

RULES OF

**SOUTHERN QUALITY PRODUCE
CO-OPERATIVE LIMITED**

CO-OPERATIVES ACT 1996 (VICT.)

1. **Definitions**

In these rules -

Act means the **Co-operatives Act 1996**;

Appendix means Appendix to these rules;

board means the board of the co-operative;

CCU means a co-operative capital unit as provided for by Division 1A of Part 10 of the Act;

general meeting means any annual or special general meeting;

member means a member of the co-operative;

month means calendar month;

Registrar means the person for the time being holding the office of Registrar of Co-operatives under the Act;

regulations means the Co-operatives Regulations 1997.

2. **Members to abide by co-operative principles**

The co-operative and its members must comply with the co-operative principles to the extent that they apply to them.

3. **Alteration of the rules**

- (1) These rules may be altered by a special resolution in accordance with section 113 of the Act or by a resolution of the board in accordance with section 114 of the Act.
- (2) A proposed alteration of these rules must be approved by the Registrar under section 112 of the Act before the resolution altering the rules is passed.
- (3) An alteration of these rules does not take effect unless and until it is registered by the Registrar under section 115 of the Act.
- (4) Any member is entitled to obtain from the co-operative a copy of these rules on payment of the amount set out in Appendix 1.

4. **Name**

- (1) The name of the co-operative is the name specified in Part 1 of Appendix 2.

- (2) The co-operative may change its name in accordance with section 255 of the Act.
- (3) The co-operative may abbreviate its name in accordance with section 253 of the Act.

5. ***Active membership provisions***

- (1) The primary activity of the co-operative is the activity set out in Part 2 of Appendix 2.
- (2) In order to establish active membership of the co-operative a member must comply with the requirements set out in Part 3 of Appendix 2.
- (3) All members must be active members of the co-operative.
- (4) If a member fails or ceases to be an active member, the board must in accordance with Division 4 of Part 6 of the Act –
 - (a) declare the membership of the member cancelled; and
 - (b) declare the shares of the member forfeit.

6. ***Qualifications and shareholding required for membership***

- (1) A person is not qualified to be admitted to membership if they are less than 18 years of age and unless there are reasonable grounds for believing that the person will be an active member of the co-operative.
- (2) Every member must hold a share in accordance with Appendix 3.

7. ***Membership and shares***

- (1) An application for membership or shares in the co-operative must–
 - (a) be in a form approved by the board; and
 - (b) be lodged at the registered office of the co-operative; and
 - (c) be accompanied by the relevant fee or amount set out in Part 2 of
 - (d) Appendix 3.
- (2) An application for membership must include an application for a

share in the co-operative.

- (3) The board must consider each application.
- (4) The board at its sole discretion may accept or reject an application for membership or shares and need not give any reason for its decision.
- (5) If the board approves an application for membership or shares –
 - (a) the relevant shares must be allotted to the applicant; and
 - (b) the board must ensure that the name of the person and the number of shares allotted is entered in the register of members, directors and shares in accordance with sections 75 and 244 of the Act; and
 - (c) the board must notify the applicant in writing of allotment of the shares and of the entry in the register; and
 - (d) the applicant for membership becomes entitled to exercise the rights of membership when –
 - (i) the member's name appears in the register of members; and
 - (ii) the member has paid to the co-operative the relevant fees and amounts set out in Part 2 of Appendix 3.
- (6) If the board rejects an application, the whole of the money lodged in respect of the application must be refunded to the applicant without interest.

8. ***Representation of members***

- (1) Where a body corporate is a member of the co-operative, that body corporate may from time to time in such manner as the board of the co-operative directs, appoint a person over the age of 18 years to represent it in respect of its membership.
- (2) In accordance with section 70(2) of the Act, a body corporate must not appoint a person to represent the body corporate as a member of the co-operative, if he or she is currently a member of the co-operative or a representative of another body corporate member.
- (3) In accordance with section 70(4) of the Act, a person is not qualified to be appointed the representative of a company that is not a listed corporation (within the meaning of the Corporations

Law) unless the person is an officer, member or employee of the company.

9. ***Ceasing membership***

A person ceases to be a member in each of the following circumstances -

- (a) if the member's membership is cancelled under Part 6 of the Act;
- (b) if the member is expelled in accordance with these rules;
- (c) 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 co-operative;
- (d) on the death of the member;
- (e) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (f) if the member's share is transferred to another person and the transferee is registered as the holder of the share;
- (g) if the member's share is forfeited in accordance with the provisions of the Act or the provisions of these rules;
- (h) if the member's share is purchased by the co-operative in accordance with the provisions of these rules;
- (i) if a member's share is sold by the co-operative pursuant to any power in these rules and the purchaser is registered as holder in the member's place;
- (j) if the amount paid up on the member's share is repaid to the member in accordance with the provisions of these rules;
- (k) on notice in writing given by the member to the Secretary, of the member's resignation from membership; or
- (l) in the case of a member that is a body corporate, if the body is dissolved.

