

RULES OF Hen House Cooperative Limited

Non-distributing co-operative without share capital

South Australia

Approved by the Registrar on: 11 June 2019

Adopted by the co-operative on:

How to use your rules

The constitution of your co-operative is a set of rules that apply specifically to your co-operative.

The rules set out how it operates internally, the governance structure, meetings and voting. Most importantly like any contract, it specifies what the co-operative will be doing and how members will work with their co-operative and how they work with each other.

As a non-distributing co-operative there are clear restrictions on the return of any profits or surplus to members in these rules and under the law.

All co-operatives are subject to the legal system like any other organisation. Do not treat the rules as though they are the only requirements that impact on how a co-operative operates both internally and in business. Co-operatives are required to abide by all laws, including the law under which they are registered.

For South Australia the legislation is a uniform code called the Co-operatives National Law or the CNL.

1.1 CO-OPERATIVE NAME

The name of the co-operative is Hen House Cooperative Limited.

1.2 DEFINITIONS

In these rules: Either of the words **Law** or **Act** means the co-operatives legislation applying in this jurisdiction. **co-operatives legislation applying in this jurisdiction** means:

for co-operatives registered in Western Australia, the Co-operatives Act 2009 (WA). for co-operatives registered in Queensland, the Cooperatives Act 1997 (Qld). for co-operatives registered in all other States and Territories, the Co-operatives National Law or CNL.

year means the co-operative's financial year as defined in these rules.

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 co-operatives legislation applying in this jurisdiction, unless they are specifically defined elsewhere in these rules.

1.3 PURPOSE

The co-operative will carry on business having the following as its primary objects:

1. To close the gender investment gap through the facilitation of

- Incubating initiatives to address the gender investment gap;
- Information and education programs to close the gender investment gap;
- Network and project initiatives to close the gender investment gap;
- application of co-operative values and principles as defined by the International Cooperative Alliance;
- Rendering services to female founded ventures
- Procuring services from a female founded venture

1.3A PRIMARY ACTIVITIES

The primary activities of the co-operative are:

1. to measure, monitor and publicise individual, community efforts
2. deliver an incubator program for disadvantaged women to create micro-enterprises
3. support existing female founded micro-enterprise co-operatives who are members of the Hen House.

1.3B ACTIVE MEMBERSHIP

In order to establish and maintain active membership of the co-operative a member must participate in an annual commitment to participate in one self- identified action to close the gender investment gap

1.4 CANCELLATION OF MEMBERSHIP FOR INACTIVITY

The board must declare the membership of a member cancelled if:

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 3 years; or
2. the member is not presently active and has not been active within the meaning of rule 1.3B in the past 2 years .

Note: Cancellation of a person's membership requires a procedure set out in the relevant co-operatives legislation. Cancellation leads to a loss of rights and so requires notice to the member where possible. Cancellation will trigger an obligation to repay share capital to the member. The board of the co-operative has a responsibility to cancel inactive members.

CATEGORY TWO - Membership status, rights and obligations

In addition to the requirements for active membership the following rules will determine who can be a member, how they become a member and how they lose their membership. A person's membership status will in turn determine what rights the member has within the co-operative.

These rules also include processes to settle disputes within the co-operative and how to deal with members who are not compliant with the rules or who are no longer able to comply with the rules because of death, disability or because the member has become bankrupt or insolvent (corporate members).

2.1 MEMBER QUALIFICATIONS

A person qualifies for membership of the co-operative if the person is able to use or contribute to the services of the co-operative.

2.2 MEMBER APPLICATIONS, FEES, AND ANNUAL SUBSCRIPTIONS

1. Applications for membership must be lodged at the registered office of the co-operative using the application form approved by the board and should be accompanied by payment of
 - a. any application fee as determined by the board from time to time and published at the registered office and
 - b. payment of the annual subscription under rule 3.1
2. Every application for membership must be considered by the board.
3. If the board approves of the application, the applicant's name and any other information required under the Law must be entered in the register of members within 28 days of the board's approval.
4. The applicant must be notified in writing of the entry in the register and the applicant is then entitled to the privileges attaching to membership.
5. The board may, at its discretion, refuse an application for membership.
6. The board need not assign reasons for the refusal. On refusal, any amounts accompanying the application for membership, other than the application fee referred to in paragraph 1.a of this rule, must be refunded within 28 days without interest.

Note: The application fee is designed to cover the administrative costs of dealing with an application for membership. As well as being published at the registered office of the co-operative it should also appear as part of the application for membership. The amount of the annual subscription should also be disclosed on the application for membership.

2.3 WHEN MEMBERSHIP CEASES

1. A person will cease to be a member of the co-operative in each of the following circumstances and as otherwise provided by Law if:
 - a. the member's membership is canceled in accordance with these rules or the Law;
 - b. the member is expelled or resigns under these rules;
 - c. the contract of membership is rescinded on the ground of misrepresentation or mistake;
 - d. for a member that is a corporation—the corporation is deregistered;
 - e. for a member who is a natural person and not a joint member with other persons—the member dies.
2. Except as otherwise provided by Law a member will not cease to be a member of a co-operative if the member:
 - a. is an individual and becomes bankrupt and their property is subject to control under laws relating to bankruptcy, or
 - b. the member is a corporate member that becomes insolvent and subject to control under laws relating to the insolvency.

