of the board.
 - (d) The secretary may circulate papers among members of the board for the purposes of paragraph (a)(i) by facsimile or other transmission of the information in the papers concerned.

QUORUM FOR BOARD MEETINGS

72. The quorum for a meeting of the board shall be at least 50% of the number of directors holding office from time to time,

CHAIRPERSON OF BOARD

73. (a) Subject to the rule 73(b) the chairperson of the board may be elected or removed either by the board or at a general meeting of the co-operative. However, if no such chairperson is elected, or if at any meeting the chairperson is not present within 5 minutes after the time appointed for holding the meeting, or is unwilling to act as chairperson of the meeting, the directors present may choose one of their number to be chairperson of the meeting, until such time as the chairperson attends and is willing to act in that capacity.
- (b) Notwithstanding any other rule, the chairperson may not serve as a chairman for more than four (4) consecutive years.
- (i) Notwithstanding rule 73(b)(i) the chairperson may continue as chairperson with the unanimous approval of the Board of Directors and a special resolution of the Members passed at a special general meeting convened to consider the appointment of the chairperson of the Board of Directors for one additional year.
 - (ii) Approval to re-appoint a person as chairperson pursuant to rule 73(b)(ii) shall not be made on more than two occasions.
- (c) A director, if appointed pursuant to rules 64(c) or 64(d) cannot be elected chairperson of the board of the co-operative.

DELEGATION AND BOARD COMMITTEES

74. (a) The board may (in accordance with Section 213 of the Act) by resolution delegate the exercise of such of the board's functions (other than this power of delegation) as are specified in the resolution to:

- (i) a director; or
 - (ii) a committee of 2 or more directors; or
 - (iii) a committee of members of the co-operative; or
 - (iv) a committee of members of the co-operative and other persons if members comprise the majority of persons on the committee.
- (b) The co-operative or the board may by resolution revoke wholly or in part any such delegation.
 - (c) A power, the exercise of which has been delegated under this rule may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
 - (d) A delegation under this rule may be made subject to conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstance.
 - (e) Notwithstanding any delegation under this rule, the board may continue to exercise all or any of the powers delegated.

EXERCISE OF DELEGATED POWER BY DIRECTORS

- 75.
- (a) Where a power is exercised by a director (either alone or with other directors) and the exercise of the power is evidenced in writing, signed by the director in the name of the board or in the director's own name on behalf of the board, then the power shall be deemed to have been exercised by the board.
 - (b) Rule 75(a) applies whether or not a resolution delegating the exercise of the power to the director was in force when the power was exercised, and whether or not any conditions or limitations referred to in Rule 74(d) were observed by the director exercising the powers.
 - (c) An instrument purporting to be signed by a director as referred to in Rule 75(a) shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the co-operative under seal. Furthermore, until the contrary is proved, it shall be deemed to be an instrument signed by a delegate of the board under this rule.
 - (d) A committee may elect a chairperson of their meetings. If no such chairperson is elected, or, if at any meeting the chairperson is not present within 5 minutes after the time appointed for holding the meeting, then the members present may choose one of their number to be chairperson of the meeting.
 - (e) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and voting and in case of an equality of votes the chairperson shall have a second or casting vote.

REMOVAL OF DIRECTOR FROM OFFICE

76. The co-operative may, by ordinary resolution, remove any director before the expiration of the director's period of office. In such case the vacancy will be a casual vacancy and must be filled in accordance with rule 78.