10. ***Expulsion of members***

- (1) A member may be expelled from the co-operative if the co-operative by special resolution determines that the member should be expelled on the ground that –

- (a) the member has failed to discharge the member's obligations to the co-operative under the Act or these rules;
 - (b) the member has acted in a manner that has -
 - (i) prevented or hindered the co-operative in carrying out any of its primary activities; or
 - (ii) brought the co-operative into disrepute; or
 - (c) the member has acted in a manner contrary to any of the cooperative principles and in so acting caused the co-operative harm.
- (2) The member must be given at least 28 days written notice of the proposed resolution and of the date, time and place of the meeting at which the resolution will be moved.
- (3) The procedure at the general meeting to consider the proposed resolution is as follows –
- (a) the member must be given a reasonable opportunity to be heard at the meeting;
 - (b) the member is entitled to call witnesses and to cross examine witnesses called against the member;
 - (c) if the member fails, without reasonable excuse, to attend at the time and place of which notice has been given, the co-operative may consider the matter in the absence of the member;
 - (d) after considering the matter, the co-operative may by special resolution determine to expel the member.
- (4) The expulsion of the member does not take effect until the special resolution is registered with the Registrar.
- (5) When a member is expelled, the co-operative must, in accordance with section 82 of the Act, repay to the member an amount determined in accordance with that section in respect of the member's shares and cancel the member's shares.

11. Suspension of members

- (1) A member may be suspended from membership of the co-

operative for a period not exceeding one year if the co-operative by special resolution determines that the member should be so suspended on the ground that –

- (a) the member has contravened these rules; or
 - (b) the member has failed to discharge the member's obligations to the co-operative under these rules; or
 - (c) the member has acted in a manner detrimental to the co-operative.
- (2) The member must be given at least 28 days written notice of the proposed resolution and of the date, time and place of the meeting at which the resolution will be moved.
- (3) The procedure at the general meeting to consider the proposed resolution is as follows –
- (a) the member must be given a reasonable opportunity to be heard at the meeting;
 - (b) the member is entitled to call witnesses and to cross examine witnesses called against the member;
 - (c) if the member fails, without reasonable cause, to attend at the time and place of which notice has been given, the co-operative may consider the matter in the absence of the member;
 - (d) after considering the matter, the co-operative may by special resolution determine to suspend the member.
- (4) A member who is suspended ceases during the suspension to have the rights of a member except as otherwise provided in the Act or these rules.

12. ***Disputes***

- (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) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after

the dispute comes to the attention of all the parties.

- (3) If the parties are unable to resolve the dispute at the meeting under sub-rule (2) or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a referee.
- (4) The mediator must be –
 - (a) a person chosen by agreement between the parties; or
 - (b) in the absence of agreement -
 - (i) in the case of a dispute between a member and another member, by the board of the co-operative; or
 - (ii) in the case of a dispute between a member and the co-operative, a person who is a member of the Dispute Settlement Centre of Victoria (Department of Justice).
- (5) A member of the co-operative can be a mediator.
- (6) The mediator cannot be a member who is a party to the dispute.

This Rule provides for the mediation of a dispute. Note that section 89 of the Act provides another procedure whereby application may be made to the Supreme Court for an order declaring and enforcing rights or obligations of members between themselves, or of the co-operative and a member between themselves. The Court may refuse to make an order, or may make an order for costs, if the Court is of the opinion that the application is unreasonable or the issue trivial.

13. ***Fines***

- (1) The co-operative may impose a fine on a member for any infringement of these rules.
- (2) The fine must not exceed the amount set out in Part 1 of Appendix 3.

14. ***Capital and shares***

The capital of the co-operative is to be raised by:

- (a) the issue of shares which are to have a nominal value as described in Part 2 of Appendix 3; and/or
- (b) the issue of CCUs in accordance with the Act.

15. ***Liability of members***

- (1) A member is not, as a member, under any personal liability to the cooperative except for the amount, if any, unpaid on the shares held by the member together with any charges payable by the member to the co-operative as required by these rules.
- (2) On the death of a member, the member's estate remains liable as the member until the member's personal representative or some other person is registered in the member's place.

