
Invest In Farming Co-operative Ltd

(a non-distributing co-operative without share capital)

Co-operative Rules

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Rules

Part 1 Preliminary

1. Name (CNL ss220–222 & 224)

The name of the co-operative is the Invest In Farming Co-operative Ltd.

2. Definitions

2.1 In these Rules:

2.1.1 "**ballot paper**" means a ballot paper in paper or electronic form.

2.1.2 "**basic minimum financial statements**" means the financial statement required of a small co-operative under the National Regulations.

2.1.3 "**board**" means the board of the co-operative.

2.1.4 "**CCU**" refers to co-operative capital unit.

2.1.5 "**CNL**" is a reference to the Co-operatives National Law as applying in the State of Victoria, Australia.

2.1.6 "**debenture**" is as defined in the Law.

2.1.7 "**director**" means a director of the co-operative.

2.1.8 "**member**" means a member of the co-operative.

2.1.9 "**member director and non-member director**" — see section 174 of the Law and Rule 35.

2.1.10 "**standard postal times**" means the times when properly addressed and prepaid letters would be delivered in the ordinary course of post.

2.1.11 "**the co-operative**" means the Invest In Farming Co-operative Ltd.

2.1.12 "**the Law**" means the Co-operatives National Law (Victoria), an Annexure to the Co-operatives National Law Application Act 2013 (Vic).

2.1.13 "**the National Regulations**" means the Co-operatives National Regulations.

2.2 Except so far as the contrary intention appears in these Rules, words and expressions used in these Rules have the same meanings as they have, from time to time, in the Law or relevant provisions of the Law.

3. Primary Objective

The primary objective of the co-operative is to enable members to participate in agricultural production through share farming programs with established farms.

Part 2 Membership

Division 1 Membership generally

4. Active membership provisions (CNL ss112(2), 144, 148 & 156–166)

4.1 Primary activity

For the purposes of Part 2.6 of the Law, the primary activity of the co-operative is the engagement of members to participate in agricultural production through share farming programs with established farms.

4.2 Active membership requirements

A member must pay membership fees in accordance with Rule 6 to establish and maintain active membership of the co-operative and support the primary activity of the co-operative by participating in at least one share farming program during each annual membership period.

5. Qualifications for membership (CNL s112)

A person or entity qualifies for membership of the co-operative unless there are reasonable grounds for believing that the person or entity will not comply with the provisions of Rule 4.2.

6. Membership (CNL s124)

6.1 An application for membership in the co-operative must:

6.1.1 be in a form approved by the board;

6.1.2 be lodged or received at the registered office or a nominated branch of the co-operative; and

6.1.3 unless the board determines otherwise, be accompanied by the relevant fee, which is the amount determined from time to time by the board and published at the registered office or on the website of the co-operative.

6.2 Every application must be considered by the board once the applicable fee(s) have been paid.

6.3 Subject to Rule 6.4, if the board approves the application, the applicant must be notified in writing of the entry in the register within 28 days, after which the applicant is entitled to the privileges attaching to membership.

6.4 The board may, at its discretion, accept or reject an application for membership and is not obliged to give reasons for its decision.

6.5 The board need not assign reasons for the refusal. On refusal any amounts accompanying the application for membership must be refunded within 28 days without interest.

6.6 To the maximum extent permitted by the Law, the board may determine the amount of any fees payable by a member and must publish those at the registered office or via the co-operative's website, including:

6.6.1 a fee payable to become a member and any fee to remain a member ("**membership fees**"); and

- 6.6.2 any other fees, subscriptions or charges in connection with the benefits or services provided by the co-operative to a member.

7. **Cessation of membership (CNL s117)**

- 7.1 A person ceases to be a member in each of the following circumstances:
 - 7.1.1 if the member no longer qualifies for membership under Rule 5;
 - 7.1.2 if the member is expelled or resigns in accordance with these Rules;
 - 7.1.3 if the member becomes bankrupt and the trustee of the member's estate disclaims any debt, contract, duty or liability of the member with the cooperative;
 - 7.1.4 on the death of the member;
 - 7.1.5 if the contract of membership is rescinded on the ground of misrepresentation or mistake;
 - 7.1.6 on notice in writing given by the member to the secretary, of the member's resignation from membership; or
 - 7.1.7 in the case of a member that is a body corporate, if the body is dissolved.