VACATION OF OFFICE OF DIRECTOR

77. A director vacates office in such circumstances (if any) as are provided in the rules of the co-operative and in any of the following cases:
- (a) if the person is an insolvent under administration (as defined in the Law);
 - (b) if the person has been convicted of an offence and that conviction disqualifies a person from being a director, as provided by Section 208 of the Act;
 - (c) if the director absents himself/herself from 3 meetings of the board in any 12 month period;
 - (d) if the director resigns from office by notice in writing given by the director to the co-operative;
 - (e) if the director is removed from office by ordinary resolution of the co-operative;
 - (f) if the person ceases to hold the qualification by reason of which the person was qualified to be a director;
 - (g) if the director becomes an employee of the co-operative or provides consulting or executive services to the co-operatives otherwise than in the capacity of solely a director, unless elected under Section 216 of the Act or approved by the members pursuant to rule 77(a);
 - (h) if an administrator of the co-operative's affairs is appointed under Division 6 of Part 12 of the Act;
 - (i) as provided by Section 217 of the Act;
 - (j) if the director is directly or indirectly interested in any contract or proposed contract with the co-operative and fails to declare his/her interest as required under Section 234 of the Act;
 - (k) if the director who holds an office or has an interest in property whereby, whether directly or indirectly, duties or interests might be created that could conflict with the director's duties or interests as a director and the director fails to declare the fact and the nature, character and extent of the conflict;
 - (l) if the director is removed from office, by a voluntary administrator of the co-operative appointed under Part 5.3A of the Law, as applying under Section 332 of the Act.
- 77A. (a.) No director can provide consulting or executive services or be employed by the co-operative, or otherwise fill the role of or provide the services of a senior executive to the co-operative or seek or be paid a reward, benefit or remuneration by the co-operative for such services, other than pursuant to Section 216 of the Act or in the capacity solely as a director, unless approved by election by the members held:
- (i) at a meeting of the co-operative; or
 - (ii) by means of a postal ballot; or
 - (iii) in the manner otherwise specified in the rules of the co-operative.
- (b) A person who is or has been a director of the co-operative is not entitled to be engaged by the co-operative to provide consulting or executive services or

be employed, or otherwise fill the role of or provide the services of a senior executive to the co-operative or seek or be paid a reward, benefit or remuneration by the co-operative for such services, other than pursuant to Section 216 of the Act or in the capacity solely as a director, for a period of at least 2 years after he or she vacates the office of director, unless approved by election by the members held:

- (i) at a meeting of the co-operative; or
- (ii) by means of a postal ballot; or
- (iii) in the manner otherwise specified in the rules of the co-operative.

FILLING OF CASUAL VACANCIES

78. (a) The board may appoint a qualified person to fill a casual vacancy in the office of director until the next annual general meeting.
- (b) For the purpose of enabling the board to make such appointment(s), the number of directors at that time is deemed to be a quorum.
- (c) For the purposes of this rule, a casual vacancy shall arise where the office of a director is vacated in accordance with Rule 67(c)(vi), 76 or 77.

DEPUTY DIRECTORS

79. (a) Any director may from time to time apply, in writing, for any active member (other than an employee of the co-operative, the auditor or a partner or employer or employee of the auditor) to be appointed by the board as a deputy director to sit in the director's place on the board.
- (b) A deputy director appointed by the board shall be entitled to notice of meetings of the directors and, in the absence of the nominating director, to attend and vote at those meetings and to sign resolutions and to exercise such powers, authorities and discretions as are vested in or would otherwise be exercisable by the nominating director.
- (c) A deputy director shall vacate office if the nominating director ceases to be a director or on a majority of the other directors removing him from office.
- (d) An appointment or removal under this rule must be in writing and notice thereof must be served on the deputy director and the appointment or removal shall take effect forthwith upon the service thereof. Service of any such notice may be effected in accordance with Rule 98.
- (e) A deputy director whilst acting in the absence of the nominating director shall not be an agent of the nominating director and the nominating director shall not be liable for the actions of the deputy director.
- (f) The remuneration of any such deputy director shall be payable out of the remuneration payable to the nominating director and shall consist of such portion of the last mentioned remuneration as shall be agreed between the deputy director and the nominating director.
- (g) The attendance of the deputy director at any meeting of the board shall be deemed to be attendance by the nominating director.

- (h) For the purposes of this rule a meeting of the directors shall include a meeting conducted pursuant to Rule 71.