16. ***Calls on shares***

- (1) The board may make calls on the members in respect of any money unpaid on their shares.
- (2) Sub-rule (1) does not apply if the terms of issue of the shares provide for the money unpaid on the shares to be paid at fixed times.
- (3) A call must not –
 - (a) exceed one-quarter of the sum of the nominal value of the shares; or
 - (b) be payable earlier than one year after the day fixed for the payment of the last preceding call.
- (4) A member must be given at least 14 days notice specifying the time or times and place of payment of the call.
- (5) A member who receives notice of a call must pay the amount of the call on the member's shares to the co-operative at the time or times and at the place specified in the notice.
- (6) The board may revoke or postpone a call.
- (7) A sum that becomes payable on a share under the terms of issue of the share is deemed for the purposes of these rules to be an amount payable on a call notified under this rule as if the time and place for payment specified in the terms of issue were the time and place for payment of the call.
- (8) The board may accept from a member the whole or a part of the amount unpaid on a share although no part of that amount has been called up.

17. ***Forfeiture of shares***

- (1) If a member fails to pay a call on any day appointed for the payment of the call, the board may serve a notice on the member requiring payment of so much of the call as is unpaid.
- (2) The notice must –
 - (a) specify a day (being not less than 28 days after the date of service of the notice) on or before which the payment required by the notice is to be paid; and
 - (b) state that if the payment is not so paid, the shares in respect of which the call was made are liable to be forfeited.
- (3) If the payment is not made in accordance with the notice, the board may, by resolution, declare that the shares are forfeited.
- (4) The board's declaration has the effect of forfeiting the shares concerned.

18. ***Share certificates***

- (1) The board, on the application of a person holding shares in the co-operative, must issue to that person, without payment, a certificate under the seal of the co-operative specifying the shares held by that person and the amount paid up on those shares.
- (2) However, if shares are held jointly -
 - (a) the board is not required to issue more than one share certificate in respect of those shares; and
 - (b) the delivery of the share certificate to one joint shareholder is sufficient delivery to all.
- (3) If the board is satisfied that a share certificate issued by the co-operative is defaced, lost or destroyed, the board may issue a duplicate certificate on payment of a fee determined by the board as set out in Appendix 1.

19. ***Sale of members shares***

Subject to section 172 of the Act, the co-operative may sell a member's shares at the request of the member.

20. ***Transfer and transmission of shares***

- (1) The instrument of transfer of any share shall be executed by or on behalf of the transferor (the giver) and the transferee (the receiver

of the share).

- (2) The transferor remains the holder of the share until the name of the transferee is entered in the register of members in respect of the share.
- (3) A transfer of shares is to be in the form of Appendix 4 or in a form approved by the board.
- (4) A share cannot be sold or transferred except –
 - (a) with the consent of the board, to any person who is qualified to be admitted to membership of the co-operative under rules 5 and 6; or
 - (b) as otherwise provided by the Act or these rules.
- (5) The board may refuse to register a transfer of shares –
 - (a) to a person who is not eligible to be a member; or
 - (b) to a person whom the board does not approve; or
 - (c) if the co-operative has a lien or charge over the shares.
- (6) If the board refuses to register a transfer of shares, it must send written notice of its decision to the proposed transferee within 14 days after making that decision.
- (7) The board may decline to recognise any instrument of transfer unless –
 - (a) a fee in accordance with Appendix 1 is paid by the member to the co-operative for the transfer; and
 - (b) the instrument of transfer is accompanied by the certificate (if any) of the shares to which it relates, and such other evidence as the board may reasonably require to show the right of the transferor to make the transfer.
- (8) The board may suspend the registration of transfers during the 14 days immediately preceding the annual general meeting in each year.

21. ***Forfeitures and cancellations - Inactive members***

- (1) In accordance with section 131 of the Act, the board, after giving any notice required under section 136 of the Act, must declare the membership of a member cancelled if –

- (a) the whereabouts of the member are not presently known to the co-operative and have not been known to the co-operative for a period of at least 3 years before that time; or
 - (b) the member is not presently an active member of the co-operative and has not been an active member of the co-operative at any time during the period of 3 years immediately before that time.
- (2) Sub-rule (1) applies to a member only if he or she was a member of the co-operative throughout the period referred to in paragraph (a) or (b), as the case requires.
 - (3) In accordance with section 132 of the Act, the board must declare the shares of a member to be forfeited at the same time as the member's membership is cancelled under section 131 of the Act.
 - (4) The board's declaration has the effect of forfeiting the shares concerned.
 - (5) If the membership of a member is cancelled any amount due to the member in respect of the cancellation must be dealt with in accordance with section 138 of the Act.

22. ***Forfeited shares***

A person whose shares have been forfeited under the Act or these rules remains liable to the co-operative for any amount still unpaid at the date of forfeiture in respect of those shares.

23. ***Death of a member***

- (1) Subject to sections 84, 173 and 174 of the Act, on the death of the member, the board must transfer the deceased member's share or interest in the co-operative to –
 - (a) the executor or administrator of the deceased member; or
 - (b) with the consent of the board, to a person –
 - (i) who is specified by the personal representative of the deceased member in an application under section 84 of the Act; and
 - (ii) who is qualified to be a member in accordance with the Act and these rules.

