

RULES OF

CLARENCE HARVESTING CO-OPERATIVE LTD

A Trading Share Co-operative

REGISTERED UNDER THE

CO-OPERATIVES (Adoption of National Law) ACT 2012

Registry of Co-operatives

PO Box 22

Bathurst NSW 2795

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DEFINITIONS

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

- (i) **“active member”** means a member who is in active membership within the provisions of Rule 17.
- (ii) **“alter”** or similar word or expression used in relation to a rule amendment includes add to, substitute, and rescind.
- (iii) **“auditor”** means an auditor or auditors for the time being of the co-operative appointed in accordance with Rule 93;
- (iv) **“banking account”** includes an account with a credit union or building society registered, or authorized to operate, under the Australian Prudential Regulation Authority Act and the Banking Act into which the co-operative’s monies may be paid;
- (v) **“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) **“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:
 - (A) a cheque, order for the payment of money or bill of exchange; or
 - (B) a promissory note having a face value of not less than \$50,000; or
 - (C) any other document of a class that is prescribed as exempt from this definition, and includes a unit of a debenture;
- (viii) **“director”** includes:
 - (A) 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 authorized to act in the position; and
 - (B) a person in accordance with whose directions or instructions the directors or members of the board of the co-operative are accustomed to act;
- (ix) **“financial year”** means the financial year of the co-operative as specified in Rule 90;
- (x) **“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;
- (xi) **“member”** means a member of the co-operative;
- (xii) **“month”** means a calendar month;
- (xiii) **“officer”** means:
 - (A) a director, secretary or employee of the co-operative; or
 - (B) a person who is concerned, or takes part, in the management of the co-operative, whether or not as a director; or

- (C) a receiver, or receiver and manager, of property of the co-operative, or any other authorized person who enters into possession or assumes control of property of the co-operative for the purpose of enforcing any charge; or
 - (D) an administrator of a deed of arrangement executed by the co-operative; or
 - (E) a liquidator or provisional liquidator appointed in a voluntary winding up of the co-operative; or
 - (F) an administrator of the co-operative appointed under Part 5.3A of the Corporations Law as applying under this CNL or Division 6 of Part 12 of the CNL; or
 - (G) a trustee or other person administering a compromise or arrangement made between the co-operative and another person or other persons;
- (xiv) **“postal ballot”** includes a special postal ballot;
- (xv) **“prescribed”** means prescribed by the CNL or under the Act by Regulation;
- (xvi) **“privacy policy”** in relation to Rule 106;
- (xvii) **“provision”** in relation to the CNL, means words or other matter that form or forms part of the CNL, and includes:
- (A) a chapter, part, division, subdivision, section, subsection, paragraph, subparagraph, sub-subparagraph or schedule of or to the CNL; 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 CNL;
- (xviii) **“regulation”** means a regulation made under the CNL, and any regulation that applies to a co-operative by way of a transitional regulation made under the CNL;
- (xix) **“relevant interest”** has the same meaning as given in Schedule 2 of the CNL.
- (xx) **“rules”** mean the registered rules of the co-operative as amended from time to time and reference to particular rules has a corresponding meaning.
- (xxi) **“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 CNL or the rule granting the power;
- (xxii) **“share”** means share in the capital of the co-operative;
- (xxiii) **“special resolution”** means a resolution which is passed in accordance with Rule 67;
- (xxiv) **“the CNL”** means the Co-operatives (Adoption of National Law) Act 2012.
- (xxv) **“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 75, being not less than a quorum or a majority, as the case may be;
- (xxvi) **“the co-operative”** means **Clarence Harvesting Co-operative Ltd**;
- (xxvii) **“the Law”** means the Corporations Act 2001;
- (xxviii) **“the Registrar”** means the Registrar of Co-operatives or any person delegated the Registrar’s functions;

- (xxix) **“the secretary”** means any person appointed by the board as secretary of the co-operative;
- (xxx) **“the State”** means the State of New South Wales;
- (xxxi) **“writing”** includes printing, typing, lithography and other modes or representing or reproducing words in a visible form and “written” has a corresponding meaning;
- (xxxii) Words importing one gender include the other gender;
- (xxxiii) Words importing persons include bodies corporate;
- (xxxiv) Words in the singular include the plural, and vice versa;
- (xxxvi) Words or expressions used have the same meanings as those given to them by the CNL.