2.4 MEMBER RESIGNATION

A member may resign from the co-operative by giving one month's notice in writing or such lesser period of time approved by a resolution of the board in a particular case.

2.5 EXPELLING A MEMBER

1. A member may be expelled from the co-operative by special resolution to the effect:
 - a. that the member has seriously or repeatedly failed to discharge the member's obligations to the co-operative under these rules, or any contract or memorandum of understanding entered into by the member with the co-operative; or
 - b. that the member has acted in a way that has:
 - i. prevented or hindered the co-operative in carrying out its primary activity or one or more of its primary activities; or
 - ii. brought the co-operative into disrepute; or iii. been contrary to one or more of the co-operative principles and has caused the co-operative harm.
2. Written notice of the proposed special resolution must be given to the member at least 28 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.
3. At the general meeting when the special resolution for expulsion is proposed the following procedures apply:
 - a. at the meeting, 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;
 - b. 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;
 - c. once the alleged conduct is considered, the co-operative may decide to expel the member concerned;
 - d. 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;
 - e. 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 the attorney, vote in favour of the motion.
4. Expulsion of one joint member means expulsion of all members holding membership jointly

with the expelled member.

5. An expelled member must not be re-admitted as a member unless the re-admission is approved by special resolution.

2.6 FINANCIAL CONSEQUENCES OF RESIGNATION OR EXPULSION

1. 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.
2. If a member who is expelled or who resigns from the co-operative has prepaid an annual subscription, and
 - a. the amount of the annual subscription is less than \$200 the co-operative may retain the whole of the prepaid annual subscription; or
 - b. the amount of the annual subscription is greater than \$200 the co-operative must refund a pro-rated amount for the remainder of the subscription period less any reasonable costs incurred in administering a refund.

2.7 SUSPENDING A MEMBER

1. The board of the co-operative may suspend a member for not more than one year, who does any of the following:
 - a. contravenes any of these rules;
 - b. fails to discharge obligations to the co-operative, whether under these rules, a contract or memorandum of understanding; or
 - c. acts detrimentally to the interests of the co-operative.
2. In order to suspend a member, the board must give written notice to the member of its intention to suspend membership. Such written notice must include the grounds for suspension and allow the member a reasonable time and opportunity to respond in writing to the notice.
3. The board may, of its own motion or on the request of the member, convene a board meeting to consider suspension of the member.
4. If the board resolves to suspend a member then it must provide the member with written notice of such suspension, the terms of the suspension and the reasons for suspension.
5. During the period of suspension, the member:
 - a. loses any rights (except the right to vote) arising as a result of membership; and
 - b. is not entitled to a refund, rebate, relief or credit for amounts paid or payable to the co-operative under these rules.

6. A member may appeal against the decision of the board to suspend membership within 14 days of the board's decision.
7. An appeal against suspension may be dealt with at a general meeting of the co-operative called to consider a special resolution to confirm or overturn the suspension decision by the board.
8. An appeal against suspension shall follow the same procedure set out for the expulsion of a member under rule 2.5.3.
9. A decision by the board to suspend a member does not take effect until the time for appeal has expired or the appeal against such suspension has been determined.

2.8 DISPUTE RESOLUTION

1. The grievance procedure set out in this rule applies to disputes under these rules between:
 - a. a member and another member; or
 - b. a member and the co-operative.
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.
3. The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days of:
 - a. the dispute coming to the attention of each party; or
 - b. a party giving notice, to each of the other parties involved, of the dispute or grievance.
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.
5. The mediator is, where possible, to be chosen by agreement between the parties, but, in the absence of agreement between the parties:
 - a. for a dispute between a member and another member, a person appointed by the board; or
 - b. for a dispute between a member (including a former member) and the co-operative, a person appointed by the Australian Mediation Association or a similar organisation that provides alternative dispute resolution services.
6. The mediator may (but need not) be a member of the co-operative, unless the member is a party to the dispute.
7. The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
8. The mediator, in concluding the mediation, must:
 - a. give the parties to the mediation process every opportunity to be heard; and
 - b. allow due consideration by all parties of any written statement submitted by any party; and
 - c. ensure that natural justice is accorded to the parties to the dispute throughout the

mediation process.

9. The mediator cannot determine the dispute.
10. The mediation must be confidential and without prejudice.
11. The costs of the mediation are to be shared equally between the parties unless otherwise agreed.
12. Nothing in this rule applies to any dispute as to the construction or effect of any mortgage or contract contained in any document other than these rules.
13. Nothing in this rule applies to any dispute involving the expulsion or suspension of a member.
14. 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.
15. In this rule the word *member* includes any person who was a member not more than 6 months before the dispute occurred.

2.9 FINES PAYABLE BY MEMBERS

No fines are to be imposed on members in any circumstances.

2.10 LIABILITY OF MEMBERS

1. A member is liable to the co-operative for the amount, if any, unpaid by the member in respect of entry fees and regular subscriptions, together with any charges payable by the member to the co-operative under these rules.
2. Joint members are jointly and severally liable for any amount unpaid in respect of items mentioned in paragraph 1 of this rule.