- (2) The board may transfer the shares or interest of a deceased member to a person entitled in accordance with section 85 of the Act if –
 - (a) the total value of the shares or interest is less than \$10,000 (or such other amount as may be prescribed by the regulations); and
 - (b) there has not been a grant of administration of the estate, or probate of the will of the deceased member.

24. ***Registration as trustee, executor or administrator***

- (1) In accordance with sections 166 to 168 of the Act, the following persons may be registered as the holder of a share in the co-operative –
 - (a) the trustee, executor or administrator of the estate of a dead person, if the dead person was the holder of that share or was entitled in equity to that share;
 - (b) the administrator of the estate of an incapable person, if the incapable person was the holder of that share or was entitled in equity to that share;
 - (c) the Official Trustee in Bankruptcy, if a bankrupt was the holder of that share or was entitled in equity to that share.
- (2) If a person is entitled in equity to a share in the co-operative, the consent of the co-operative and the holder of the share must be obtained before a person can be registered in respect of that share pursuant to sub-rule (1).

25. ***Entitlements and liabilities of person registered as trustee, administrator etc.***

Subject to the Act, a person registered pursuant to section 166, 167 or 168 of the Act and rule 23 is, while so registered -

- (a) entitled to the same dividends and other benefits; and
- (b) in accordance with section 169 of the Act, subject to the same liabilities and only those liabilities

in respect of the share as those to which the person would have been subject if the share had remained, or had been, registered in the name of

the dead person, the incapable person or the bankrupt.

26. *Transfer and transmission of debentures*

- (1) The instrument of transfer of a debenture must be executed by the transferor (*the giver*) and the transferee (*the receiver*).
- (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 registers of debentures in respect of the debenture.
- (3) A transfer of debentures must be in the form of Appendix 4 or in a form approved by the board.
- (4) The board may decline to recognise any instrument of transfer of a debenture and may decline to register the transfer unless –
 - (a) a fee in accordance with Appendix 1 is paid to the co-operative for the transfer; and
 - (b) the instrument of transfer is accompanied by the debenture and such other evidence as the board may reasonably require to show the right of the transferor to make the transfer; and
 - (c) any stamp duty payable in respect of the instrument of transfer has been paid.
- (5) If the board refuses to register a transfer of debenture, it must send written notice of its decision to the proposed transferee within 28 days after making that decision.

26A. CCUs

- (1) The co-operative may issue CCUs in accordance with the Act.
- (2) The co-operative may issue more than one class of CCUs on terms:
 - (a) determined by the board; and
 - (b) approved by special resolution of the members in accordance with the Act.
- (3) In respect of each class of CCU issued:
 - (a) at a meeting of the holders of that class of CCU, the holders of those CCUs are entitled to voting rights in proportion to their holding;

- (b) the rights of the holders of that class of CCUs may only be varied:
- (i) in the manner; and
 - (ii) to the extent,
provided by their terms of issue, and only with the consent of at least 75% of the holders of that class of CCUs (by holding) given:
 - (iii) in writing; or
 - (iv) at a meeting.
- (4) The holder of a CCU has, in that person's capacity as a CCU holder only, 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 meetings of the co-operative and all other documents in the same manner as the holder of a debenture of the co-operative.
- (6) The co-operative may redeem or repurchase CCUs in accordance with the Act and on such terms set out in their terms of issue.

27. ***Annual general meetings***

- (1) In accordance with section 204 of the Act, the first annual general meeting of the co-operative must be held at any time within 19 months after the incorporation of the co-operative.
- (2) The second or any subsequent annual general meeting of the co-operative must be held within –
 - (a) 5 months after the close of the financial year of the co-operative; or
 - (b) any further time that may be allowed by the Registrar or is prescribed.
- (3) The board may determine the date, time and place of the annual general meeting.
- (4) All general meetings of the co-operative other than the annual general meeting shall be special general meetings.
- (5) If the board does not hold an annual general meeting within the required time, the members may requisition the meeting in

accordance with section 209 of the Act.

28. ***Special general meetings***

- (1) A special general meeting of the co-operative may be convened at any time by the board of directors.
- (2) In accordance with section 209 of the Act, the board must convene a general meeting of the co-operative on the written requisition of the number of active members of the co-operative 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.

29. ***Notice of general meetings***

- (1) The board must give each member at least 14 days notice of each general meeting.
- (2) The notice may be given in accordance with section 460 of the Act.
- (3) The notice must specify the place, the day and the time of the meeting and if special business is to be transacted, set out generally the nature of the special business.
- (4) 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 co-operative in accordance with section 192 of the Act.
- (5) A member of the co-operative who wishes to propose a resolution at a general meeting must give the co-operative written notice of the resolution.
- (6) If notice of an ordinary resolution is given under sub-rule (5) at least 14 days before the board gives notice of the meeting, the board must include details of that resolution in the notice of the meeting.