OTHER COMMITTEES

80. (a) The board may by resolution appoint committees comprising of members or other persons or both, to act in an advisory role to the board and to any committees of directors.
- (b) The provisions of Rules 75(d) and (e) apply to committees appointed under this rule, subject to any variations approved of by the board.
- (c) The quorum for any meeting of the committee shall be one-half (or where one-half is not a whole number the whole number next higher than one-half) of the number of members in the committee.

MINUTES OF MEETINGS

81. (a) The board shall have minutes of meetings made in books provided for the purpose, and, in particular:
- (i) of all appointments of officers and employees made by the directors;
- (ii) of the names of the directors present at each meeting of the board and of any committee of the board;
- (iii) of all resolutions and proceedings at all meetings of the co-operative and of directors and of committees.
- (b) Minutes must be recorded in the minute book within 28 days of the date of the meeting to which they relate.
- (c) The confirmation of such minutes, signed by the chairperson, shall be taken as the first business at the next succeeding meeting of the co-operative, board or committee to which the minutes relate. If it is impracticable for the minutes to be confirmed at that meeting, then the minutes shall be confirmed at the next succeeding meeting.
- (d) Every director present at any meeting shall sign their name in a book to be kept for that purpose.
- (e) The minutes are to be kept in the English language.

APPOINTMENT OF SECRETARY

82. (a) The board shall appoint a secretary who shall perform all the functions and duties required by the Act, the Regulations, the rules and the Law to be performed or undertaken by the secretary of the co-operative.
- (b) A director, if appointed pursuant to rules 64(c) or 64(d) cannot at the same time hold the office of secretary.
- (c) A secretary shall:
- (i) be appointed to the office on such terms and conditions as the board may determine; and
- (ii) hold office until death, or removed by the board, or resignation from

office.

OFFICERS

83. (a) Without prejudice to the general powers conferred on the board by the Act or these rules, the board shall, subject to any applicable Industrial Award or Agreement, have power to appoint, remove or suspend employees, servants, agents and contractors, and to fix their powers, duties and remuneration.
- (b) For the purposes of this rule:
- (i) "Industrial Award or Agreement" means an Award or Enterprise Agreement made or approved under a State or Federal Act regulating industrial relations;
- (ii) "Enterprise Agreement" includes an Enterprise Flexibility Agreement, Australian Workplace Agreement, or Certified Agreement.

INSURANCE

84. The board shall arrange insurance against loss, damage to or liability of the co-operative by reason of fire, accident or otherwise.

FINANCIAL YEAR

85. The financial year of the co-operative shall end on 30 June.

ACCOUNTS

86. (a) The board shall have prepared the accounts, statements and directors' report in accordance with the Corporations Law, as adopted by Clause 15 of the *Co-operatives Regulation 1997*.
- (b) The board shall submit those accounts, statements and report, together with the auditors' report on those accounts, to the annual general meeting of the co-operative, in accordance with the Corporations Law as adopted by Clause 15 of the *Co-operatives Regulation 1997*.
- (c) The board shall also have a copy of everything required to be submitted under paragraph (b) displayed at the registered office of the co-operative for a period of not less than 14 days before the date of the annual general meeting of the co-operative.
- (d) The board shall send a copy of everything required to be submitted under paragraph (b) to each member 21 days before the date of the annual general meeting of the co-operative.

BANKING

87. (a) The board shall have a banking account or accounts in the name of the co-operative, into which all moneys received shall be paid as soon as possible after receipt.
- (b) All cheques drawn on such accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the co-operative, shall each be signed by three persons authorized by the Board.