DEFINITIONS – INTERPRETATION PROVISIONS

2. (a) A reference in these rules to “the CNL” includes a reference to:
- (i) the CNL as originally enacted, and as amended from time to time since its original enactment; and
 - (ii) if the CNL has been repealed since the inclusion of the reference in these rules – the legislation enacted in substitution of the CNL (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 CNL” 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 of 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
- Clarence Harvesting Co-operative Ltd**

- (b) The co-operative may, in accordance with Section 224 of the CNL, change its name by way of a special resolution to a name approved of by the Registrar.

TRADING CO-OPERATIVE

- 4. The co-operative is a distributing co-operative with the meaning of Section 18 of the Co-operatives National Law (CNL).

REGISTERED OFFICE

- 5. (a) The co-operative must cause a notice to be conspicuously and publicly displayed at the premises or 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 the fee, if any, not exceeding that specified in the 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 62 of the CNL or as otherwise permitted by the CNL. The Active Membership Provision must only be altered by Special Resolution. A change to the Active Membership Provision cannot be proposed at a meeting unless prior approval has been obtained from the Registrar.

(b) No alteration to these rules takes effect until the alteration is registered by the Registrar.

(c) Where any rule is altered, by way of a board resolution under Section 62 of the CNL, 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:

To carry out the business of harvesting sugar cane for the benefit of the members of the Co-operative within the confines of the Co-operatives (Adoption of National Law) Act 2012.

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 CNL including but not limited to the taking of deposits pursuant to Part 3.4 Division 1 of the CNL.
- (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 CNL, 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;
- (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

11. (a) The co-operative may, in accordance with Section 343 of the CNL, 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 343(3)(c) of the CNL 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

12. (a) The co-operative may, in accordance with Section 125 of the CNL, 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 authorized 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 127 of the CNL, a charge on each of the following:
- (i) the share or interest in 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 127 of the CNL 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 223 of the CNL, 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 Sections 49 & 223 of the CNL, 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. (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 13(d).

CUSTODY AND INSPECTION OF RECORDS AND REGISTERS

15. (a) The Co-operative must have at the 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 CNL 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 271 & 272 of the CNL;
 - (v) the register of directors, members and shares; and
- if applicable:
- (vi) the register of names of persons who have given loans or deposits to or hold securities or 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 2.6 Division 4 of the CNL;
 - (ix) the register of notifiable interests required to be kept under Section 212 of the CNL;
 - (x) the register of subordinated debt required to be kept under Clause 212(c)(ii) of the CNL; 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 subparagraph (a) and to do so, on payment of the fee, if any, required under Rule 105, 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 271 & 272 of the CNL.

NOTIFICATION OF OFFICE ADDRESS AT WHICH REGISTERS ARE KEPT

- 16. If the registers required by Section 214 of the CNL to be kept by the co-operative are not kept at the registered office, the co-operative must lodge with the Register 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.

ACTIVE MEMBERSHIP PROVISIONS

- 17. In accordance with Part 2.6 Division 2 of the CNL:
 - (a) To harvest sugar cane produce of members, is a primary activity of the co-operative; and
 - (b) a member shall supply in each 2 year period not less than two hundred tonnes of sugar cane (being the produce of that member and not acquired for harvest), 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 156 of the CNL, 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 2 years 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 3 years 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 128 & 163-165 (inclusive) of the CNL.
- (c) The co-operative shall, in a form approved of by the Registrar, keep a register of memberships cancelled pursuant to paragraph (a) of the Rule, which shall specify the particulars prescribed by the National Regulations of persons whose membership has been cancelled under Part 2.6 Division 4 of the CNL.