30. ***Business at general meetings***

- (1) The ordinary business of the annual general meeting shall be -
 - (a) to confirm minutes of the last preceding general meeting (whether annual or special);
 - (b) to receive from the board, auditors, or any officers of the co-operative reports upon the transactions of the co-operative

during the financial year, including balance sheet, trading account, profit and loss account, statement of cash flows, and the state of affairs at the end of that year;

- (c) to elect and determine the remuneration (if any) of directors.
 - (d) to determine the rates of dividend.
- (2) The annual general meeting may also transact special business of which notice has been given to members in accordance with these rules.
- (3) All business of a general meeting, other than ordinary business, is special business.

31. *Quorum at general meetings*

- (1) An item of business must not be transacted at a meeting of a co-operative unless a quorum of members entitled to vote is present during the transaction of that item.
- (2) Subject to sub-rule (3) the quorum of the co-operative is 5 members entitled to vote at a meeting of the co-operative plus –
- (a) if the active membership of the co-operative exceeds 50 but does not exceed 200, 1 additional member for each 10 members after the first 50 active members; and
 - (b) if the active membership of the co-operative exceeds 200, the additional members referred to in paragraph (a) and 1 additional member for each 50 active members after the first 200 members.
- (3) If within half an hour after the appointed time for the meeting a quorum is not present, the meeting –
- (a) if convened upon the requisition of members, is abandoned; and
 - (b) in any other case is to be adjourned to the same day and time in the next week at the same place.
- (4) If at an adjourned meeting, under sub-rule (3)(b), a quorum is not present within half an hour after the time appointed for the meeting the meeting must be abandoned.

32. *Presiding at general meetings*

- (1) Subject to this rule, the chairperson of the board presides at every general meeting of the co-operative.
- (2) If the chairperson of the board is unable or unwilling to preside or is not present within 15 minutes after the time appointed for the meeting, the members present must select one of their number to preside.
- (3) The person selected under sub-rule (2) presides at that meeting until the time that the chairperson attends and is willing to act.

33. *Adjournment of meetings*

- (1) The person presiding may, with the consent of a majority of members present at the meeting, adjourn the meeting from time to time and from place to place.
- (2) The person presiding must, if directed by a majority of members present at the meeting, adjourn the meeting to a date and time agreed.
- (3) No business may be transacted at an adjourned meeting other than business unfinished at the meeting which was adjourned.
- (4) This rule only applies if there is a quorum at the meeting to be adjourned.

34. *Standing orders at meetings*

- (1) Subject to sub-rule (3), the following standing orders must be observed at general meetings of the co-operative –
 - (a) The mover of a proposition must not speak for more than 10 minutes. Subsequent speakers are allowed 5 minutes, and the mover of the proposition 5 minutes to reply. The meeting may however by simple majority extend in a particular instance the time permitted by this rule.
 - (b) If an amendment to an original proposition is proposed, no second amendment may be considered until the first amendment is disposed of.
 - (c) If an amendment is carried, the proposition as so amended displaces the original proposition and may itself be amended.
 - (d) If an amendment is defeated, then a further amendment may be moved to the original proposition. However, only

one amendment may be submitted to the meeting for discussion at one time.

- (e) The mover of every original proposition, but not of an amendment, has the right to reply. Immediately after this the question must be put from the chair. No other member may speak more than once on the same question, unless permission is given for an explanation, or the attention of the chairperson is called to a point of order.
 - (f) Propositions and amendments must be submitted in writing, if requested by the chairperson.
 - (g) Any discussion may be closed by a resolution "that the question be now put" being moved seconded, and carried. That resolution must be put to the meeting without debate.
- (2) Any member, or visitor invited to attend the meeting by the board, may speak on any issue at a meeting with the permission of the chairperson subject to any conditions imposed by the chairperson.
 - (3) The standing orders may be suspended for any period by ordinary resolution.

35. ***Attendance and voting at general meetings***

- (1) The right to vote attaches to membership and not shareholding.
- (2) A member of the co-operative is not entitled to vote at a meeting of the co-operative unless that person is an active member of the co-operative.
- (3) Subject to the Act and this rule, every member of the co-operative has only one vote at a meeting of the co-operative.
- (4) A member of a co-operative who is under 18 years of age is not entitled to vote.
- (5) In the case of joint membership –
 - (a) the joint members have only one vote between them; and
 - (b) that vote may be exercised by the member whose name appears first in the register of members unless the other joint members otherwise direct.
- (6) Subject to the Act and these rules, a question for decision at a general meeting, other than a special resolution, must be

determined by a majority of members present at the meeting and voting.