2.11 VALUE OF INTEREST OF DECEASED MEMBER

The value of the interest of a deceased member, who is not part of a joint membership, is the amount that would have been payable to the member if the member had resigned.

2.12 RIGHTS AND LIABILITIES OF MEMBERS WHO ARE BANKRUPT, INSOLVENT OR OTHERWISE INCAPABLE

1. The interests of an individual member who becomes bankrupt or a corporate member who becomes insolvent may be transferred to the member's trustee, administrator or liquidator, as the case may be, in accordance with the laws dealing with such events.

2. A person appointed under a law of a State or Territory to administer the estate of a person who, through mental or physical incapacity, is incapable of managing their affairs, may be registered as a member and the rights and liabilities of membership vest in that person during the period of the appointment.
3. Upon application by a person appointed to manage the affairs of a member referred to in paragraph 2 of this rule, the board may decide to suspend some or all active membership obligations if there are grounds to believe that the member's mental or physical incapacity is temporary.

Note: If a member becomes bankrupt (natural person) or insolvent (corporation) or mentally or physically unfit and unable to manage their affairs, then various laws provide that another qualified person will take charge of that person's financial affairs. For a bankrupt it is usually a trustee in bankruptcy, for a person who is mentally or otherwise incapable, it will be a legal personal representative or a trustee, for a corporate member it will be either an administrator or liquidator who is substituted as the person with authority to deal with that person's financial affairs.

CATEGORY THREE - FINANCE AND SECURITIES

The finance and securities rules in this category set out the annual subscription and how the subscription is amended.

Co-operatives can issue other types of securities, such as debentures to raise funds for the operation of the co-operative. These securities may carry interest for the security holder.

3.1 MEMBER SUBSCRIPTIONS

Members must pay an annual subscription of \$99 or such other amount determined by a special resolution passed at the annual general meeting and published at the co-operative's registered office or on its website.

Note: The annual subscription is a key cost of membership and may in some co-operatives constitute the only obligation for an active member. Members must be given information about the subscription amount in any material published by the co-operative. Changes to the amount of the subscription require a special resolution (see rules 5.12 and 6.8). Rule 2.2 requires the first annual subscription to be paid at the time of making the application for membership. Co-operatives may adopt administrative procedures to collect subscriptions either annually, monthly or at other intervals, provided that the amount collected annually does not exceed the amount nominated in this rule.

3.2 TRANSFER OF DEBENTURES AND OTHER SECURITIES

1. Debentures and other securities may be transferred using an instrument or form approved by the board that is executed by or on behalf of the transferor and the transferee.
2. The transferor is taken to remain the holder of the security until the transferee's name is

entered in the register that records the holders of these securities.

3. The board may decline to register an instrument or form transferring a security:
 - a. if the transfer would be contrary to the terms of issue of such security, or
 - b. if the transfer fee (as noted on the transfer form or instrument) is not paid to the co- operative for the transfer of registration.
4. The board of the co-operative may require the instrument or form of transfer to be accompanied by:
 - a. the relevant security certificate(s) and any other evidence the board reasonably requires (in particular, evidence showing the right of the transferor to make the transfer); and
 - b. evidence of the payment of any government duty where such duty is payable.
5. If the co-operative refuses to register a transfer of securities under this rule, it must, within 28 days after the date on which the transfer was lodged with it, send to the transferee notice of the refusal.

3.3 ISSUE OF CO-OPERATIVE CAPITAL UNITS (CCUs)

1. The board may confer an interest in the capital of the co-operative by issuing CCUs in accordance with the Law.
2. At a meeting of CCU holders, each CCU holder is entitled to one vote per CCU held.
3. The rights of the holders of CCUs may be varied only in the way and to the extent provided by their terms of issue and only with the consent of at least 75% of those holders of CCUs who, being entitled to do so, cast a formal vote to accept the variation at a meeting.
4. The holder of a CCU has in the person's capacity as a holder of a CCU, none of the rights or entitlements of a member of the co-operative.
5. The holder of a CCU is entitled to receive notice of all relevant meetings of the co-operative and all other documents in the same manner as the holder of a debenture of the co- operative.

CATEGORY 4 - Board of directors and board meetings

Co-operatives, like all corporations, are managed by a board so that decisions about the operation of the business can be made quickly by persons with the necessary skills. This category of rules deals with the board composition, size, how directors are elected, including the first directors of the co-operative, and how they conduct board meetings. It also deals with the removal and retirement of directors.

All directors are subject to statutory and common law duties to act in the best interests of the co- operative, honestly and with care and diligence. The board of a co-operative must comprise a majority of directors who are also active members of the co-operative.

4.1 BOARD OF DIRECTORS

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.
2. The board must have 5 directors.
3. The board may, by resolution, delegate any of the board's powers (other than this power of delegation) provided that the delegation:
 - a. is in writing,
 - b. is only a delegation of power to a committee that includes a minimum of 2 directors,
and
 - c. the instrument of delegation clearly describes the power delegated and any limitations on the exercise of such delegated power.