8. **Expulsion of members (CNL s117)**

- 8.1 A member may be expelled from the co-operative by special resolution to the effect:
 - 8.1.1 that the member has seriously or repetitively failed to discharge the member's obligations to the co-operative under these Rules or a contract entered into with the co-operative under section 125 of the Law; or
 - 8.1.2 that the member has acted in a way that has:
 - 8.1.2.1 prevented or hindered the co-operative in carrying out its primary activity or one or more of its primary activities; or
 - 8.1.2.2 brought the co-operative into disrepute; or
 - 8.1.2.3 been contrary to one or more of the co-operative principles as described in section 10 of the Law and has caused the co-operative harm.
- 8.2 Written notice of the proposed special resolution must be given to the member at least 14 days before the date of the meeting at which the special resolution is to be moved, and the member must be given a reasonable opportunity of being heard at the meeting.
- 8.3 At the general meeting when the special resolution for expulsion is proposed the following procedures apply:
 - 8.3.1 the member must be afforded a full opportunity to be heard and is entitled to call witnesses and cross-examine witnesses called against the member;

- 8.3.2 if the member fails to attend at the time and place mentioned, without reasonable excuse, the member's alleged conduct must be considered and the co-operative may decide on the evidence before it, despite the absence of the member;
 - 8.3.3 once the alleged conduct is considered, the co-operative may decide to expel the member concerned;
 - 8.3.4 the co-operative must not make a decision on the alleged conduct or on expulsion, except by vote by secret ballot of the members present, in person or represented by proxy or by attorney, and entitled to vote;
 - 8.3.5 a motion for the decision is not taken to be passed unless two-thirds of the members present, in person or represented by proxy or by attorney, vote in favour of the motion.
- 8.4 An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution.

9. **Resignation of members (CNL s117)**

A member may resign from a co-operative by giving 7 days' notice in writing in the form approved by the board.

10. **Monetary consequences of expulsion or resignation (CNL s128)**

If a member is expelled or resigns from the co-operative, all amounts owing by the former member to the co-operative become immediately payable in full.

11. **Suspension of members**

- 11.1 The co-operative may suspend a member for not more than one year, who does any of the following:
 - 11.1.1 contravenes any of these Rules;
 - 11.1.2 fails to discharge obligations to the co-operative, whether under these Rules or a contract;
 - 11.1.3 acts detrimentally to the interests of the co-operative.
- 11.2 In order to suspend a member, the procedure for expulsion of a member set out in Rule 8 is to be followed as if references to expulsion were references to suspension.
- 11.3 During the period of suspension, the member:
 - 11.3.1 loses any rights (except the right to vote) arising as a result of membership; and
 - 11.3.2 is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the co-operative; and
 - 11.3.3 remains liable for any fine that may be imposed.

Division 2 Dispute resolution

12. Disputes and mediation (CNL s129)

- 12.1 The grievance procedure set out in this Rule applies to disputes under these Rules between:
- 12.1.1 a member and another member; or
 - 12.1.2 a member (including a former member) and the co-operative.
- 12.2 If a dispute arises, a party cannot commence any court or arbitration proceedings relating to the dispute unless it has complied with the provisions of this Rule, except where a person seeks urgent interlocutory relief.
- 12.3 The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days of:
- 12.3.1 the dispute coming to the attention of each party; or
 - 12.3.2 a party giving notice, to each of the other parties involved, of the dispute or grievance.
- 12.4 If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, the parties must, as soon as is practicable, hold a meeting in the presence of a mediator.
- 12.5 The mediator is, where possible, to be a person chosen by agreement between the parties, but in the absence of agreement between the parties:
- 12.5.1 for a dispute between a member and another member, a person appointed by the board; or
 - 12.5.2 for a dispute between a member (including a former member) and the co-operative, a person appointed by a mediation service accredited by the Australian Mediation Association).
- 12.6 The mediator may (but need not) be a member of the co-operative unless the member is a party to the dispute.
- 12.7 The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 12.8 The mediator, in conducting the mediation, must:
- 12.8.1 give the parties to the mediation process every opportunity to be heard; and
 - 12.8.2 allow due consideration by all parties of any written statement submitted by any party; and
 - 12.8.3 ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 12.9 The mediator cannot determine the dispute.
- 12.10 The mediation must be confidential and without prejudice.

