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## DEFINITIONS

1. (a) In these rules, unless the context otherwise requires:
- (i) "active member" means a member who is in active membership within the provisions of Rule 14;"alter" or similar word or expression used in relation to a rule amendment includes add to, substitute, and rescind;
  - (ii) "auditor" means an auditor or auditors for the time being of the co-operative appointed in accordance with Rule 69;
  - (iii) "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;
  - (vi) "business day" means a day that is not a Saturday or Sunday or a public holiday or bank holiday in New South Wales;
  - (vi) CCU" means Co-operative Capital Unit issued in accordance with these rules;
  - (vii) "director" means any director of the co-operative for the time being;
  - (viii) "financial year" means the financial year of the co-operative as specified in Rule 66;
  - (ix) "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;
  - (x) "member" means a member of the co-operative;
  - (xi) "month" means calendar month;
  - (xii) "postal ballot" includes a special postal ballot;
  - (xiii) "prescribed" means prescribed by the Act or under the Act by Regulation;
  - (xiv) "provision" in relation to the Act, means words or other matter that form or forms part of the Act, and includes:
    - (a) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or schedule of or to the Act; and
    - (b) a section, clause, subclause, item, column, table or form of or in a schedule to the Act; and
    - (c) the long title and any preamble to the Act;
  - (xv) "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;
  - (xvi) "relevant interest" has the same meaning as given in Schedule 2 of the Act;

- (xvii) "rules" mean the registered rules of the co-operative as amended from time to time and reference to particular rules has a corresponding meaning;
- (xviii) "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;
- (xix) "special resolution" means a resolution which is passed in accordance with Rule 40;
- (xx) "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 51, being not less than a quorum or a majority, as the case may be;
- (xxi) "the Act" means the Co-operatives Act 1992;
- (xxii) "the co-operative" means **"The Blue Mountains Food Co-operative Limited"**;
- (xxiii) "the Law" means the Corporations Law;
- (xxiv) "the Registrar" means the Registrar of Co-operatives or any person delegated the Registrar's functions;
- (xxv) "the secretary" means any person appointed by the board as secretary of the co-operative pursuant to Rule 64;
- (xxvi) "the State" means the State of New South Wales;
- (xxvii) "writing" includes printing, typing, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning;
- (xxviii) Words importing one gender include the other genders;
- (xxix) Words importing persons include corporations;
- (xxx) Words in the singular include the plural, and vice versa;
- (xxxi) Words or expressions used have the same meanings as those given to them by the Act.

## DEFINITIONS - INTERPRETATION PROVISIONS

- (b) 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;
- (c) 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.
- (d)
  - (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.
- (e) In these rules, unless the context indicates a contrary intention, headings are for convenience and do not affect interpretation.

## RULES

- 2. (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, the principal executive officer and the secretary of the co-operative; 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 member shall be entitled -on demand to a copy of the rules upon payment of a sum of \$10, or such other amount as the board may from time to time determine.
- (ii) A member may inspect a copy of these rules free of charge at the office where the registers are kept, during all reasonable hours.

## **NON-TRADING CO-OPERATIVE**

- 2A. The co-operative is a non-trading non-share co-operative within the meaning of Section 15 of the Act.

## **RULE ALTERATIONS**

3. (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 to members in the manner of notification defined in Rule 75(a) 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.

## **NAME**

4. (a) The name of the co-operative shall be  
**The Blue Mountains Food Co-operative Limited.**
- (b) The co-operative may, in accordance with Section 259, change its name by way of a special resolution to a name approved of by the Registrar.

## **CHANGE OF REGISTERED OFFICE**

5. 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.

## **NOTIFICATION OF OFFICE ADDRESS AT WHICH REGISTERS ARE KEPT**

- 5A. If the registers required by Section 249(1) to be kept by a 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:
- (i) established at an office which is not the co-operative's registered office; or
  - (ii) moved from one office to another.

## **OBJECTS**

6. The objects of the co-operative shall be:
- to provide high quality food and eco-friendly products to members and the local community .**

## **POWERS**

7. (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,
- shall be exercised subject to the Act, but otherwise unlimited by the rules.

## **POWER TO FORM COMPANIES, ENTER JOINT VENTURES ETC**

8. Without limiting the provisions of Rule 7, and subject to the provisions of the Law, the co-operative has power;
- (i) to form or participate in the formation of a body corporate or unit trust;
  - (ii) to acquire interests in and sell or otherwise dispose of interests in bodies corporate, unit trusts and joint ventures; and
  - (iii) 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**

9. (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 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) 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-OPERATIVES**

10. (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 credit balance and deposits of the member or past member;
  - (ii) 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**

11. (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**

- 12. (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) Where an agent or attorney affixes an Official Seal to an instrument, the person must comply with Rule 11 (d).