- (7) In accordance with section 208(2) of the Act, unless a poll is demanded by at least 5 members, a question for decision at a general meeting must be determined by a show of hands.
- (8) In the case of an equality of votes at a meeting of the co-operative, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded may exercise a second or casting vote.

36. ***Postal ballot***

- (1) The manner of voting shall be in accordance with the regulations.
- (2) A special postal ballot or a postal ballot must be held –
 - (a) when required by the Act; or
 - (b) in accordance with section 202 of the Act, on the written requisition of the number of active members of the co-operative 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; or
 - (c) if approved by the members by ordinary resolution.

37. ***Poll at general meetings***

- (1) If a poll (or ballot) is demanded by at least 5 members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- (2) A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

38. ***Proxy voting***

- (1) Voting may be by proxy at a general meeting.
- (2) Any person who is entitled to attend and vote at any meeting of the co-operative may appoint one other person as his or her proxy to attend and vote at the meeting in his or her stead.
- (3) A person must not act as proxy for more than 10 persons on any one occasion.

- (4) Sub-rule (3) does not apply if the person acts under an instrument of proxy.
- (5) The instrument of proxy may specify the manner in which a proxy is to vote in respect of a particular resolution. An instrument of proxy shall be in writing under the seal of, or under the hand of an officer or attorney duly authorized by a member.

39. ***Special and ordinary resolutions***

- (1) A special resolution is a resolution which is passed in accordance with sections 192 and 193 of the Act -
 - (a) by a two-thirds majority at a general meeting of members; or
 - (b) by a two-thirds majority in a postal ballot (other than a special postal ballot) of members; or
 - (c) by a three-quarters majority in a special postal ballot of members.
- (2) An ordinary resolution is a resolution passed by a simple majority at a general meeting or in a postal ballot by members.
- (3) A special resolution has effect from the date that it is passed unless it is required to be registered under section 196(2) of the Act.

40. ***Board of directors***

- (1) There shall be a board of eight directors.
- (2) A director must be –
 - (a) a natural person; and
 - (b) not less than 18 years of age.

41. ***Qualifications of directors***

- (1) A person is not qualified to be a director unless he or she is –
 - (a) a member of the co-operative or a representative of a body corporate which is a member of the co-operative (member director); or
 - (b) an employee of the co-operative or a person qualified as set out in Appendix 5 (independent director).

- (2) In accordance with section 213 of the Act, a person may only be elected or appointed as an independent director if there are at least 3 member directors appointed for each independent director.
- (3) A person must not act as a director if the person is disqualified under section 214 of the Act.
- (4) The first directors shall be elected at the meeting for the formation of the co-operative.

42. Retirement of directors

- (1) At each annual general meeting of the co-operative three (3) directors must retire and this pattern of rotation is to continue in ensuing years.
- (2) A retiring director retains office until the close of the meeting at which his or her successor is elected.
- (3) The directors to retire in any one year are, subject to the provisions as to the filling of casual vacancies, those that have been longest in office since their last election and if there are 2 or more directors who became directors on the same day, those who retire must be determined by lot unless they otherwise agree among themselves.
- (4) A retiring director is eligible for re-election.

43. Election of directors

- (1) At least 2 weeks before an annual general meeting, the board must –
 - (a) notify all members of the number of directors retiring at the annual general meeting; and
 - (b) advise the members of –
 - (i) their eligibility to nominate as a director; and
 - (ii) the duties and responsibilities of a director; and
 - (iii) the anticipated remuneration (if any); and
 - (iv) the nomination and election procedures.
- (2) Not less than 2 weeks before the annual general meeting, a notice must be displayed at the registered office of the co-operative inviting nominations of candidates for election as directors.

- (3) A nomination 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 candidate agreeing to his or her nomination.
- (4) The nomination and the notice referred to in the sub-rule (3) must be lodged at the registered office of the co-operative at least 2 days before the annual general meeting.
- (5) Details of each person who has been nominated must be given to members with the notice of the annual general meeting by the secretary or an officer nominated by the board.
- (6) Details to be provided to members must include the candidate's –
 - (a) name; and
 - (b) age; and
 - (c) qualifications and experience; and
 - (d) length of any previous service as a director of the co-operative or with any other co-operative.

44. ***Manner of election***

- (1) The ballot for the election of directors must be conducted at the annual general meeting in the manner that the board directs.
- (2) If, at the annual general meeting at which an election of directors ought to take place, the place of any retiring directors is not filled, the meeting stands adjourned until the same day and time in the next week and at the same place unless another place is specified by a director or officer of the co-operative –
 - (a) at the time of the adjournment; or
 - (b) by written notice to members given before the day to which the meeting is adjourned.
- (3) At the resumption of the adjourned meeting nominations for any unfilled positions of director may be received and an election may be held.