Note: A co-operative board may establish committees to assist with particular functions in an advisory capacity or they can delegate specific functions to a committee. It is common to establish committees that can concentrate on specialist issues such as marketing, finance or member engagement committees. Committees with delegated power must be overseen carefully by the board where the delegation permits the committee to make arrangements binding on the co-operative. This rule does not apply to a person who is employed by the co-operative. An employee, such as a CEO or General Manager has delegated authority to carry out functions specified in their contract of employment.

4.2 QUALIFICATIONS OF DIRECTORS

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:
 - a. an active member of the co-operative or a representative of a corporation that is an active member of the co-operative; or
 - b. 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.
2. A person qualified to be a director under paragraph 1.a is known as a "member director". A person qualified under paragraph 1.b is known as a "non-member director" or "independent director".
3. The board of directors must have a majority of member directors.

4.3 FIRST DIRECTORS AND TERMS OF OFFICE

1. The first directors are those directors who are elected at the formation meeting.
2. The term of office for a director (other than a first director) is three years ending on the day of the third annual general meeting after the director's election.
3. The term of office of the first directors shall be determined at the formation meeting in order to enable their retirement by rotation and in any event, shall be no more than three years ending on the day of the third annual general meeting after the formation meeting.

4.4 ELECTION OF DIRECTORS

1. The members of the board are to be elected in the manner specified in this rule.
2. At an annual general meeting at which there are vacancies in the office of director as a result of retirement or due to a casual vacancy, the vacated office may be filled in the following manner:
 - a. At least 6 weeks before the annual general meeting, the board must:
 - i. notify all members of the number of directors retiring at the annual general meeting and any casual vacancies to be filled; and ii. advise the members of:
 - A. their eligibility to nominate as a director; and
 - B. the duties and responsibilities of a director; and
 - C. the anticipated remuneration (if any); and
 - D. the nomination and election procedures.
3. A notice must also be displayed at the place of business of the co-operative inviting nominations of persons to serve as directors.
4. A nomination for election of a member director must:
 - a. be signed by 2 or more members; and
 - b. provide details of the qualifications and experience of the person nominated; and
 - c. be accompanied by a notice in writing signed by the nominee
 - d. consenting to their nomination.
5. A nomination for election of a non-member or independent director must:
 - a. be signed by 2 member directors; and
 - b. provide details of the qualifications and experience of the person nominated; and c. be accompanied by a notice in writing signed by the nominee consenting to their nomination.
6. The nomination and the notice of consent must be lodged with the secretary of the co-operative at least 30 days before the annual general meeting.
7. The secretary, or an officer nominated by the board, must give details of each person who has been nominated to members with the notice of the annual general meeting. Details to be provided to

members must include:

- a. the nominee's name; and b. the nominee's qualifications and experience; and c. the nominee's length of any previous service as a director of the co-operative or with any other co-operative.
8. If the number of nominees equals the number of vacancies, the nominees must be declared elected at the annual general meeting.
 9. If there are insufficient nominees to fill all vacancies, the nominees must be declared elected at the annual general meeting and any remaining vacancies will become casual vacancies.
 10. If the number of nominees exceeds the number of vacancies, the election of directors must be conducted at the meeting by ballot as follows:
 - a. 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.
 - b. all nominees are to be listed on the ballot form in alphabetical order.
 - c. the returning officer is responsible for determining the validity of and counting of the votes.
 - d. if there is an equality of votes, there must be a new ballot.
 - e. the returning officer is to declare the election results.

4.5 REMOVAL FROM OFFICE OF A DIRECTOR

1. The co-operative may by resolution under the Law, with special notice, 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. 2. For the purposes of this rule, 'special notice' is a notice required under the Law to be given 2 months prior to the meeting at which the resolution is to be considered.

4.6 WHEN A DIRECTOR VACATES OFFICE AND CASUAL VACANCIES

1. In addition to the circumstances set out in *s179 of the CNL* a director vacates office if the director dies or becomes unable to manage their affairs by reason of mental illness.
2. The board may appoint a qualified person to fill a casual vacancy in the office of director that arises because of an event referred to in paragraph one of this rule or because there were insufficient nominees for election at an annual general meeting.
3. A person appointed to fill a vacancy under paragraph 2 of this rule is appointed until the next annual general meeting.

4.7 ALTERNATE DIRECTORS

1. The board may appoint a person to act as a director (an alternate director or deputy director) in the place of an absent director (the principal director).
2. A person is not qualified to be appointed as an alternate or deputy director for:
 - a. a member director—unless the person is qualified for appointment as a member director; or
 - b. a non-member director—unless the person is qualified for appointment as a non-member director.
3. An alternate or deputy director holds office until the next annual general meeting or until the next general meeting held to elect directors to fill any vacancies (whichever is earlier).
4. An alternate or deputy director for a director (the principal director) vacates office:
 - a. in similar circumstances or cases to those in which the principal director would vacate office under these rules or
 - b. if the alternate or deputy director is removed from office by the board as alternate or deputy director for failure, without its leave, to attend a meeting of the board at which the principal director is absent.

4.8 DIRECTOR REMUNERATION

Directors' remuneration must be approved at a general meeting.

Note: Co-operatives legislation requires all director fees, remuneration and benefits to be approved by members. Directors may claim expenses relevant to their obligations without member approval.