### **CUSTODY AND INSPECTION OF RECORDS AND REGISTERS**

- 13. (a) The co-operative must have at the office where the registers are kept and available during all reasonable hours for inspection by *any member* free of charge the following:
  - (i) a copy of the Act and the regulations;
  - (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;
  - (iv) the register of directors and members;
  - (v) the register of names of persons who have given loans or deposits to or hold securities or debentures given or issued by the co-operative;
  - (vi) 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 for a fee of \$5 for the first page plus \$1 per page thereafter, up to a maximum charge of \$50.
- (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.

## ACTIVE MEMBERSHIP PROVISIONS

14. In accordance with Part 6 of the Act:

- (a) **the selling of high quality food and eco-friendly products** is a primary activity of the co-operative; and
- (b) a member shall **pay the annual membership fee and be a current financial member, and shall undertake to act in the interests of the co-operative as a whole,** in order to establish active membership of the co-operative.

**If the co-operative decides that further amendments need to be made to the currently registered active membership rule, prior approval in writing must be obtained from the Registrar before the resolution may be put to the members.**

## CANCELLATIONS RELATING TO INACTIVE MEMBERS

15. (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 no more than 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 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 Cooperatives Regulation 1997.
  - (c) 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 does not exceed \$50, or such other amount as may be prescribed.

## **ANNUAL SUBSCRIPTION**

15A. Members may be required to pay an annual subscription which shall:

- (a)
  - (i) be in addition to any other charges payable under the rules;
  - (ii) be determined by the Board at a general meeting from time to time;
  - (iii) be payable in advance, within the period set by the Board; and
  - (iv) not exceed \$100 in any financial year.
- (b) Notwithstanding paragraph (a)(iii), the Board may, either generally or in a specific case, extend a period for the payment of the Annual Subscription, even though the previous period has expired. The extended period shall not exceed 2 months.
- (c) Members who do not pay the annual subscription determined under this rule within the period set by the Board, or within any extended period which may be granted by the Board, shall be an inactive member.
- (d) For the purposes of this rule, the term "within", in relation to a period set by the Board, means at any time at all before the end of the period.

## **QUALIFICATIONS FOR MEMBERSHIP**

16. 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 14.

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

17. 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**

18. (a) The board must provide each person intending to become a member of the cooperative with:
- (i) a consolidated copy of the rules of the co-operative; and
  - (ii) 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
  - (iii) a copy of the last annual report of the co-operative under section 252.
- (b) The board may comply with Rule 18(a) by:
- (i) giving the person intending to become a member notice that the documents referred to in that sub-rule may be inspected by that person at the registered office of the co-operative, and
  - (ii) making those documents available for inspection.
- (c) Applications for membership shall be lodged at the registered office, in or to the effect of the form approved by the board.
- (d) Every application shall be considered by the board. The applicant's name, date 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 entry in the register and shall then be entitled to the privileges attaching to membership.
- (e) The board may, at its discretion, refuse any application for membership 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.
- (f) 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 16 is not admitted as a member.

## **MEMBERS OF THE CO-OPERATIVE**

19. 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 18; 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

## **LIABILITY OF MEMBERS TO THE CO-OPERATIVE**

20. (a) A member shall not, as a member of the co-operative, be under any personal liability to a creditor of the co-operative.
- (b) A member shall, in accordance with Section 76 of the Act, be liable to the cooperative for any charges, including entry and periodic fees, payable by the member to the co-operative as required by these rules.
- (c) 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.

## **ONE MEMBER ONE VOTE**

21. (a) 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) In the case of joint membership, the joint members shall have 1 vote only between them and that vote may only be exercised (subject to the grant of any proxy in accordance with Rule 22 or power of attorney) by the joint member whose name appears first in the register of members.