APPOINTMENT, DUTIES AND RESPONSIBILITIES OF AUDITORS

88. (a) One or more auditors shall be appointed, hold office, be remunerated, be removed and have qualifications, duties and responsibilities as provided in these rules or as otherwise provided in, or permitted by, the Corporations Law as adopted by Clause 15 of the *Co-operatives Regulation 1997*, or any order made by the Registrar pursuant to that Regulation or Section 244(1) of the Act.
- (b) Within one month after the date on which the co-operative is registered, the directors shall appoint an auditor of the co-operative, unless the co-operative at a general meeting has already appointed an auditor. An auditor appointed under this clause shall hold office until the first annual general meeting of the co-operative.
- (c) The co-operative shall at its first annual general meeting appoint an auditor of the co-operative; and at each subsequent annual general meeting, if there is a vacancy in the office of auditor, the co-operative shall appoint an auditor to fill the vacancy.
- (d) An auditor appointed under paragraph (c) of this rule shall hold office until death or removal or resignation from office or until ceasing to be capable of acting as auditor in accordance with the Corporations Law as adopted by Clause 15 of the *Co-operatives Regulation 1997*.
- (e) The board shall fill any vacancy in the office of auditor, other than a vacancy caused by the removal of an auditor from office, within one month of such vacancy occurring, unless the co-operative at a general meeting has already appointed an auditor to fill the vacancy. A person or firm appointed as Auditor of the co-operative pursuant to this paragraph holds office, subject to the Corporations Law as adopted by Clause 15 of the *Co-operatives Regulation 1997* until the next Annual General Meeting of the co-operative.
- While a vacancy in the office of auditor continues, the surviving or continuing auditor or auditors (if any) may act.
- (f) An auditor filling a vacancy caused by the removal of the previous auditor shall be appointed by a three-quarter ($\frac{3}{4}$) majority of members at the same general meeting at which the previous auditor is removed, as long as notice of the nomination has been sent at least 7 days before the meeting to the members and nominated and current auditors. If the notice of nomination was not sent in accordance with Rule 88(h) or the resolution to appoint a new auditor is not passed, then the meeting may be adjourned 20 to 30 days later. At the adjourned meeting, the co-operative may appoint an auditor by ordinary resolution as long as notice of the nomination is received by the board from a member at least 14 clear days before the date of the adjourned meeting and the board gives notice of the nomination at least 7 days before the meeting to the members and nominated and current auditors. The auditor appointed under this subrule holds office until the next annual general meeting.
- (g) The co-operative or the board shall not appoint as auditor a person who has not consented in writing to the appointment or who has withdrawn such consent, or a person of whose nomination notice has not been given in accordance with Rules 88 (f) or (h).
- (h) Not being a meeting at which an auditor is removed from office, a co-operative is not entitled to appoint an auditor at its annual general meeting unless notice in writing of the nomination of the auditor was given to the board by a member before the meeting was convened or at least 21 days before the meeting. The board must have then given notice to the nominated

and current auditors and members not less than 7 days before the meeting or at the time notice of the meeting is given.

- (i) A person is not qualified to be appointed auditor of the co-operative if:
 - (i) the person is not a registered company auditor;
 - (ii) the person or body corporate in which the person is a substantial shareholder, is indebted for an amount exceeding \$5,000 to the co-operative, to a related body corporate or to an entity that the co-operative controls; or
 - (iii) the person is:
 - (A) an officer of the co-operative;
 - (B) a partner, employer or employee of an officer of the co-operative;
 - (C) a partner of an employee of an officer of the co-operative; or
 - (D) an employee of an employee of an officer of the co-operative.
- (j) A firm is not qualified to be appointed auditor of the co-operative unless:
 - (i) at least 1 member of the firm is a registered company auditor who is ordinarily resident in Australia;
 - (ii) no member of the firm or a body corporate in which the firm is a substantial shareholder, is indebted for an amount exceeding \$5,000 to the co-operative, to a related body corporate or to an entity that the co-operative controls; or
 - (iii) no member of the firm is:
 - (A) an officer of the co-operative;
 - (B) a partner, employer or employee of an officer of the co-operative;
 - (C) a partner of an employee of an officer of the co-operative; or
 - (D) an employee of an employee of an officer of the co-operative;
 - (iv) no officer of the co-operative receives any remuneration from the firm for acting as a consultant to it on accounting or auditing matters;
 - (v) the business name under which the firm is carrying on business is registered under a law of a State or Territory relating to the registration of business names or a return in the prescribed form has been lodged, showing, in relation to each member of the firm, the member's full name and address at the time when the firm so consents, acts or prepares a report.