45. **Casual vacancy**

If there is a casual vacancy in the office of director under section 219 of the Act, the board may appoint a person to fill that vacancy but the person appointed must retire at the next annual general meeting.

46. **Removal from the office of director**

The co-operative may by special resolution remove any director from office before the end of the director's period of office.

47. **Remuneration**

In accordance with section 229 of the Act a director of a co-operative must not be paid any remuneration for services as a director other than fees, concessions and other benefits that are approved at a general meeting of the co-operative.

48. **Deputy directors**

- (1) In the absence of a director from a meeting of the board, the board may appoint a person to act as a deputy for that director.
- (2) A person appointed under sub-rule (1) must –
 - (a) be a member, if the absent director is a member;
 - (b) be a representative of a body corporate, if the absent director is a representative of that body corporate;
 - (c) be an employee or a person qualified as set out in Appendix 5, if the absent director is an employee or a person qualified as set out in Appendix 5.
- (3) A person appointed as deputy may act in the place of the director for whom he or she is deputy.
- (4) The other members of the board may by majority vote remove a deputy director from office.
- (5) A deputy director vacates office –
 - (a) if the deputy director is removed from office under this rule; or
 - (b) if the director for whom he or she is deputy ceases to hold office; or
 - (c) if the deputy director dies; or

- (d) if the deputy director resigns.
- (6) A deputy director while acting as a director is entitled to the same remuneration as that to which the director for whom he or she is deputy would have been entitled.

49. ***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 in any case be held at least every three months.
- (2) Questions arising at any meeting shall be decided by a majority of votes.
- (3) In the case of an equality of votes, the chairperson has a second or casting vote.
- (4) A director may call a meeting of the board of directors by giving notice individually to every other director.
- (5) Except in special circumstances determined by the chairperson, at least 48 hours notice shall be given to the directors of all meetings of the board.

50. ***Quorum for board meetings***

The quorum for a meeting of the board is 50% plus 1 of the number of directors set out in rule 40 of these rules.

51. ***Indemnity***

In accordance with, but subject to sub-section 227(2) of the Act, the co-operative indemnifies and shall keep indemnified every officer against any liability incurred by the officer or in which the officer is acquitted; or

- (a) in defending proceedings (whether civil or criminal) in which judgement is given in favour of the officer or in which the officer is acquitted; or
- (b) in connection with an application in relation to such proceedings in which relief is granted to the officer under section 227 of the Act.

52. ***Chairperson of board***

- (1) The chairperson of the board shall be elected by the board.
- (2) If the chairperson of the board is unable or unwilling to preside or

is not present within 15 minutes after the time appointed for meetings of the board, the members present must select one of their number to preside.

- (3) The person selected under sub-rule (2) presides at the board meeting until the time that the chairperson attends and is willing to act.
- (4) The board may by ordinary resolution remove the chairperson from office.
- (5) A chairperson shall be elected in the last month of each financial year.

53. ***Financial year***

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

54. ***Seal***

- (1) In accordance with section 254 of the Act, the co-operative must ensure that the name of the co-operative appears in legible characters on its common seal and official seals.
- (2) The common seal must be kept at the registered office of the co-operative in such custody as the board directs.
- (3) The co-operative must have, for use in place of its common seal outside the State where its common seal is kept, one or more official seals, each of which must be a facsimile of the common seal of the cooperative with the addition on its face of the name of every place where it is to be used.
- (4) The seal of the co-operative must not be affixed to any instrument except in accordance with a resolution of the board.
- (5) Two directors must be present when the common or official seal is affixed to an instrument by another person and must sign the instrument so sealed.
- (6) In accordance with section 49(2) of the Act, the persons affixing the official seal must certify in writing on the instrument to which it is affixed, the date and place at which it is affixed.

55. ***Custody and inspection of records***

A person is entitled to make a copy of entries in a register specified in section 246(1) of the Act –

- (a) if the copy is a photocopy or electronic copy, on payment of a fee of \$1 per page to a maximum of \$20; and
- (b) in any other case, free of charge.

56. **Banking**

- (1) The board must ensure that –
 - (a) a banking account or accounts are kept in the name of the co-operative; and
 - (b) all money received by the co-operative is paid into that account or those accounts as soon as possible after it is received.
- (2) All cheques drawn on such accounts and all drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the co-operative, must be signed by any 2 or more directors.

57. **Safekeeping of securities**

The co-operative must keep the securities of the co-operative safely in the manner and with the provision for their safety that the board directs.

58. **Audit**

- (1) The accounts of the co-operative must be audited in accordance with section 238 of the Act and the regulations made under that section.
- (2) Auditors must be appointed in accordance with the regulations under section 238 of the Act to audit the accounts of the co-operative.
- (3) Audits must be carried out annually.