## **PROXY VOTES**

22. (a) The instrument appointing a proxy shall be in writing under the hand of the appointer, or of the appointer's attorney, duly authorised in writing.
- (b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

- (c) No person shall act as a proxy unless the person is an active member under Rule 14.
- (d) Subject to (h) no person shall act as proxy for more than 5 persons.
- (e) An instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- (f) An instrument appointing a proxy may be in the following form, or any other form which the board shall approve:

**PROXY FORM**

I/we \_\_\_\_\_  
of \_\_\_\_\_  
appoint \_\_\_\_\_  
of \_\_\_\_\_  
or in that person's absence \_\_\_\_\_  
of \_\_\_\_\_

or [in that person's absence] the chairperson of the meeting, or a person nominated by the chairperson,

as my/our proxy to vote for me/us on my/our behalf at the [Annual/Special] General Meeting of the co-operative to be held on [ \* ] 20[ \* ] and at any adjournment of that meeting.

I/We direct my/our proxy to vote in respect of each resolution to be considered as indicated with an "X" below, and to vote or abstain in respect of any procedural resolution as my/our proxy thinks fit.

	FOR	AGAINST
[Ordinary/Special] resolution No. 1	[    ]	[    ]
[Ordinary/Special] resolution No. 2	[    ]	[    ]

If no direction is given above, I/we authorise my/our proxy to vote or abstain as my/our proxy thinks fit in respect of each resolution (including any

procedural resolution) to be considered by the meeting and any adjournment of the meeting.

Dated

20[ \* ]

Signature \_\_\_\_\_

Corporate members should execute under seal or by attorney.

- (g) Where an instrument of proxy is signed by all of the joint members, the vote of the proxy so appointed shall be accepted as the vote of the joint member whose name appears first in the register of members.
- (h) Paragraph (d) of this Rule does not apply if the person acts under an instrument of proxy which specifies the manner in which the person is to vote in respect of a particular resolution.

### **INSTRUMENT APPOINTING PROXY TO BE LODGED AT REGISTERED OFFICE**

23. (a) An instrument appointing a proxy is not valid unless:
- (i) the instrument; and
  - (ii) if the instrument is signed by the appointer's attorney - the authority under which the form was signed, or a notarially certified copy of the authority,
- is deposited at the registered office of the co-operative.
- (b) The documentation required to be given under this rule must be deposited at the registered office:
- (i) at least 48 hours before the meeting at which the proxy may be used;
- or
- (ii) in the case of a poll - at least 24 hours before the taking of the poll.

### **REVOCAION OF INSTRUMENT APPOINTING PROXY**

24. A vote given in accordance with the terms of an instrument of proxy, or of a power of attorney, is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or the power, if no intimation in writing of the death, unsoundness of mind or revocation has been received by the co-operative at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

## **RESTRICTION ON VOTING ENTITLEMENT UNDER POWER OF ATTORNEY**

25. A person is not entitled to exercise a member's right to vote under a power of attorney, if that person has a power of attorney to vote in respect of another member.

## **EXPULSION OF MEMBERS**

26. (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.
- (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) Expulsion of a member shall not be effective, until the special resolution expelling the member is registered.

## **CEASING MEMBERSHIP**

27. A person shall cease to be a member in any of the following circumstances:
- (a) if the member's membership is cancelled under Rule 15;
  - (b) if the member is expelled in accordance with Rule 26;
  - (c) **Deleted;**
  - (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 Secretary.

A person shall not cease to be a member if the member becomes bankrupt or becomes subject to control under the law relating to bankruptcy.



## **ANNUAL GENERAL MEETINGS**

28. (a) **Deleted.**
- (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.
- (d) If an annual general meeting is not held in accordance with paragraph (a) or paragraph (b) of this rule, the members may, in accordance with Section 202 of the Act and Rule 30, requisition such a meeting.

## **CONVENING GENERAL MEETINGS**

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

## **REQUISITION OF GENERAL MEETINGS**

30. (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 200 or 20% (whichever is the least number) 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**

31. (a) A meeting requisitioned by members in accordance with Rule 30 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**

32. (a) Subject to Rule 33, 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 75.
- (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 same manner as authorised in Rule 75 to:
- (i) every member of the co-operative; and

- (ii) 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**

33. Notice of a special resolution shall be given to those persons, entitled to receive notice under Rule 32, at least 21 days before the general meeting and shall specify the intention to propose the resolution as a special resolution at that meeting and specify the terms of the special resolution.

## **BUSINESS OF GENERAL MEETINGS**

34. (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) to receive from the board, auditors, or any officers of the co-operative 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 elect and determine the remuneration of directors; and
  - (iv) to elect (if necessary) an auditor, or to determine the auditor's remuneration, or both.
- (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**

35. (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 these rules state otherwise, 10 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 same day in the

next week at the same time and place. 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.