4.9 PROCEEDINGS OF THE BOARD

1. Meetings of the board 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.
2. A meeting may be held with one or more of the directors participating by using a form of communication that allows reasonably contemporaneous and continuous communication between the directors taking part in the meeting.
3. Questions arising at a meeting must be decided by a majority of votes.
4. If votes are equal, the chairperson, if a member director, has a second or casting vote.
5. 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.

Note: Directors may also consider and pass resolutions by circulating papers that require each director to record their vote and sign without a physical meeting. The Law provides a process for circulating resolutions.

4.10 BOARD QUORUM

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 50%).
2. For a quorum, the number of member directors must outnumber the non-member directors by at least one.

4.11 CHAIRPERSON OF BOARD

1. The chairperson of the board is to be elected by the board and may be removed by resolution of the board. On a resolution to remove the chairperson, the chairperson is not entitled to cast a vote.
2. If no chairperson is elected or 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.

4.12 MINUTES OF BOARD AND OTHER MEETINGS

1. The board must keep minutes of meetings and, in particular, of:
 - a. all appointments of officers and employees made by the directors; and
 - b. the names of the directors present at each meeting of the board and of a committee of the board; and
 - c. all resolutions and proceedings at all meetings of the co-operative and of directors and of committees of directors.
2. Minutes must be entered in the appropriate records within 28 days of the meeting to which they relate being held.
3. The minutes are to be signed and confirmed by the chairperson within a reasonable time after the meeting to which they relate.
4. Members do not have access to the minutes of board or committee meetings but may request access to any such minutes in writing addressed to the board.

CATEGORY 5 - Member meetings

Co-operatives are organisations that are designed to serve all their members, therefore member meetings have a very important role in ensuring democratic governance of the co-operative. This category of rules provides for the AGM and other general meetings. These rules also specify the procedures for voting and how resolutions are passed at meetings and using postal ballot procedures as well as proxy voting. The Law separately provides for resolutions to be passed by members of smaller co-operatives using a circulating resolution.

5.1 GENERAL MEETINGS

1. An annual general meeting must be held on a date and at a time decided by the board within 5 months of the end of the co-operative's financial year or within any further time allowed by the Registrar.
2. The board may, whenever it considers appropriate, call a special general meeting of the co-operative.
3. General meetings may be held using technology that permits a member to participate contemporaneously in the meeting and enables the member to hear proceedings, ask questions of the board or the auditor and to cast a vote.

Note: There is a timing concession under co-operatives legislation that allows 18 months for the co-operative to hold its first AGM. Co-operatives with fewer than 50 members can vote on matters using a circulating resolution instead of a general meeting. A circulating resolution cannot replace the AGM.

5.2 NOTICE OF GENERAL MEETINGS AND MEMBER RESOLUTIONS

1. At least 14 days' notice of a general meeting must be given.
2. The period of notice is calculated from the day after the notice is served or taken to be served, and is taken to include the day on which the meeting is to be held.
3. Notice must be served on each member of the co-operative and any other persons who are entitled to receive such notices under the Law.
4. The notice must state the place, day and hour of the meeting and if the meeting is to be conducted using technology, the notice must include instructions about how to attend the meeting.

Note: Refer also to rule 5.6 regarding attending meetings and rule 6.9 regarding notices and other documents to members.

5. The notice must state what ordinary business is to be considered, and, if there is to be any special business, the general nature of any special business.
6. The notice must also include any business that members have notified their intention to move at the meeting provided that paragraph 7 of this rule has been complied with.
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 that requires a decision by the members at a general meeting, must serve written notice of it on the co-operative.
8. If the co-operative has been served with notice under paragraph 7 of this rule the resolution is to be considered at the next general meeting that occurs more than 2 months after the notice is served or taken to be served.

Note: For a special resolution it is necessary to give at least 21 days' notice. See rule 5.12 for special resolutions. If there is an auditor appointed, the auditor is entitled to receive notices of general meetings.

5.3 BUSINESS OF THE ANNUAL GENERAL MEETING

1. The ordinary business of the annual general meeting of the co-operative must be:
 - a. to confirm minutes of the last preceding general meeting (whether annual or special);
and
 - b. to receive from the board, auditors or officers of the co-operative:
 - i. the financial reports or financial statements of the co-operative for the financial year;
 - ii. a report on the state of affairs of the co-operative;
 - and iii. the board's solvency resolution stating whether or not 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;
 - c. to approve any payments of fees to directors, and
 - d. to elect directors to fill any vacancies on the board.
2. The annual general meeting may also transact special business of which notice has been given to members under these rules.
3. All business of a general meeting, other than business of the annual general meeting that is ordinary business, is special business.

5.4 QUORUM AT GENERAL MEETINGS

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.
2. If the number of active members is less than or equal to 10, the quorum is 5 active members.
3. If the number of active members is more than 10, then the greater of
 - a. 6 active members, or
 - b. 20% of the active membership, constitutes a quorum.
4. A member is present for the purpose of these rules if the member is entitled to vote and
 - a. is physically present, or
 - b. is represented by their attorney or authorised nominee, or
 - c. is attending via video link or other technology that enables the member to participate in the proceedings.
5. A proxy given to another member does not entitle the person giving the proxy to be counted as a member who is present for the purposes of paragraph 7 of this rule.
6. 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.