- (k) All reasonable fees and expenses of the auditor are payable by the co-operative.
- (l) The board shall enable the auditor to have access to all books, accounts, vouchers, securities and documents of the co-operative, and to be furnished with such information and explanation by the board members or any other officers as may be necessary for the performance of the duties of the auditor.
- (m) The auditor is entitled to attend any general meeting of the co-operative and to receive all notices of and other communications relating to any general meeting which any member of the co-operative is entitled to receive. The auditor is also entitled to be heard, at any general meeting which the auditor attends, on any part of the business of the meeting of concern to the auditor.

REMOVAL OF AUDITORS

- 89.
- (a) The auditor may be removed from office by special resolution at a general meeting.
 - (b) Notice of intention to move the resolution must be given to the co-operative not less than 2 months before the meeting at which the resolution is moved, but if, after notice has been given, a meeting is convened for a date 2 months or less after notice has been given, subject to Rule 89 (d), notice shall be deemed to have been properly given.
 - (c) Where special notice of a resolution to remove an auditor is received by the co-operative, it shall as soon as possible send a copy of the notice to the auditor and lodge a copy of the notice with the Registrar.
 - (d) The co-operative shall give notice of a resolution to remove the auditor to persons entitled to be given notice of a meeting of the co-operative at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give notice of the resolution to them in any manner allowed by these rules not less than 21 days before the meeting.
 - (e) Within 7 days after receiving a copy of the notice, the auditor may make representations in writing, not exceeding a reasonable length, to the co-operative and request that before the meeting at which the resolution is to be considered, a copy of the representations be sent by the co-operative at its expense to every member of the co-operative to whom notice of the meeting is sent.
 - (f) Unless the Registrar on the application of the co-operative otherwise orders, the co-operative shall send a copy of the representations in accordance with the auditor's request. The auditor may require that the representations be read out at the meeting and may also speak at the meeting.
 - (g) Within 14 days after the removal from office of the auditor, the Co-operative shall lodge with the Registrar a notice of the removal on the prescribed form, and, where there is a trustee for the holders of debentures of the co-operative, give to the trustee a copy of the notice lodged with the Registrar.

RESIGNATION OF AUDITOR

- 90.
- (a) The auditor may, by notice in writing given to the co-operative, resign as auditor of the co-operative if:
 - (i) the auditor has, by notice in writing given to the Registrar, applied for consent to resign and stated the reasons and, at or about the same

- time, notified the co-operative in writing of the application; and
- (ii) the auditor has received the consent of the Registrar.
- (b) The resignation of the auditor takes effect:
- (i) on the date (if any) specified for the purpose in the notice of resignation;
- (ii) on the date on which the Registrar consents to the resignation; or
- (iii) on the date (if any) fixed by the Registrar for the purpose,
- whichever last occurs.
- (c) Within 14 days after the receipt of a notice of a resignation from an auditor, the Co- operative shall lodge with the Registrar a notice of the resignation on the prescribed form, and, where there is a trustee for the holders of debentures of the co-operative, give to the trustee a copy of the notice lodged with the Registrar.

DISTRIBUTION OF SURPLUS OR RESERVES TO MEMBERS

91. (a) The board may resolve to retain all or part of the surplus arising in a year from the business of the co-operative to be applied for the benefit of the co-operative.
- (b) Subject to paragraph (a), the board may apply part of the surplus arising in a year from the business of the co-operative or any part of the reserves to:
- (i) be paid to a member by way of rebate based on the business done by the member with the co-operative; or
- (ii) be applied by the issue of bonus shares to a member; or
- (iii) be paid to a member by way of a limited dividend for the shares held ("limited dividend" means that the surplus allocated for distribution to members is no more than 20 cents for each dollar invested in the shares of the co-operative or as prescribed by the Regulation);
- (c) The amount of a rebate or dividend payable to a member under (b)(i) and (iii) may, with the consent of the member, be applied:
- (i) in payment for the issue to the member of bonus shares; or
- (ii) as a loan to the co-operative.
- (d) A part of the surplus, not more than 10%, arising in any year from the business of the co-operative may be applied for:
- (i) charitable purposes; or
- (ii) supporting any activity approved by the co-operative.
- (e) "Surplus" means the excess of income over expenditure after making appropriate allowance for taxation expense, depreciation in value of the property of the co- operative and for future contingencies.