### **CHAIRPERSON AT GENERAL MEETINGS**

36. (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**

37. The co-operative's meetings shall run using a consensus approach, where each member's voice is heard and respected. Standing orders will normally be suspended to facilitate this process, but should at any time the consensus process fail, then standing orders will be reinstated.

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) motions and amendments shall be submitted in writing, if requested by the chairperson;
- (vii) 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;
- (viii) 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 chairperson provided that the permission may be conditional;
- (ix) standing orders may be suspended for any period by ordinary resolution.

## **ATTENDANCE AND VOTING AT GENERAL MEETINGS**

38. (a) At any meeting of the co-operative a member, whose membership is required to be forfeited under Rule 15, 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 38 (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 38 (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 who is present at a meeting in person or represented by proxy or attorney, 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 1 vote only between them and that vote may be exercised (subject to the grant of any proxy or power of attorney) only by whichever of the joint members is the member whose name appears first in the register of members.
- (g) 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 **not** be entitled to a second or casting vote.
- (h) All resolutions, except special resolutions, shall be determined by a simple majority.

## **POSTAL BALLOT**

39. 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**

40. (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 or by proxy in accordance with Rule 22; 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,
  - (ii) transfer of incorporation,
  - (iii) an acquisition or disposal of assets referred to in section 285,
  - (iv) takeover,

- (v) merger,
  - (vi) transfer of engagements,
  - (vii) 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

41. (a) There shall be a board of **between four and seven** 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 cooperative 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.
- (d) One of the board positions is an identified employee position. Nominated by board, as selected by staff and elected by members.

## QUALIFICATIONS OF DIRECTORS

42. A person is not eligible to be elected as director of the co-operative unless:
- the person 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);
  - **Deleted.**

## FIRST AND SUBSEQUENT DIRECTORS

43. **Deleted.**
44. At the first annual general meeting of the co-operative following the registration of these rules, **two** of the directors shall retire. At the annual general meeting in each



subsequent year, **two** directors shall retire, with the directors of longest standing retiring first.

## **RETIREMENT AND ELECTION OF DIRECTORS**

45. The directors to retire in any year shall (subject to the provision as to filling casual vacancies) be those who have been longest in office since their last election. As between persons who became directors on the same day to retire shall (unless they otherwise agree among themselves) be determined by lot. In such case, the order for retirement shall be the order in which the names are withdrawn.
46. **Deleted.**
47. (a) At an annual general meeting at which a director retires or a casual vacancy occurs the vacated office may be filled by electing a person to it.
- (b) Nominations for candidates to fill the vacant positions shall be sought in such manner as the board determines.
- (c) The election of directors shall be conducted at the meeting in such usual and proper manner as the board shall direct.

## **DIRECTORS' REMUNERATION**

48. (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 purpose of the rule "remuneration" means any money, consideration of 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**

49. (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 51) 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 cooperative.

## **PROCEEDINGS OF THE BOARD**

- 50. (a) Questions arising at any meeting shall be decided by a majority of votes.
- (b) In the case of an equality of votes, the chairperson may not have a casting vote.
- (c) A director shall not vote in respect of any contract or proposed contract with the co-operative in which the director 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 the director votes in contravention of this Rule, the director's vote shall not be counted.

## **TRANSACTION OF BUSINESS OUTSIDE BOARD MEETINGS**

- 51. 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 speaks on a matter before the meeting, can be heard 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**

- 52. The quorum for a meeting of the board shall be 50 percent of the maximum number of directors as per Rule 41(a), rounded up to the nearest integer, in accordance with Section 209(4) of the Act.

## **APPOINTMENT OF DIRECTORS TO CONSTITUTE A QUORUM**

53. A casual vacancy on the board may be filled by the directors appointing a person to constitute a quorum until the next annual general meeting. In all other circumstances where a casual vacancy occurs, Rule 59 applies.

## **CHAIRPERSON OF BOARD**

54. (a) **Deleted.**  
(b) **Deleted.**

## **DELEGATION AND BOARD COMMITTEES**

55. (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:
- (i) to a director, or
  - (ii) to a committee of 2 or more directors, or
  - (iii) to a committee of members of the co-operative, or
  - (iv) to a committee of members of the co-operative and other persons if members comprise the majority of persons on the committee.

The co-operative or the board may by resolution revoke wholly or in part any such delegation.

- (b) 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.
- (c) 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 circumstances.
- (d) 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**

56. (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. This is so 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 paragraph ( c) of Rule 55 were observed by the director exercising the powers. No director shall exercise power or engage in correspondence on behalf of the board without first engaging approval of at least a quorum of directors.