7. If a quorum is not present within half an hour after the time appointed for an adjourned meeting, the members present constitute a quorum.

5.5 CHAIRPERSON AT A GENERAL MEETING AND ADJOURNMENTS

1. The chairperson of the board may preside as chairperson at every general meeting of the co- operative.
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).
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.
4. 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.
5. It is not necessary to give notice of an adjournment or the business to be transacted at an adjourned meeting unless the meeting is adjourned for 14 days or more, in which case notice of the adjourned meeting must be given just as for the original meeting.

5.6 ATTENDANCE AND VOTING AT GENERAL MEETINGS

1. The right to vote attaches to membership and not shareholding.
2. Each active member has only one vote at a meeting of the co-operative
3. In the case of a joint membership
 - a. joint members have only one vote between them,
 - b. every joint member is entitled to attend and be heard at a general meeting, and
 - c. in the event of a dispute between joint members as to which member will vote (subject to the grant of any proxy or power of attorney), the joint member whose name appears first in the register of members is entitled to vote.
4. A resolution, other than a special resolution, must be decided by simple majority.
5. Subject to paragraphs (6) and (7) of this rule, a question for decision at any general meeting must be decided on a show of hands of members attending the meeting.
6. A poll may be demanded on any question for decision.
7. If before a vote is taken or before or immediately after the declaration of the result on a show of hands:
 - a. the chairperson directs that the question is to be determined by a poll; or b. at least 5

members present or represented by proxy demand a poll, the question for decision must be determined by a poll.

8. The poll must be taken when and in the manner that the chairperson directs.

9. A poll on the election of a chairperson or on the question of adjournment must be taken immediately and without debate.

10. Once the votes on a show of hands or on a poll have been counted a declaration by the chairperson that a resolution has been carried (unanimously or by a majority) or lost is evidence of that fact.

11. The result of the vote must be entered in the minute book.

5.7 VOTING ON A SHOW OF HANDS OR ON A POLL

1. On a show of hands at a general meeting, each member who is present in accordance with rule 5.4.4. may only exercise one vote.

2. On a poll called at a general meeting, each member

a. who is present in accordance with rule 5.4.4 or

b. who is represented by a proxy (but only if proxies are allowed under rule 5.9) may only exercise one vote.

5.8 DETERMINING THE OUTCOME WHEN VOTES ARE EQUAL

1. This rule applies where the votes in favour and against a proposed resolution are equal.

2. If the chairperson of the meeting is a member of the co-operative, they may exercise a second or casting vote.

3. If the chairperson is not a member of the co-operative or decides not to exercise a second or casting vote, the outcome votes are equal is that the resolution fails.

5.9 PROXY VOTING

1. For the purposes of this rule:

a. a *directed proxy* is a document appointing a person to vote on behalf of a member

and where the document specifies how the member's vote is to be cast on a particular matter, and b. an

undirected proxy is a document appointing a person to vote on behalf of a member

and the document contains no direction on how the member's vote is to be cast.

2. Voting may be by proxy at a general meeting.
3. The document appointing a proxy must be in writing signed by the appointer or the appointer's attorney properly authorised in writing.
4. A document appointing a proxy may only appoint a person who is an active member of the co-operative as a proxy.
5. If the document appointing the proxy is a directed proxy the proxy is not entitled to vote on the resolution other than as directed in the proxy document.
6. A person may be appointed as a proxy by no more than 5 members where the proxy is an undirected proxy.
7. A person may be appointed as a proxy by any number of members where the documents are directed proxies.
8. A document appointing a proxy is not valid unless it is delivered (either by post or electronic means), to the registered office of the co-operative at least 48 hours before the time for holding the meeting or any adjournment of that meeting. If the document appointing a proxy is signed by a member's attorney, a copy of the attorney's authority to appoint a proxy should also accompany the proxy appointment.
9. A vote given in accordance with a directed proxy is valid unless the co-operative receives notice in writing at its registered office of the death or unsoundness of mind of the appointer, or revocation of that directed proxy, before the start of the meeting or adjourned meeting at which the proxy document is used.

5.10 POSTAL BALLOTS

1. For the purposes of this rule:
 - a. a ***postal ballot*** includes a ballot conducted by the use of technology such as email or other voting software, and
 - b. a ***ballot paper*** means a ballot paper in paper or electronic form.
2. A postal ballot may be held in respect of any matter that may be decided by the members at a general meeting, under rule 5.3.
3. In determining whether to hold a postal ballot on a matter for decision by members, the board must consider:
 - a. whether a postal ballot would facilitate a more democratic decision by members, and
 - b. whether a postal ballot is time and cost effective.
4. A postal ballot must be held in respect of a matter that may be decided by members, when 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, requisition the board to conduct the vote by postal ballot.

5. The board may determine in a particular case whether the matter to be decided by postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
6. If fax or electronic means for voting are used, members who have limited or no access to the fax or electronic means, must not be prejudiced in any way and must have reasonable opportunity to be advised of the postal ballot and to consider, record and return their vote.
7. 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.
8. Ballot papers (in such form and with such content as the board may approve) must be sent to all voting members giving:
 - a. particulars of the business in relation to which the postal ballot is being conducted; and b. an explanation of how to lodge a valid vote and the majority required to pass the vote;
 - and c. notice of the closing date and closing time of the postal ballot;and must be sent to members so that they arrive at least 21 days before the closing date of the postal ballot.
9. This rule does not apply in relation to special postal ballots.