- 12.11 The costs of the mediation are to be shared equally between the parties unless otherwise agreed.
- 12.12 Nothing in this Rule 12 applies:
 - 12.12.1 to any dispute as to the construction or effect of any mortgage or contract contained in any document other than these Rules; or
 - 12.12.2 any dispute involving the expulsion or suspension of a member or the imposition of a fine.
- 12.13 If the mediation process does not result in the dispute being resolved, each party may seek to resolve the dispute in accordance with the Law or otherwise at law.

Division 3 Members' liability

13. Fines payable by members (CNL ss56 & 126)

- 13.1 The board may impose on a member a fine in an amount determined by the board or such other maximum amount permitted by the Law for a contravention of these Rules.
- 13.2 A fine must not be imposed on a member under Rule 13.1 unless:
 - 13.2.1 written notice of intention to impose the fine and the reason for it has been given to the member; and
 - 13.2.2 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, to show cause why the fine should not be imposed.

14. Liability of members to co-operatives (CNL ss117(2) & 121)

- 14.1 A member is not, as a member, under any personal liability to the co-operative except for any amounts payable by that member to the co-operative as set out in these Rules.
- 14.2 On the death of a member, the members' estate remains liable as the member until the member's personal representative or some other person is registered in the member's place.

Division 4 Member cancellations

15. Forfeiture and cancellations-inactive members (CNL ss156-163)

- 15.1 The board must declare the membership of a member cancelled if:
 - 15.1.1 the whereabouts of the member are not presently known to the co-operative and have not been known to the co-operative for a continuous period of at least 1 year; or
 - 15.1.2 the member is not presently active and has not been active within the meaning of Rule 4 in the previous 1 year.

Division 5 Deceased or incapacitated members

16. Value of interest of deceased member (CNL ss102-105)

The value of the interest of a deceased member is the amount that would have been payable to the member if the member had resigned and includes any prepayments of subscriptions or other fees less any amounts owing to the co-operative by the member.

17. Rights and liabilities of members under bankruptcy or mental incapacity

17.1 If a person's membership ceases because of bankruptcy, the value of the person's membership interest calculated in accordance with Rule 16 may be transferred to the Official Trustee in Bankruptcy.

17.2 A person appointed under a law of a State or Territory to administer the estate of a member who, through mental or physical infirmity, is incapable of managing his or her affairs, may be registered as the holder of the member's interest in the co-operative and the rights and liabilities of membership vest in that person during the period of the appointment.

17.3 Upon application by a person appointed to manage the affairs of a member referred to in Rule 17.2, the board may decide to suspend some or all active membership obligations if there are grounds to believe that the member's physical or mental infirmity is temporary.

Division 6 Transfer of securities other than shares

18. Transfer and transmission of debentures

18.1 The instrument of transfer of a debenture must be executed by the transferor (the giver) and the transferee (the receiver).

18.2 The transferor remains the holder of the debenture until the board consents to the transfer and the name of the transferee is entered in the register of debentures in respect of the debenture.

18.3 The board may decline to recognise any instrument or transfer of a debenture and may decline to register the transfer unless:

18.3.1 a fee of \$10 (or a lesser amount decided by the board) is paid to the co-operative for the transfer of registration; and

18.3.2 the instrument of transfer is accompanied by the relevant debenture(s) and any other evidence the board reasonably requires (in particular, evidence showing the right of the transferor to make the transfer); and

18.3.3 any government stamp duty payable is paid.

18.4 If the co-operative refuses to register a transfer of debentures, it must, within 28 days after the date on which the transfer was lodged with it, send to the transferee notice of the refusal.

18.5 Debentures must be transferred in a form approved by the board.

19. Issue of CCUs (CNL ss345-354)

19.1 The board may confer an interest in the capital of the co-operative by issuing CCUs in accordance with the Law.

- 19.2 Each holder of CCUs:
- 19.2.1 is entitled to one vote only at a meeting of the holders of CCUs;
 - 19.2.2 has, in that capacity, none of the rights or entitlements of a member of the co-operative; and
 - 19.2.3 is entitled to receive notice of all meetings of the co-operative and all other documents in the same manner as the holder of a debenture of the co-operative.
- 19.3 The rights of the holders of CCUs may only be varied in the manner and to the extent provided by their terms of issue and only with the consent of at least 75% of the holders of CCUs given in writing or at a meeting.