- (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 may be 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 271 & 272 of the CNL;
 - (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.
- (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 the amount required to pay for shares in full.
- (c) Every application shall be considered by the board. If the board approves the application, the applicant's name together with the number of shares allotted, date of allotment and any other information required by or under the CNL 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 30, 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 become members as a result of the amalgamation of Brushgrove Lawrence Cane Grower's Co-operative Society Ltd and Palmers Island Cane Grower's Co-operative Society Ltd; and
- (b) those persons admitted to membership in accordance with Rule 21; and
- (c) those persons who become members by:
 - (i) a transfer of engagement to the co-operative; or
 - (ii) a scheme of arrangement; or
 - (iii) operation of law; or
 - (iv) a transfer of shares under Rule 45.

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 the nominal value of the share has been fully 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 363 of the CNL.
- (e) The co-operative may issue shares at a premium in accordance with Section 80 of the CNL.
- (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).

ABROGATION OR VARIATION OF SHARE RIGHTS

24. (a) Where the co-operative's share capital is divided into different classes, and rights are attached to shares included in a class of shares, the co-operative may, if passed by resolution of a simple majority at a meeting of members who hold shares of that class, vary or abrogate those rights.
- (b) If, after the passing of the resolution referred to in subparagraph (a), the co-operative wishes to alter its rules to vary or abrogate the rights attached to that particular class of shares, it may give notice to members of the intention to propose a special resolution to that effect.
- (c) Where a special resolution is passed in accordance with this rule, the co-operative may on registration of the special resolution vary or abrogate the rights attached to the share class the subject of the special resolution.

MINIMUM SHAREHOLDING

25. Every member shall, on admission to membership of the co-operative, hold at least **50** share(s).

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

26. (a) Where a person (whether or not 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 128 & 163-165 (inclusive) of the CNL 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

27. (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 National Regulations Clause 3.22.

REGISTER OF NOTIFIABLE INTERESTS

- 28. (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 27 and 35 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 on payment of the fee, if any, required under Rule 105, Schedule of fees.

BONUS SHARES

- 29. (a) Bonus shares may be issued by the co-operative in accordance with the CNL and these rules.
- (b) The total value of bonus shares issued by the co-operative under this rule during any 12 month period shall 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.

COMPULSORY SHARE ACQUISITION

- 30. (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 82 of the CNL.
- (b) 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 resignation in accordance with subparagraph (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

31. Subject to Section 107 of the CNL the co-operative may:

- (a)
 - (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 107 of the CNL 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 in satisfaction of the amount.
- (h) A deposit, debenture, or CCU issued pursuant to (g) shall:
 - (i) bear interest during any period in accordance with Section 108(3) of the CNL; 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

32. (a) A member shall, in accordance with Section 117(2) & 121 of the CNL, 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 subparagraph (a).

VOTING RIGHTS

33. (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 the grant of any proxy in accordance with Rule 36 or power of attorney) by the joint member whose name appears first in the register of members.
- (d) 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.
- (e) 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.
- (f) (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 subparagraph (f) prevents the exercise of a vote by means of a proxy or power of attorney.

- (g) 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

- 34. (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 rights to vote shall be restored.

NOTICE TO BE GIVEN OF VOTING INTEREST

- 35. (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 3.21 of the National Co-operatives Regulations 2013.

PROXY VOTES

- 36. (a) The instrument appointing a proxy shall be in writing under the hand of the appointer, or of the appointer's attorney, duly authorized 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 17.
- (d) Subject to (h) no person shall act as proxy for more than 10 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.

INSTRUMENT APPOINTING PROXY TO BE LODGED AT REGISTERED OFFICE

37. (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 taking of the poll.

REVOCATION OF INSTRUMENT APPOINTING PROXY

38. A vote given in accordance with the terms of an instrument of proxy, or 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.

CERTIFICATE OF SHARES

39. (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 the fee, if any, required under Rule 105, Schedule of Fees, and on such terms as to evidence and indemnity as the board thinks fit.

CALLS ON SHARES

40. (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-fourth (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 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.

DEFAULT IN PAYMENT OF CALLS

- 41. (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 (but before the payment required by the notice has been made), be forfeited by a resolution of the board.

NON PAYMENT OF SUBSCRIPTION DEEMED TO BE A CALL

- 42. (a) 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.
- (b) In the case of non-payment, the provisions of subparagraph (a) and Rule 41 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.