- (b) An instrument purporting to be signed by a director as referred to in Section 214( 1) of the Act 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 Section 213 of the Act.
- (c) 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.
- (d) 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.

## **REMOVAL OF DIRECTOR FROM OFFICE**

57. The co-operative may, by ordinary resolution, remove any director before the expiration of the director's period of office, and may by a simple majority appoint another person in place of the director. The person so appointed shall retire at the same time as the removed director would have done if not removed.

## **VACATION OF OFFICE OF DIRECTOR**

58. 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) **Deleted;**
  - (b) if the person is mentally incapacitated or the subject of an order under a law of another State or of a Territory relating to mental health;
  - (c) if the person has been convicted of an offence and that conviction disqualifies a person from being a director, as provided by Section 208(2) of the Act;
  - (d) if the director absents himself/herself from 3 consecutive ordinary meetings of the board without its leave;
  - (e) if the director resigns from office by notice in writing given by the director to the co-operative;
  - (f) if the director is removed from office by ordinary resolution of the co-operative;

- (g) if the person ceases to hold the qualification by reason of which the person was qualified to be a director;
- (h) if the director becomes an employee of the co-operative, unless elected under Section 216 of the Act;
- (i) if an administrator of the co-operative's affairs is appointed under Division 6 of Part 12 of the Act;
- (j) as provided by Section 217 of the Act;
- (k) 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;
- (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.

## **FILLING OF CASUAL VACANCIES**

59. (a) In the event that the board does not make an appointment under Rule 53, a casual vacancy is to be filled:
- (i) by election by the members held:
    - at a meeting of the co-operative; or
    - by means of a postal ballot; or
    - in the manner specified in the rules of the co-operative for the ordinary election of directors; or
  - (ii) in such other manner as the Registrar may approve in a particular case.
- (b) The person so chosen shall retire at the same time as the director who vacated the office would have done if that director had not vacated it.
- (c) For the purposes of this rule, a casual vacancy shall arise where the office of a director is vacated in accordance with Rule 58.

## **DEPUTY DIRECTORS**

60. **Deleted.**

## **OTHER COMMITTEES**

61. (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 Rule 56 (c) and (d) 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

62. (a) The board shall have minutes of meetings, one copy kept by the secretary and one kept at the Co-op premises, giving details:
- (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 of directors.
- (b) Minutes must be recorded within 28 days of the date of the meeting to which they relate.
- (c) The minutes of the preceding month shall be read aloud and signed by the chairperson as the first business at each 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) **Deleted.**
- (e) The minutes are to be kept in the English language.

## OFFICERS

63. (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 officers, 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; and
  - (ii) "Enterprise Agreement" includes an Australian Workplace Agreement, Certified Agreement or Enterprise Flexibility Agreement.

## **APPOINTMENT OF SECRETARY**

64. (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 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.

## **INSURANCE**

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

## **FINANCIAL YEAR**

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

## **ACCOUNTS**

67. (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 Cooperatives 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 cooperative, 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) **Deleted.**

## **BANKING**

68. (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 be signed by 2 directors or by any 2 persons authorised by the board.
- (c) The Co-operative to have a Visa or MasterCard debit card to debit a separate account, with an appropriate limit as approved by the Board, which will operate with one signatory. Purchases to be approved by 2 signatories as in Rule 68(b).

## **APPOINTMENT, DUTIES AND RESPONSIBILITIES OF AUDITORS**

69. (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) 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 the Corporations Law as adopted by Clause 15 of the Co-operatives Regulation 1997.
- (g) 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 corporation in which the person is a substantial shareholder, is indebted to the co-operative (or to a subsidiary corporation of the co-operative) for an amount exceeding \$ 5,000; or
  - (iii) the person is:
    - (A) an officer of the co-operative;
    - (B) is a partner, employer or employee of an officer of the co-operative;
    - (C) is a partner of an employee of an officer of the co-operative; or
    - (D) is an employee of an employee of an officer of the co-operative.
- (h) 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 New South Wales;
  - (ii) no member of the firm or corporation in which the firm is a substantial shareholder, is indebted to the co-operative (a subsidiary of the co-operative) for an amount exceeding \$5,000; or
  - (iii) no member of the firm is:
    - (A) an officer of the co-operative;
    - (B) is a partner, employer or employee of an officer of the co-operative;
    - (C) is a partner of an employee of an officer of the co-operative; or
    - (D) is 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.
- (i) All reasonable fees and expenses of the auditor are payable by the co-operative.
- (j) 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.