20. Transfer and transmission of CCUs

- 20.1 Subject to Rule 20.2, the transfer and transmission of a CCU is to follow the same process as for a debenture under Rule 18.
- 20.2 If the terms of issue of a CCU differ from Rule 18 in respect of the manner of transfer or transmission, the terms of its issue prevail.

Part 3 General meetings, resolutions and voting

21. Annual general meeting (CNL s252)

- 21.1 An annual general meeting must be held each year, at a place and on a date and a time decided by the board, within 5 months after the close of the financial year of the co-operative or within the further time allowed by the Registrar.
- 21.2 The board may, whenever it considers appropriate, call a special general meeting of the co-operative.

22. Members' power to requisition a general meeting (CNL s257)

- 22.1 The board must call a general meeting of the co-operative on the requisition in writing by members who together are able to cast at least 20% of the total number of votes able to be cast at a meeting of the co-operative.
- 22.2 The provisions of section 257 of the Law apply to a meeting requisitioned by members.

23. Notice of general meetings (CNL ss239, 254 & 611)

- 23.1 Subject to Rule 23.2, the board must give each member at least 14 days notice of a each general meeting.
- 23.2 If a special resolution is to be proposed at the meeting at least 21 days notice of that special resolution must be given to the members of the cooperative in accordance with section 187 of the Act.
- 23.3 Notice must be given to each member of the co-operative and any other persons who are, under these Rules or the Law, entitled to receive notices from the co-operative.

- 23.4 The notice must state the place, day and hour of the meeting and include ordinary business as specified in Rule 24 and, for special business, the general nature of any special business.
- 23.5 The notice must also include any business members have notified their intention to move at the meeting under Rule 23.7 (but only if the members' notification has been made under these Rules and within time).
- 23.6 The notice must be served in the manner provided in the Law or Rule 51.
- 23.7 Members who together are able to cast at least 20% of the total number of votes that are able to be cast at a meeting of the co-operative and who have a resolution to submit to a general meeting must give written notice of it to the co-operative at least 45 days before the day of the meeting.

24. **Business of general meetings**

- 24.1 If the co-operative is of a class or description prescribed by the National Regulations as "large", the ordinary business of the annual general meeting is to:
 - 24.1.1 confirm minutes of the last preceding general meeting (whether annual or special); and
 - 24.1.2 receive from the board, auditors or officers of the co-operative:
 - 24.1.2.1 the financial reports of the co-operative for the financial year;
 - 24.1.2.2 a report on the state of affairs of the co-operative; and
 - 24.1.2.3 to elect directors to fill any vacancies on the board.
- 24.2 If the co-operative is of a class or description prescribed by the National Regulations as "small", the ordinary business of the annual general meeting must be:
 - 24.2.1 to confirm minutes of the last preceding general meeting (whether annual or special); and
 - 24.2.2 to receive from the board, auditors or officers of the co-operative:
 - 24.2.2.1 the basic minimum financial statements for the co-operative for the financial year;
 - 24.2.2.2 a report on the state of affairs of the co-operative;
 - 24.2.2.3 a directors' solvency resolution as to whether or not, in their opinion, there are reasonable grounds to believe that the co-operative will be able to pay its debts as and when they become due and payable; and
 - 24.2.2.4 to approve any payments of fees to directors.
- 24.3 The annual general meeting may also transact special business of which notice has been given to members under these Rules.

25. **Quorum at general meetings**

- 25.1 An item of business cannot be transacted at a general meeting unless a quorum of members is present when the meeting is considering the item.
- 25.2 Unless these Rules state otherwise, the quorum of the co-operative is:
- 25.2.1 if less than 20 members present, 50% of members each being entitled to exercise a vote; or
- 25.2.2 if more than 20 members present, 10 members each being entitled to exercise a vote.
- 25.3 If a quorum is not present within half an hour after the appointed time for a meeting, the meeting, if called on the requisition of members, must be dissolved. In any other case it must be adjourned to the same day, time and place in the next week.
- 25.4 If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

26. **Chairperson at general meetings**

- 26.1 The chairperson, if any, of the board may preside as chairperson at every general meeting of the co-operative.
- 26.2 If there is no chairperson, or if at a 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, the members present must choose someone from their number to be chairperson (until the chairperson attends and is willing to act).
- 26.3 The chairperson may, with the consent of a meeting at which a quorum is present (and must if directed by the meeting) adjourn the meeting from time to time and from place to place. However, the only business that can be transacted at an adjourned meeting is the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more, notice of the adjourned meeting must be given just as for the original meeting. Apart from this it is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting.