DECLARATION OF DIVIDEND OR REBATE

92. (a) A dividend or rebate shall be declared at any general meeting of the co-operative but shall not exceed the amount recommended by the board, nor exceed the percentage permitted by the Act or Regulations.
- (b) Notice of any dividend or rebate that may have been declared shall be given by displaying it at the registered office of the co-operative and in any other manner the board shall determine.

PAYMENT OF DIVIDEND OR REBATE

93. (a) Any part of the surplus arising in any year from the business of the co-operative may be credited to any person who is not a member, but is qualified to be a member, by way of rebate in proportion to the business done by him or her with the co-operative, if:
- (i) the person was a member at the time the business was done and the membership has lapsed; or
- (ii) the person has applied for membership after the business was done.
- (b) Nothing in this section precludes the payment of a bonus to an employee under the terms of the employee's employment.
- (c) Any dividend or rebate which shall accrue to the holder of shares on which all calls due have been paid shall be paid to that holder. However, any dividend or rebate which shall accrue to the holder of partially paid up shares shall be applied to paying off any subscriptions or calls on shares which may (at the time the dividend becomes payable) be due and unpaid by that holder.
- (d) If several persons are registered as joint holders of any share any one of them may give a valid receipt for any dividend or other money payable on or in respect of the share.
- (e) No dividend or rebate shall bear interest against the co-operative.

DETERMINATION OF DIVIDEND

94. The board may recommend:
- (a) a higher rate of dividend in respect of shares held by a member in excess of a specified number of shares; or
- (b) different rates of dividend on shares based on the business done by shareholders with the co-operative,

to be declared at a general meeting in accordance with Rule 92 and if declared, the board shall be authorised to pay the dividend to members, subject to the provisions of Rule 93(c).

DISTRIBUTION IN SPECIE

95. (a) After the declaration of a dividend the members may by resolution direct payment of the dividend wholly or partly, by the distribution of specific assets such as paid up shares in debentures of the co-operative or other corporation, and the board shall give effect to such a resolution.
- (b) In the event of a difficulty arising in regard to such a distribution, the board may settle the matter as they consider expedient, and fix the value for

distribution of the specific assets or any part of these assets and may determine that cash payments will be made to any member on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as the board considers appropriate.

- (c) The provisions of this rule are subject to the provisions of Section 285 of the Act and shall not be interpreted as authorising the members in general meeting, or the board, to contravene any of the provisions of the section.

PROVISION FOR LOSS

96. The board shall account for any loss which may result from the transactions of the co-operative in accordance with current Accounting Standards as adopted by the Regulation.

DISPUTES

97. (a) In this rule:
- (i) "party" includes:
 - (A) members of the co-operative;
 - (B) any aggrieved person who has ceased to be a member in the last three months;
 - (C) any person claiming through or under a member or any aggrieved person referred to in Rule 97(a)(i)(B); and
 - (D) the co-operative, including the board and any other officer of the co-operative.
 - (ii) "dispute" may only refer to a matter affecting a person of the type mentioned above in (A) - (C).
- (b) If a dispute arises a party may not commence any court or arbitration proceedings relating to the dispute unless it has complied with the following paragraphs of this Rule except where the person seeks urgent interlocutory relief.
- (c) A party claiming that a dispute has arisen must give written notice to the other party or parties specifying the nature of the dispute.
- (d) On receipt of that notice by that other party or parties, the parties must endeavour to resolve the dispute expeditiously, using the mediation rules of the NSW Law Society. (Copy available from the Registry of Co-operatives on 1800 502 042).
- (e) If the parties do not agree within seven days of receipt of the notice (or such further period as agreed in writing between them) as to:
- (i) the timetable for all steps in the procedures; and
 - (ii) the selection and compensation of the independent person required for mediation;

then the dispute shall be settled by arbitration in accordance with the *Commercial Arbitration Act 1984*.