Note: Postal ballots are a convenient way to ensure a democratic vote in circumstances where it may be difficult for members to attend a meeting. They may also be used when a members' meeting is unable to properly consider a matter, and members need more time to decide how to vote. The matter for decision can be adjourned and conducted using a postal ballot.

5.11 SPECIAL POSTAL BALLOTS

1. For the purposes of this rule:
 - a. a **special postal ballot** includes a ballot conducted by the use of technology such as email or other voting software, and b. a **ballot paper** means a ballot paper in paper or electronic form.
2. Where a special postal ballot is required under the Law, the board may determine in a particular case whether the special postal ballot should be a secret ballot and whether votes may be returnable by fax or other electronic means or both.
3. If fax or electronic means for voting are used, members who have limited or no access to the fax or electronic means, must not be prejudiced in any way and must have reasonable opportunity to be advised of the special postal ballot and to consider, record and return their vote.
4. The board is to appoint a returning officer to conduct the special postal ballot. In default of such an appointment, the secretary is the returning officer.
5. Ballot papers (in such form and with such content as the board may approve) must provide:
 - a. particulars of the business in relation to which the special postal ballot is being conducted; b. all documents required for special postal ballots as set out under the Law; and c. an explanation of how to lodge a valid vote and the majority required to pass the vote;

and d. notice of the closing date and closing time of the special postal ballot.

6. Ballot papers must be sent to all voting members so that they arrive at least 28 days before the closing date of the special postal ballot.

Note: A Special Postal Ballot is a voting process reserved for important decisions under co-operatives legislation, such as changing the type of co-operative, disposing of major assets, and structural matters. The procedure for a special postal ballot is similar to a postal ballot, except that the co-operative must give members a disclosure statement to inform their decision-making. This rule requires 28 days' notice of a special postal ballot to enable adequate time for members to consider their decision and the material in the disclosure statement.

5.12 SPECIAL RESOLUTIONS

1. A special resolution is a resolution that is passed:
 - a. by a two-thirds majority of those active members who cast a vote in favour of the resolution at a general meeting or in a postal ballot of members; or
 - b. by a three-quarters majority of those active members who cast a vote in favour of the resolution in a special postal ballot of members.
2. 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 in the case of a special postal ballot).
3. The notice of special resolution must state:
 - a. the intention to propose the special resolution;
 - b. the wording of the proposed special resolution;
 - c. the reasons for proposing the special resolution; and
 - d. the effect of the special resolution being passed.

CATEGORY SIX -Accounts and administration

This category of rules deals with accounting, administrative and financial reporting to members. Importantly the rule prohibiting distributions of surplus to members as well as how to distribute surplus assets when this non-distributing co-operative is wound up, can be found here.

The Law makes provision for financial reporting to the Registrar and to members. The requirements will be different depending on the state or territory in which the co-operative is registered. The rules in this category must be read in conjunction with the requirements of the relevant Law.

6.1 FINANCIAL YEAR

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

6.2 BANK ACCOUNTS

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.
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.
3. Subject to paragraph 4 of this rule, the operation of any electronic accounts must be restricted so that there is a requirement for authorisation of any electronic transaction by 2 authorised persons.
4. The board may determine by resolution that the payment of money in respect of transactions conducted in the ordinary course of the co-operative's business may be executed by 1 authorised person subject to a specified monetary limit set out in such resolution.
5. For the purposes of this rule, an authorised person is:
 - a. a director; or b. a person approved by the board.

6.2A GIFT FUND

1. A co-operative that is endorsed as a Deductible Gift Recipient for a particular purpose or purposes must, if required to do so by the Australian Tax Office, set up and maintain a separate fund to be called a 'Gift Fund' to which gifts of money or property for these purpose/s is to be credited, including:
 - a. contributions made in relation to a fund-raising event held for these purpose/s and
 - b. any money received by the co-operative because of those gifts or contributions.
2. The Gift Fund must not receive any other money or property.
3. The co-operative must only use the gifts or money in the Gift Fund in pursuit of the purpose/s for which Deductible Gift Recipient status is endorsed.
4. The co-operative must not use any of the gifts or money in the Gift Fund to satisfy any other debts or liabilities of the co-operative.
5. If the co-operative's deductible gift recipient endorsement is revoked (whether or not the co-operative is to be wound up) all surplus assets in the Gift Fund must be transferred to one or more entities that meet the requirements of rule 6.11.1, as decided by the board.
6. The co-operative must maintain a separate bank account for the Gift Fund, and all receipts issued for gifts made to the Gift Fund must state:
 - a. the name of the co-operative, b. the Australian Business Number of the co-operative, and c. the fact that the receipt is for a gift.
7. For the purposes of this rule, 'contributions' and 'fund-raising event' have the same meaning as in Division 30 of the Income Tax Assessment Act 1997 (C'th).

Note: This rule is relevant only if the co-operative obtains deductible gift recipient (DGR) status. It enables the co-operative to

ensure that money or gifts received as a result of its DGR status are maintained and accounted for separately from any general funds.