FORFEITED SHARES

- 43. (a) A person whose shares have been forfeited pursuant to these rules shall cease to be a member 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 109 & 127 of the CNL 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

44. (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 127 of the CNL. 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 it 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 upon 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

45. (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 of20

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 & 19; or
 - (ii) as otherwise provided by these rules or the CNL.
- (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 or 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 recognize any instrument of transfer unless:

- (i) the fee, if any, required under Rule 105, 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

46. 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

47. (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 subparagraph (b)(i) if there are reasonable grounds for believing that the person will be an active member of the co-operative.

REGISTRATION OF OFFICIAL TRUSTEE IN BANKRUPTCY

48. (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

49. (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.

ENTITLEMENTS AND LIABILITIES OF PERSON REGISTERED AS TRUSTEE, ADMINISTRATOR ETC

- 50. (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 47, 48 and 49 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

- 51. (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) 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

- 52. (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 and in accordance with Section 128 of the CNL.

- (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.

TRANSFER OF DEBENTURES

- 53. (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 a form approved by the board.
- (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 recognize any instrument of transfer unless:
 - (i) the fee, if any, required under Rule 105 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

- 54. 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 51;
 - (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 resignation in accordance with Rules 11 or 30.
 - (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 CNL 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 31; 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

55. (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 CNL 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 252 of the CNL, 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 subparagraphs (a) and (b), the members may, in accordance with Section 257 of the CNL and Rule 56, requisition such a meeting.

CONVENING GENERAL MEETINGS

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

REQUISITION OF GENERAL MEETINGS

57. (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

58. (a) A meeting requisitioned by members in accordance with Rule 57 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 early 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

59. (a) Subject to Rule 60, 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 102.
- (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 authorized in Rule 102 to:
- (i) every member of the co-operative, except those members who have not supplied to the co-operative an address or email address 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

60. Notice of a special resolution shall be given to those persons, entitled to receive notice under Rule 59, 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 passes.

BUSINESS OF GENERAL MEETINGS

61. (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 declare the rates of dividend, bonus and rebate in accordance with Rule 97; 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, if present, 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

62. (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, **ten** 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 within 7 days 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

- 63. (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 chairperson, or it 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

- 64. (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 or 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

65. (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 CNL or these rules.
- (c) At any general meeting a resolution put to the vote of the meeting shall (as provided in Section 256 of the CNL) 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 subparagraph (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 subparagraph (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 115 of the CNL, or every member (not under the age of 18) 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 one (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 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

66. The co-operative may hold a postal ballot to determine any issue or proposal by the members in the manner prescribed in Part 3 of the National Co-operatives Regulations 2013.

SPECIAL RESOLUTION

67. (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 36; 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 of disposal of assets referred to in Section 359 of the CNL;
 - (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

68. (a) There shall be a board of **seven** directors each of whom shall be a natural person and at least 18 years old. Of those directors at least five shall be active member directors while the Board may nominate one employee director and one independent director for election to the Board as considered appropriate.
- (b) The business of the co-operative is to be managed and controlled 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 CNL 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

69. A person is not eligible to be elected as director of the co-operative unless the person is:
- (a) 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);
- (b) an employee of the co-operative; or
- (c) a person qualified as follows;
- a person of professional, business or general management or other experience or standing in the community and is nominated by the Board.

FIRST AND SUBSEQUENT DIRECTORS

70. (a) The directors of the co-operative on and from the date its registration shall consist of seven directors elected by the current boards of the Brushgrove Lawrence Cane Grower's Co-operative Society Ltd & Palmers Island Cane Grower's Co-operative Society Ltd from their number.
- (b) As soon as practical after registration of the co-operative the Board will call for nominations from all active members of the co-operative. If the number of nominations exceeds the number of vacancies, the election of directors shall be conducted by postal ballot. If the number of candidates equals or is less than the number of vacancies, those persons are declared elected and any vacancies shall be casual vacancies and filled in accordance with Rule 83.
- (c) This Board shall, subject to casual vacancies, hold office until the conclusion of the annual general meeting to be held in 2006 when three directors will retire at that time shall be determined in accordance with Rule 71(a).
- (d) At every subsequent annual general meeting the directors shall retire in rotation of four and three.