27. **Attendance and voting at general meetings (CNL ss228 & 256)**

- 27.1 The right to vote attaches to active membership.
- 27.2 Subject to Rules 27.3 and 27.4, a question for decision at any general meeting must be decided on a show of hands of members present at the meeting.
- 27.3 A poll may be demanded on any question for decision.
- 27.4 If before a vote is taken or before or immediately after the declaration of the result on a show of hands:
- 27.4.1 the chairperson directs that the question is to be determined by a poll; or
- 27.4.2 at least 5 members present in person or represented by proxy demand a poll,

the question for decision must be determined by a poll.

- 27.5 The poll must be taken when and in the manner that the chairperson directs.
- 27.6 A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.
- 27.7 Once the votes on a show of hands or on a poll have been counted then, subject to Rule 27.4, a declaration by the chairperson that a resolution has been carried (unanimously or by a particular majority) or lost is evidence of that fact.
- 27.8 In the case of an equality of votes at a general meeting of the co-operative, the chair may not exercise a second or casting vote. In the event of an equality of votes in favour and against a resolution, the resolution is taken to have been decided in the negative.
- 27.9 The result of the vote must be entered in the minute book.
- 27.10 A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.

28. **Voting on a show of hands (CNL ss234 & 256)**

On a show of hands at a general meeting, each member:

- 28.1 present; or
 - 28.2 represented by a non-member acting under a power of attorney; or
 - 28.3 represented by a non-member appointed under the provisions of the Law; or
 - 28.4 represented by a proxy (but only if proxies are allowed under these Rules);
- may exercise only one vote.

29. **Voting on a poll**

On a poll called at a general meeting, each member:

- 29.1 present; or
- 29.2 represented by a person acting under a power of attorney; or
- 29.3 represented by a person appointed under the provisions of the Law; or
- 29.4 represented by a proxy (but only if proxies are allowed under these Rules);
- 29.5 has one vote.

30. **Proxy votes (s229)**

- 30.1 Voting may be by proxy at a general meeting.
- 30.2 The instrument appointing a proxy must be in writing signed by the appointer or the appointer's attorney properly authorised in writing.

- 30.3 An instrument appointing a proxy may direct the way the proxy is to vote in relation to a particular resolution and, if an instrument of proxy directs, the proxy is not entitled to vote on the resolution other than as directed in the instrument.
- 30.4 No person may:
- 30.4.1 act as a proxy unless they are an active member; or
 - 30.4.2 vote on a resolution by proxy for more than 5 members who have no directed a way to vote on the resolution.
- 30.5 An instrument appointing a proxy may be in the form approved by the board.
- 30.6 An instrument appointing a proxy is not valid until the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of the power or authority, are deposited, at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, at the registered office of the co-operative or at another place specified for the purpose in the notice calling the meeting.
- 30.7 A vote given in accordance with an instrument of proxy or a power of attorney is valid despite 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 start of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

31. Postal ballots (other than special postal ballots) (CNL ss247 & 250)

- 31.1 The board may resolve to conduct a postal ballot for a proposed ordinary or special resolution.
- 31.2 A postal ballot must be held in respect of a special resolution where members who together are able to cast at least 20% (or a lesser percentage which may be substituted here) of the total number of votes able to be cast at a meeting of the co-operative may requisition the board to conduct the special resolution by postal ballot.
- 31.3 A postal ballot is to be conducted in accordance with the National Regulations and in the form and manner determined by the board.
- 31.4 The board may determine in a particular case whether the special resolution by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
- 31.5 If the board decides to conduct a secret postal ballot, it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.
- 31.6 The board is to appoint a returning officer to conduct the postal ballot. In default of such an appointment, the secretary is the returning officer.
- 31.7 Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members giving:

31.7.1 particulars of the business in relation to which the postal ballot is being conducted; and

31.7.2 an explanation of how to lodge a valid vote and the majority required to pass the vote; and

31.7.3 notice of the closing date and closing time of the postal ballot,

and must be sent to members so that they arrive (assuming standard postal times) at least 21 days before the closing date of the postal ballot.