6.3 MEMBER FINANCIAL STATEMENTS AND AUDIT

1. Subject to paragraph 2 of this rule and any other provisions of the Law, the co-operative must provide members with ***basic financial statements*** no later than 7 days before the Annual General Meeting.
2. If the co-operative is directed under the Law to prepare a financial report by members or by the Registrar and the direction requires that the financial report be audited or reviewed, the board must appoint an auditor within one month of the direction.
3. An auditor appointed under paragraph 2 of this rule holds office until the financial report prepared as a result of the direction has been audited or reviewed in accordance with the directions and sent to members or the Registrar as directed.
4. For the purposes of this rule ***basic financial statements*** includes:
 - a. an income and expenditure statement that sets out the appropriately classified individual sources of income and individual expenses incurred in the operation of the co-operative and the assets and liabilities of the co-operative, b. a balance sheet (including appropriately classified individual assets and liabilities of the co-operative), c. a statement of changes in equity, and d. a cash flow statement.
5. If the co-operative is a large co-operative under the Law, it must appoint an auditor to prepare financial statements in accordance with the Law.

6.4 PROVISION FOR LOSS

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

6.5 SURPLUS OR RESERVES NOT TO BE DISTRIBUTED TO MEMBERS

1. The co-operative must not give returns or distributions to members from any operating surplus or reserve.
2. The assets and income of the co-operative must be applied solely to further its purpose as set out in rule 1.3.
3. If the co-operative is wound up, any surplus assets must not be distributed to a member or a former member of the co-operative, unless that member or former member is an organisation or entity

described in rule 6.11.

Note: The Law also prohibits the giving of any return or distribution to members. Any surplus assets after winding up must be transferred to another organisation with the same or similar objects.

6.6 SAFEKEEPING OF SECURITIES

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

6.7 CO-OPERATIVE SEAL

1. This rule applies if the co-operative chooses to authenticate a document under the common seal of the co-operative.
2. The co-operative's name and registration number must appear on its common seal and any official seal. The common seal must be kept at the registered office in the custody that the board directs.
3. The co-operative may have one or more official seals for use outside the State or Territory in place of its common seal. 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 the co-operative is registered, and any other requirements under the legislation of that other State or Territory.
4. The seal of the co-operative must not be affixed to an instrument other than under a resolution of the board. Two directors, or one director and the secretary, must be present and must sign all instruments sealed while they are present.

6.8 AMENDMENT AND COPIES OF RULES

1. Any amendment of the rules must be approved by special resolution.
2. A proposal to amend any rules 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.
3. A member is entitled to a copy of the rules, including any amendments consolidated into the rules, on payment to the co-operative of the following amount:
 - a. for a hard copy of the rules – \$10
 - b. for an electronic copy of the rules – Nil.

6.9 NOTICES AND OTHER DOCUMENTS TO MEMBERS

1. In addition to any other requirements of the Law regarding notices to members, 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.
2. 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.
3. 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.
4. A notice may be given by the co-operative to joint members by giving the notice to the joint member named first in the register of members.
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 the representative of the deceased or incapacitated person, or trustee of the bankrupt, or by any like description, and:
 - a. the address should be that supplied for the purpose by the person claiming to be entitled; or
 - b. 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.

6.10 WINDING UP

1. The winding up of the co-operative must be in accordance with the Law.
2. If the co-operative has established a Gift Fund any debts and liabilities that were incurred as a result of activities lawfully conducted as an acceptable use of the Gift Fund shall firstly be satisfied by assets in the Gift Fund. If there remains any surplus assets in the Gift Fund these must be distributed in accordance with rule 6.11.1.
3. All remaining debts and liabilities of the co-operative must be satisfied from such other assets of the co-operative that are not part of the Gift Fund.
4. If on the winding up or dissolution there is a deficiency, members are liable to contribute towards the deficiency to the extent of any amount unpaid on any guarantee made by the member and any charges payable by the member to the co-operative as required by these rules.

6.11 DISTRIBUTION OF SURPLUS ASSETS ON WINDING UP

1. If the co-operative has obtained Deductible Gift Recipient status for a particular purpose, any surplus assets in a Gift Fund must be distributed to:
 - a. one or more organisations which prohibits the distribution of any surplus assets to its members to at least the same extent as the co-operative, and b. with similar purposes to the purpose for which the Gift Fund was established, and c. to which income tax-deductible gifts can be made.
2. Subject to the Law and any other applicable Australian laws, or any court order, all other surplus assets remaining after the co-operative is wound up must be distributed to:
 - a. one or more organisations which prohibit the distribution of any surplus assets to its members to at least the same extent as the co-operative and b. with similar purposes to, or inclusive of, the co-operative's purposes as set out in rule 1.3.
3. The decision as to the organisations to be given any surplus assets must be made by a special resolution of members at or before the time of winding up. If the members do not make this decision, the co-operative may apply to the Supreme Court to make this decision.

Note: Rules 6.10 and 6.11 together preserve the integrity of purpose of any funds received by the co-operative as a result of DGR status. Non-distributing co-operatives must give any surplus assets from any general operations to another organisation with a similar purpose.