59. **Co-operative funds**

- (1) The board may resolve to retain all or any 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.
- (2) Any part of the surplus arising in any year from the business of the co-operative or any part of the reserves may –
 - (a) be paid to a member by way of rebate based on the business done by the member with the co-operative; or

- (b) be applied by the issue of bonus shares to a member; or
 - (c) be paid to a member by way of limited dividend (as defined in section 273(3) of the Act on shares held.
- (3) The limited dividend –
 - (a) must be declared at the annual general meeting of the co-operative; and
 - (b) must not exceed the amount recommended by the board; and
 - (c) in the case of dividend must not exceed the amount permitted by the Act and regulations.
- (4) The amount of any rebate or dividend payable to a member under sub-rule (2) may, with the consent of the member, be applied –
 - (a) in payment for the issue to the member of bonus shares; or
 - (b) as a loan to the co-operative.
- (5) Any part of the surplus arising in any year from the business of the co-operative may be credited to any person who is not a member, but is qualified to be a member, by way of rebate in proportion to the business done by him or her with the co-operative, if –
 - (a) the person was a member at the time the business was done and the membership has lapsed; or
 - (b) the person has applied for membership after the business was done.
- (6) Nothing in sub-rule (5) precludes the payment of a bonus to an employee in accordance with the terms of his or her employment.
- (7) A part of the surplus, not exceeding 5% arising in any year from the business of the co-operative may be applied for one or both of the following –
 - (a) charitable purposes; or
 - (b) supporting any activity approved by the co-operative.
- (8) The board must give notice of any dividend, rebate or bonus share that has been declared by displaying it at the registered office of the co-operative and in any other manner the board determines.

- (9) Except where the Act or these rules specify otherwise interest does not accrue to a member on any dividend rebate or bonus share held by the co-operative for a member.

60. ***Provision for loss***

Subject to section 271 of the Act, the board may resolve to retain part of the surplus arising from the business of the co-operative in any year to be applied to meet any loss on the transactions of the co-operative.

61. ***Winding up***

The winding up of the co-operative must be in accordance with Part 12 of the Act.

CERTIFICATION

We the undersigned, certify that this is a copy of the rules which was presented to the formation meeting on (date) at

.....

.....

(location)

for the purpose of forming a co-operative to be known as:

.....

(Name of Co-operative)

..... **Chairperson of Formation Meeting**

Signature

..... **Secretary of Formation Meeting**

Signature

Note: This certification is signed at the Formation Meeting which is held after the rules have been approved by the registrar and returned to the sponsors of the proposed co-operative.

Appendix 1

Schedule of charges -

Copies of entry in register	<i>refer to rule 52</i>
Duplicate share certificate	\$10 (maximum)
Transfer of shares	\$10
Transfer of charge (inclusive of transfer of debenture)	\$10
Copy of rules	\$5 plus \$1 for each page after the first page to a maximum of \$10.

Appendix 2

Part 1

Name of co-operative – **Southern Quality Produce Co-Operative Limited**

Part 2

Primary activity – **Grain trading on behalf of members of the Co-operative**

Part 3

Active membership requirements –

All members of the co-operative must provide not less than twenty-five (25) tonnes of grain in any three (3) year period.

Appendix 3

Part 1

Fines

The maximum fine applicable to the co-operative is \$100.00.

[Note: The Act does not permit a fine exceeding \$1000.00]

Part 2

The nominal value of a share and amount payable per share is - 50 cents.

Every member shall hold at least 1000 shares, but no member shall hold more than 20% of the shares in the Co-operative.

Fees – there shall be a joining fee of \$550 (inclusive of GST), payable on application for membership.

Subscriptions – there shall be an annual subscription of **\$605** (inclusive of GST), payable by all members by the due date as set by the board from time to time. Any new members joining during a financial year may be granted a discount of not more than 50% at the discretion of the board.

Appendix 4

This form can be used either for a transfer of shares or debentures.

I, A.B (the transferor) of.....in the State
ofin consideration of the sum of \$
.....
paid to me by C.D.(the transferee) of.....in the
State of.....
transfer to the transferee **the share (or shares)/debenture or debentures**
numbered.....
in the[Name of co-operative]
to be held by the transferee, the transferee's executors, administrators,
and assigns, subject to the several conditions on which I hold the same at
the time of the execution, **and I**, the transferee, agree to take **the share**
(or shares)/debenture or debentures subject to the conditions
previously referred to in this document.

Dated this day of 20.....

Signed by

.....transferor.

In the presence ofwitness.

.....witness address

Signed by

.....transferee

In the presence ofwitness.

.....witness address

Appendix 5

For the purposes of Rule 41(1)(b), independent directors must be persons who add to the skill set of the board and who may bring skills in areas such as (but not limited to) agriculture, politics, communications, technology, business, finance, law and such other skills as may from time to time be appropriate.