RETIREMENT AND ELECTION OF DIRECTORS

71. (a) 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.
- (b) A retiring director shall be eligible for re-election without nomination, subject to the person holding the qualifications specified in Rule 69.
- (c) (i) 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.
- (ii) Nominations for candidates to fill the vacant positions shall be sought in such manner as the board determines.
- (iii) The election of directors shall be conducted in the following manner:
- (A) Where the number of candidates exceeds the number of vacancies, the election of directors shall be conducted at the meeting by secret ballot of those members present.
- (B) Where the number of candidates equals or is less than the number of vacancies, those persons are declared elected.
- (C) If there are insufficient nominations to fill all vacancies, further nominations will be called from the floor.
- (D) If, at the end of the meeting, any vacancies remain, such vacancies shall be casual vacancies and shall be filled in accordance with Rule 83.
- (E) If there is an equality of votes, the outcome shall be determined by lot. In which case the candidate whose name is first drawn shall be declared to be elected.

DIRECTORS' REMUNERATION

72. (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 society 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-operation or any subsidiary of the co-operation;
- (ii) in relation to an employee director – remuneration received or due and receivable as an employee.

REQUISITION AND NOTICE OF BOARD MEETING

73. (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 75) 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

74. (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

75. The board may be in accordance with Section 176 of the CNL 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 subparagraph (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 subparagraph (a)(i) by facsimile or other transmission of the information in the papers concerned.

QUORUM FOR BOARD MEETINGS

76. The quorum for a meeting of the board shall be **four** directors, being 50% or more of the number of directors, in accordance with Section 175(4) of the CNL.

APPOINTMENT OF DIRECTORS TO CONSTITUTE A QUORUM

77. (a) If at any time the number of directors is the same or less than the number of directors required to constitute a quorum of the board, the board may appoint sufficient directors so that the number of directors is one more than a quorum.

- (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) In all other circumstances where a casual vacancy occurs, Rule 83 applies.

CHAIRPERSON OF BOARD

78. The chairperson of the board may be elected 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.

DELEGATION AND BOARD COMMITTEES

79. (a) The board may (in accordance with Section 178 of the CNL) 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 or 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 circumstances.
- (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

80. (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) Subparagraph (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 79(d) were observed by the director exercising the powers.

- (c) An instrument purporting to be signed by a director as referred to in subparagraph (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

- 81. 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

- 82. 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 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 182 of the CNL;
 - (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 174 (4) of the CNL;
 - (i) if an administrator of the co-operative's affairs is appointed under Part 4.1 of the CNL;
 - (j) as provided by Section 181 of the CNL;

- (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 208 of the CNL;
- (l) if the director is removed from office, by a voluntary administrator of the co-operative appointed under Section 386 of the CNL.

FILLING OF CASUAL VACANCIES

83. (a) In the event that the board does not make an appointment under Rule 77, a casual vacancy is to be filled:
- (i) by election by the members held:
 - (A) at a meeting of the co-operative; or
 - (B) by means of a postal ballot; or
 - (C) in the manner specified in the rules of the co-operative for the ordinary election of directors; or
 - (ii) by appointment by the board of directors; or
 - (iii) in such other matter as the Registrar may approve in a particular case.
- (b) The person elected pursuant to subparagraph (a)(i) shall retire at the same time as the director who vacated the office would have done if that director had not vacated it.
- (c) The person appointed pursuant to subparagraph (a)(ii) shall hold office until the next annual general meeting only.
- (d) For the purposes of this rule, a casual vacancy shall arise where the office of the director is vacated in accordance with Rule 82.

DEPUTY DIRECTORS

84. (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 102.

- (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. The attendance of the deputy director at any meeting of the board shall be deemed to be attendance by the nominating director.
- (g) For purposes of this rule a meeting of the directors shall include a meeting conducted pursuant to Rule 75.

OTHER COMMITTEES

85. (a) The board may by resolution appoint committees comprising of members of other persons or both, to act in an advisory role to the board and to any committees of directors.
- (b) The provisions of Rule 80 (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

86. (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 of directors.
- (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.

OFFICERS

87. (a) Without prejudice to the general powers conferred on the board by the CNL 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.