31.8 This rule does not apply in relation to special postal ballots.

32. **Special postal ballots (CNL ss248 & 249)**

32.1 Certain significant decisions in a co-operative are required to be made by special resolution in a special postal ballot. These decisions are listed in section 249 of the Law.

32.2 This Rule applies where a special postal ballot is required.

32.3 Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members so that they arrive (assuming standard postal times) at least 28 days before the closing date of the special postal ballot.

32.4 The board may determine in a particular case whether the special resolution by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.

32.5 If the board decides to conduct a secret postal ballot, it must ensure that the method used to conduct the ballot will ensure that votes can be counted without identifying the way each member has voted.

33. **Ordinary and Special resolutions (CNL ss238-241)**

33.1 Certain decision in a co-operative are required by the Law to be made by special resolution. These include amending these Rules.

33.2 Special resolutions can be made by a general meeting, a postal ballot or a special postal ballot.

33.3 All other decisions made by the members of the co-operative must be decided by ordinary resolution.

33.4 A special resolution is a resolution that is passed:

33.4.1 by a two-thirds majority at a general meeting; or

33.4.2 by a two-thirds majority in a postal ballot (other than a special postal ballot) of members; or

33.4.3 by a three-quarters majority in a special postal ballot of members.

33.5 A notice of special resolution is required to be given to members at least 21 days before the vote or ballot time (or 28 days notice in the case of a special postal ballot).

33.6 The notice of special resolution must state:

- 33.6.1 the intention to propose the special resolution; and
- 33.6.2 the reasons for proposing the special resolution; and
- 33.6.3 the effect of the special resolution being passed.

33.7 An ordinary resolution is a resolution that is passed by a simple majority at a general meeting of the co-operative or in a postal ballot of members.

Part 4 Board of directors

34. Board (CNL s172)

- 34.1 The business of the co-operative is to be managed by or under the direction of the board of directors, and for that purpose the board has and may exercise all the powers of the co-operative that are not required to be exercised by the co-operative in general meeting.
- 34.2 The board may delegate any of its powers to committees consisting of such of its members as it appoints. Any committee so appointed shall in the exercise of the powers so delegated conform to any directions that may be given by the board.
- 34.3 Subject to Rule 43.6, the board must have at least 3 directors and no more than 7.

35. Composition of the board

- 35.1 Subject to Rules 34.3 and 36, the board must consist of the following:
 - 35.1.1 two member directors;
 - 35.1.2 one non-member director; and
 - 35.1.3 any other directors, whether active or non-active members of the co-operative, as the board considers necessary.

36. Qualifications of directors (CNL s174)

- 36.1 A person is not qualified to be a director of the co-operative unless the person is an individual over the age of 18 years and is either:
 - 36.1.1 an active member of the co-operative or a representative of a corporation that is an active member of the co-operative; or
 - 36.1.2 not an active member but who possesses special skills in management or other technical areas of benefit to the co-operative as specified by the board from time to time.
- 36.2 A person qualified to be a director under Rule 36.1.1 is known as a "**member director**". A person qualified under Rule 36.1.2 is known as a "**non-member director**".
- 36.3 The board of directors must have a majority of member directors.

37. Managing Director (CNL ss172 & 178)

- 37.1 The Board may appoint and determine the identity, powers and authority of a Managing Director of the co-operative from time to time. The rest of this Rule 37 only applies if a Managing Director has been appointed.