- (k) 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 concerns to the auditor.

## **REMOVAL OF AUDITORS**

- 70.
- (a) The auditor may be removed from office by resolution at a general meeting.
  - (b) Notice of intention to move the resolution must be given to the co-operative not less than 28 days before the meeting at which the resolution is moved, but if, after notice has been given, a meeting is convened for a date 28 days or less after notice has been given, 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 14 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.

## **RESIGNATION OF AUDITOR**

- 71.
- (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 removal from office of the auditor or after the receipt of a notice of a resignation from an auditor, the Co-operative shall lodge with the Registrar a notice of the removal or 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.

## CO-OPERATIVE FUNDS

72. (a) The income and property of the co-operative however derived shall be applied solely towards the promotion of the objects of the co-operative and no portion thereof shall be paid or transferred directly or indirectly by way of discount, rebate or otherwise by way of profit to the members of the co-operative.
- (b) Payment shall be made in good faith of:
- (i) any commensurate remuneration of any member or servant of the co-operative or other person in return for any services actually rendered to the co-operative: or
  - (ii) reasonable interest on money lent or reasonable or proper rent for property or premises demised, or let by any member to the co-operative.
- (c) Any surplus resulting from the co-operative's operation during a financial year, after providing for depreciation in value of the co-operative's property or for contingent liability for loss, shall be applied to carrying out the co-operative's objects.
- (d) An amount not exceeding **10** percent of the surplus may be applied to any charitable purpose, or for promoting co-operation or any community advancement object.
- (e) The co-operative shall aim to maintain between 5 and 10 percent of annual turnover in bonds, deposits, investments or savings accounts in order to provide long-term financial security.

## PROVISION FOR LOSS

73. The board shall make such provisions for loss which may result from the transactions of the co-operative as the Act requires or allows.

## DISPUTES

74. (a) In this Rule:
- (i) "party" includes:
    - (A) a member of the co-operative;
    - (B) any aggrieved person who has ceased to be a member in the last six months;
    - (C) any person claiming through or under a member or any aggrieved person referred to in Rule 74(a)(i)(B); and
    - (D) the co-operative, including the board or any other officer of the co-operative;
  - (ii) "dispute" may only refer to a matter affecting a person of the type mentioned above (A) - (C) in the capacity of such a person as a member or exmember of the co-operative; or as a person claiming through or under a member of the co-operative in that person's capacity as a member.
- (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 the 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 (02) 6333-1421).
- (e) 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

75. (a) Notice may be given by the Co-operative in the following three ways: By poster on Members Noticeboard (minimum A4 size); by Public Notice in the Blue Mountains Gazette newspaper; by A5 flyers readily visible on all serving counters, which can be picked up by all members when shopping at

the Co-op.

All three of these forms of notification must take place and all forms of notification must be performed within the minimum period of notice as specified in the Rules. Notice may be given by post or personally as required.

- (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 the newspaper circulating 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 facsimile transmission shall be deemed to have been served, unless the sender's facsimile machine indicates a malfunction in transmission, on the day of transmission if transmitted during a business day, otherwise on the next following business day.
- (e) 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**

- 76. (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 any property, this shall not be paid or distributed amongst the members of the co-operative but shall be given or transferred to an institution:
  - (i) which has objects similar to those of the co-operative;
  - (ii) whose constitution prohibits the distribution of its property among its members;
  - (iii) which has been chosen by the members of the co-operative at or before the time of dissolution or in default thereof by the Chief Judge of such Court as may have or acquire jurisdiction in the matter; and
  - (iv) which satisfies the relevant sub-section of Section 23 of the Income Tax Assessment Act.
- (c) In paragraph (b), the expression "institution" includes an institution or institutions.

## **FINES PAYABLE BY MEMBERS**

77. (a) The Board may impse on a member a maximum fine of **\$110** for any infringement of the rules.
- (b) A fine exceeding \$20 shall not be imposed on a member pursuant to Paragraph (a) unless;
- (i) written notice of 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 oppportunity 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 CHARGES**

78.	Copy book of rules	<b>\$10</b>	Rule <b>2(b)</b>
	Copy of Register	<b>(see below)</b>	Rule <b>13(b)</b>
	Maximum Fine	<b>\$110</b>	Rule <b>77(a)</b>

**Copies of Registers will be provided at a charge of \$5 for the first page plus \$1 per page thereafter, up to a maximum charge of \$50.**