- (f) Nothing in this rule shall extend to any dispute as to the construction or effect of any mortgage or contract contained in any document other than these rules.

NOTICES

98. (a) A notice may be given by the co-operative to any member either personally or by post to the member's registered address, or by some other form of technology, for example by facsimile or email, where the member has notified the co-operative of the relevant contact details. If the member has no registered address then the notice can be sent to any address supplied by the member to the co-operative for the giving of notices.
- (b) Where a notice is sent by post, service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice. In the case of a notice of a meeting, service is deemed to be effected at the expiration of 24 hours after the letter containing the notice is posted. In every other case service is deemed to be effected at the time at which the letter would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.
- (c) If a member has no registered address (and has not supplied to the co-operative an address for the giving of notices) a notice addressed to the member and advertised in a newspaper circulating in New South Wales or in the neighbourhood of the registered office of the co-operative shall be deemed to be duly given to the member on the date on which the advertisement appears.
- (d) A notice forwarded by another form of technology shall be deemed to have been served, unless the sender is notified of a malfunction in transmission, on the day of transmission if transmitted during a business day, otherwise on the next following business day.
- (e) A notice may be given by the co-operative to the joint members or holders of a share by giving the notice to the joint member or holder named first in the register of members and shares.
- (f) A notice may be given by the co-operative to the person entitled to a share in consequence of the death, incapacity or bankruptcy of a member by sending it through the post in a prepaid letter addressed to that person by name. Alternatively it can be addressed to the person by the title of representative of the deceased, or incapacitated person, or trustee of the bankrupt, or by any like description. The address should be that supplied for the purpose by the person claiming to be entitled. Alternatively, if no such address has been supplied, the notice can be given in the manner in which it could have been given if the death, incapacity or bankruptcy had not occurred.
- (g) For the purpose of this rule "registered address" means the address of the member as appearing in the register of members and shares.

WINDING UP

99. (a) The winding up of the co-operative shall be in accordance with Part 12 of the Act.
- (b) If on the winding up or dissolution of the co-operative there remains after the satisfaction of all its debts and liabilities (including the refund of the amounts paid up on the shares) any property, this shall be paid to or distributed among

the members of the co-operative in proportion to members' shareholdings.

- (c) Subject to Sections 139 and 331 of the Act, ex-members may also share in the distribution of any surplus or be liable to contribute to the property of the co-operative.

FINES PAYABLE BY MEMBERS

100. (a) The board may impose on a member a maximum fine in accordance with Rule 101, Schedule of Fees for any infringement of the rules or by-laws.
- (b) A fine exceeding \$20 shall not be imposed on a member pursuant to Paragraph (a) unless:
- (i) written notice of the intention to impose the fine and the reason for it has been given to the member; and
 - (ii) the member has been given a reasonable opportunity to appear before the board in person (with or without witnesses), or to send to the board a written statement, for the purpose of showing cause why the fine should not be imposed.

SCHEDULE OF FEES

101.	Copy book of rules:.....	\$2.00	Rule 6(b)
	Copy of Register:.....	\$0.00	Rule 15(b)
	Nominal Value of Shares:.....	\$2.00	Rule 23(a)
	Inspection of Register of Notifiable Interests:.....	\$10.00	Rule 27(b)
	Duplicate Share Certificate or Statement:.....	\$10.00	Rule 35(c)
	Transfer of Shares:.....	\$1.00	Rule 40(f)
	Transfer of Debentures:.....	\$1.00	Rule 48(e)
	Maximum Fine:.....	\$20.00	Rule 100(a)