- 37.2 The Managing Director is responsible for the day-to-day management of the co-operative.
- 37.3 The conditions and the period of appointment including termination must be decided by the board.
- 37.4 The Managing Director is not entitled to be present or to vote at a meeting of directors on a motion concerning the conditions of his or her own appointment, conditions of service or termination of service.
- 37.5 The Managing Director is required to be an active member of the co-operative.
- 37.6 In the event of any conflict between the terms of the appointment of a person as the Managing Director and that person's obligations or privileges under the Law, the terms of the Law prevail over the terms of appointment.
- 38. Election of directors (CNL ss173 & 179)**
- 38.1 Directors are elected at annual general meetings.
- 38.2 The term of office of directors commences from the annual general meeting at which they are elected and ends on the day of the third annual general meeting thereafter.
- 38.3 The board has the discretion to set a lower term of office set out in Rule 38.2 in accordance with an applicable policy adopted in accordance with Rule 48.
- 38.4 A retiring director is eligible for re-election.
- 38.5 The members of the board are to be elected in the manner specified in this Rule.
- 38.6 A director elected at an annual general meeting to fill a vacant position arising from a casual vacancy shall retire at the same time as the director who vacated the office would have done if that director had not vacated it.
- 38.7 Nominations for candidates to fill the vacant position shall be sought in such a manner as the board determines.
- 38.8 If the number of nominees exceeds the number of vacancies, the election of directors must be conducted at the meeting by ballot as follows:
- 38.8.1 A returning officer is elected at the meeting. The directors, the secretary and anyone who has an interest in the election are not eligible to be the returning officer.
- 38.8.2 All nominees are to be listed on the ballot form in alphabetical order.
- 38.8.3 The returning officer is responsible for determining the validity of and counting of the votes.
- 38.8.4 If there is an equality of votes, the outcome must be determined by lot.
- 38.8.5 The returning officer is to declare the election results.
- 38.9 If any vacancies remain at the end of the meeting, the vacancies are to be casual vacancies and must be filled in accordance with rule 41.

39. **Removal from office of director (CNL s180)**

The co-operative may by resolution under section 180 of the Law, with special notice as required by that section, remove a director before the end of the director's period of office, and may by a simple majority appoint another person in place of the removed director. The person appointed must retire when the removed director would otherwise have retired.

40. **Vacation of office of director (CNL s179)**

In addition to the circumstances set out in the Law, a director vacates office if the director dies.

41. **Casual vacancies (CNL ss173)**

The board may appoint a qualified person to fill a casual vacancy in the office of director but the person appointed must retire at the next annual general meeting.

42. **Remuneration of directors (CNL s203)**

Directors' remuneration must be approved at a general meeting of the co-operative, other than travelling and other expenses incurred in attending board or general meetings of the co-operative.

43. **Proceedings of the board (CNL ss175 & 176)**

43.1 Meetings of the board (including meetings conducted outside board meetings pursuant to section 176 of the Law) are to be held as often as may be necessary for properly conducting the business of the co-operative and must be held at least every 3 months.

43.2 Questions arising at a meeting must be decided by a majority of votes.

43.3 If votes are equal, the chairperson may cast a second or casting vote.

43.4 Other than in special circumstances decided by the chairperson, at least 48 hours notice must be given to the directors of all meetings of the board, without which the meeting cannot be held.

43.5 A board member not physically present at a board meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.

43.6 If the number of board members falls below 3 for any reason, the remaining board members may meet but only for the purpose of either:

43.6.1 electing a director in accordance with Rule 41; or

43.6.2 convening a general meeting of members to elect a director.

No other business may be conducted at that meeting of directors.

44. **Quorum for board meetings (CNL s175)**

44.1 The quorum for a meeting of the board is 50% of the number of directors (or if that percentage of the number of directors is not a whole number, the whole number next higher than one half).

44.2 For a quorum, the number of member directors must outnumber the non-member directors by at least one.

45. **Chairperson of board**

If the chairperson is not present within 15 minutes after the time fixed 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 the chairperson attends and is willing to act as chairperson.

46. **Minutes**

46.1 The board must keep minutes of meetings and, in particular, of:

46.1.1 all appointments of officers and employees made by the directors; and

46.1.2 the names of the directors present at each meeting of the board and of a committee of the board; and

46.1.3 all resolutions and proceedings at all meetings of the co-operative and of directors and of committees of directors.

46.2 Minutes must be entered in the appropriate records within 28 days of the meeting to which they relate was held.

46.3 The minutes are to be signed within a reasonable time after the meeting to which they relate by either the chairperson of that meeting or the chairperson of the next meeting.

Part 5 Rules

47. **Amendments and copies of Rules (CNL ss57 & 60-63)**

47.1 Any amendment of the rules must be approved by special resolution.

47.2 A proposal to amend these Rules of the co-operative must be made in a form approved by the board which clearly shows the existing rule or rules concerned and any proposed amendment to those rules.

47.3 A member is entitled to a copy of the rules for a fee nominated by the board, provided the fee is no greater than the fee charged by the Registrar at the time of the request.