APPOINTMENT OF SECRETARY

88. (a) The board shall appoint a secretary who shall perform all the functions and duties required by the CNL, 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 an adult person who is ordinarily resident in Australia;
 - (ii) be appointed to the office on such terms and conditions as the board may determine;
 - (iii) hold office until death, or removed by the board, or resignation from office.

INSURANCE

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

FINANCIAL YEAR

90. The financial year of the co-operative shall end on the **30th day of June in each year.**

ACCOUNTS

91. (a) The board shall have prepared the accounts, statements and directors’ report in accordance with the Corporations Law, as adopted by 3.10 & 3.11 of the National Co-operatives Regulations 2013.
- (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 3.10 & 3.11 of the National Co-operatives Regulations 2013.

- (c) The board shall also have a copy of everything required to be submitted under subparagraph (b) to each member 21 days before the date of the annual general meeting of the co-operative.

BANKING

- 92. (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 authorized by the board.

APPOINTMENT, DUTIES AND RESPONSIBILITIES OF AUDITORS

- 93. (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 65 & 66 of the National Co-operatives Regulations 2013, or any order made by the Registrar pursuant to Division 12 of the CNL.
- (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 subparagraph (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 65 & 66 of the National Co-operatives Regulations 2013.
- (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 65 & 66 of the National Co-operatives Regulations 2013 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 the vacancy caused by the removal of the previous auditor shall be appointed by a three-quarter (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 subparagraph (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 subparagraph 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 subparagraphs (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) 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.
- (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 New South Wales;
 - (ii) no member of the firm or 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) 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.

- (v) the business name under which the firm is carrying on business is registered under the Business Names Act 1962 or a return (in a form approved by the Registrar for the purpose) 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 concerns to the auditor.
- (n) Notwithstanding the provisions of 93(a)-(m) whilessoever the co-operative remains a small co-operative as defined under Regulation 1.4 of National Co-operatives Regulations 2013 the co-operative is not required to audit the financial reports for a financial year if the report was prepared in accordance with a direction by members under s271 & 272 of the CNL and the direction did not ask for the report to be audited.

REMOVAL OF AUDITORS

94. (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 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 subparagraph (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 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.

- (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 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

- 95. (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 registration 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.
- (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

- 96. (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 subparagraph (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 bonus or 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) to 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 of dividend payable to a member under subparagraphs (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 5% 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, BONUS OR REBATE

- 97. (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 CNL 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

- 98. (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

- 99. The board may recommend:
 - (a) a higher rate of dividend in respect of shares held by a member in excess of the minimum number of shares specified in Rule 25; 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 97 and if declared, the board shall be authorized to pay the dividend to members, subject to the provisions of Rule 98(c).

PROVISION FOR LOSS

100. 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

101. (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 subparagraphs (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 in subparagraphs (a)(i) (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 subparagraphs 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 NSW 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 procedure; 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

102. (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 the 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

103. (a) The winding up of the co-operative shall be in accordance with Part 4.5 of the CNL.
- (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 the amount of business conducted with the co-operative over the past 5 years.
- (c) Subject to Sections 168 & 450 of the CNL, 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

104. (a) The board may impose on a member maximum fine of **\$20** for any infringement of the rules.
- (b) A fine exceeding \$20 shall not be imposed on a member pursuant to subparagraph (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 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 CHARGES

105. Copy book of rules:	\$ 50.00	Rule 6(b)*
Copy of Register:	\$ 50.00	Rule 15(b)**
Nominal Value of Shares:	\$ 2.00	Rule 23(a)
Inspection of Register of Notifiable Interests:	\$ 25.00	Rule 28(b)***
Inspection of Privacy Policy:	\$ 25.00	Rule 106

PRIVACY POLICY

106. The Clarence Harvesting Co-operative Ltd recognises the importance of the Australian Privacy Principles (“APPs”) and the protection of the privacy of all personal information of individuals which it collects, holds and uses in the course of its activities.
- The Privacy Policy of the Clarence Harvesting Co-operative Ltd is available for inspection at our registered office and in hard copy by request and upon payment of the appropriate fee (if any).