Part 6 Administrative matters

48. **Policy**

48.1 The board may make policies for the co-operative, not inconsistent with the Law, the National Regulations, the rules or any other law, to govern the co-operative's activities, conduct and dealings generally.

48.2 A breach of a co-operative policy will be deemed to be a contravention of these Rules.

48.3 To the extent of any inconsistency between these Rules and any policies of the co-operative, these Rules prevail.

49. **Execution of documents**

Documents of the co-operative are authenticated or executed by two directors, or a director and the secretary.

50. **Safe keeping of securities**

Shares, debentures, charges and any other certificates or documents or duplicates of them pertaining to securities must be safely kept by the co-operative in the way and with the provision for their security as the board directs.

51. **Notices to members (CNL s611)**

51.1 This rule applies in addition to section 611 of the Law regarding how a notice or other document may be given to a member of the co-operative.

51.2 A notice or other document required to be given to a member of the co-operative may be given by the co-operative to any member by any form of technology (for example, by fax or email), where the member has given consent and notified the co-operative of the relevant contact details.

51.3 If a notice is sent by post, service is taken to be effected at the time at which the properly addressed and prepaid letter would be delivered in the ordinary course of post. In proving service by post, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.

51.4 A notice forwarded by some other form of technology is taken 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.

51.5 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, and:

51.5.1 the address should be that supplied for the purpose by the person claiming to be entitled; or

51.5.2 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.

Part 7 Accounting and financial matters

52. **Financial year**

The financial year of the co-operative ends on 30 June.

53. **Accounts**

53.1 The board must have at least one financial institution account, electronic or otherwise, in the name of the co-operative, into which all amounts received by the co-operative must be paid as soon as possible after receipt.

- 53.2 All cheques drawn on the accounts, and all drafts, bills of exchange, promissory notes and other negotiable instruments, of the co-operative must be signed by 2 authorised persons.
- 53.3 The operation of any electronic accounts must be restricted so that there is a requirement for authorisation by:
- 53.3.1 2 authorised persons; or
- 53.3.2 1 authorised person for smaller transactions up to a limit set by the Board.
- 53.4 For the purposes of this rule, an “**authorised person**” is:
- 53.4.1 a director; or
- 53.4.2 a person approved by the board.

54. Appointing an auditor or reviewer

- 54.1 If the co-operative is a large co-operative, it must appoint an auditor in accordance with the procedures under the Law.
- 54.2 If the co-operative is a small co-operative and it is directed to prepare a financial report under section 271 or 272 of the Law and the direction requires that the financial report be audited or reviewed (whichever is applicable), the board must appoint an auditor or reviewer within one month of the direction.
- 54.3 An auditor or reviewer (whichever is applicable) appointed under this rule holds office until the financial report prepared as a result of the direction has been audited or reviewed and sent to members.

55. Disposal of surplus funds during a financial year (CNL ss19, 355 & 356)

- 55.1 The board may retain all or part of the surplus arising in any year from the business of the co-operative, to be applied for the benefit of the co-operative.
- 55.2 No part of the surplus may be paid or transferred directly or indirectly, by way of profit, to members of the co-operative.
- 55.3 A part of the surplus, but not more than 10%, arising in any year from the business of the co-operative may be applied for charitable purposes.

56. Provision for loss

The board must make appropriate provision for losses in the co-operative's accounts and when reporting to members is to indicate whether the loss is expected to continue and whether there is any real prejudice to the co-operative's solvency.

57. Financial reports to members (CNL Part 3.3)

The co-operative must prepare financial reports and statements in accordance with the Law, the National Regulations and these Rules.

Part 8 Winding up

58. Winding up (CNL Part 4.5)

- 58.1 The winding up of the co-operative must be in accordance with Part 4.5 of the Law.

- 58.2 If, on the winding up or dissolution, there remains any property after the satisfaction of all its debts and liabilities, this must not be paid to or distributed among the members of the co-operative but must be given or transferred to an institution or institutions:
- 58.2.1 with objects similar to those of the co-operative; and
 - 58.2.2 whose constitution prohibits the distribution of its property among its members; and
 - 58.2.3 chosen by the members of the co-operative at or before the dissolution or, in default, by a judge of the court with jurisdiction in the matter.